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Federal Register

Tuesday
August 14, 1984

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

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911, 915, 916, 917, 918, 921, 922, 923, 924, 925, 928, 945, 946, 947, 948, 953, 958, 967, 982, 985, and 993

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates under Marketing Orders 911, 915, 916, 917, 918, 921, 922, 923, 924, 945, 946, 947, 948, 953, 958, 967, 982, 985, and 993 for the 1984–85 fiscal year, under Marketing Order 925 for the 1983–84 fiscal year, Marketing Order 928 for the 1984 fiscal year. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: April 1, 1984–March 31, 1985 (§§ 911.223, 915.223, 921.223, 922.224, 923.224, and 924.224); March 1, 1984–February 28, 1985 (§§ 916.223, 917.238, 917.239, 917.240, and 918.221); December 1, 1983–November 30, 1984 (§ 925.203); January 1, 1984–December 31, 1984 (§ 928.213); June 1, 1984–May 31, 1985 (§§ 953.221 and 985.304); July 1, 1984–June 30, 1985 (§§ 946.237, 947.237, 948.291, 948.292, 958.228, and 982.329); August 1, 1984–July 31, 1985 (§§ 945.237, 967.220, and 993.335).

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 these actions will not have a significant economic impact on a substantial number of small entities.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendations and information submitted by each committee, established under the respective marketing orders, and upon other information.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective dates until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the assessment rate for a particular fiscal year shall apply to all assessable commodities handled from the beginning of such year. To enable the committees to meet current fiscal obligations, approval of the expenses is necessary without delay. Handlers have been apprised of the provisions and effective dates specified in this final rule. It is found that the specified expenses and assessment rates will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Parts 911, 915, 916, 917, 918, 921, 922, 923, 924, 925, 928, 945, 946, 947, 948, 953, 958, 967, 982, 985, and 993

Marketing agreements and orders, Limes (Florida), Avocados (Florida), Nectarines (California), Peaches, Plums, and Pears (California), Peaches (Georgia), Peaches (Washington), Apricots (Washington), Cherries (Washington), Prunes (Washington-Oregon), Grapes (California), Papayas (Hawaii), Potatoes (Idaho-Oregon), Potatoes (Washington), Potatoes (California-Oregon), Potatoes (Colorado), Potatoes (Virginia-North Carolina), Onions (Idaho-Oregon), Celery (Florida), Filberts/Hazelnuts (Oregon-Washington), Spearmint Oil, Dried Prunes (California).

Therefore, new §§ 911.223, 915.223, 916.223, 917.238, 917.239, 917.240, 918.221, 921.223, 922.224, 923.224, 924.224, 925.203, 928.213, 945.237, 946.237, 947.237, 948.291, 948.292, 953.221, 958.228, 967.220, 982.329, 985.304, and 993.335 are added to read as follows (the following sections prescribe the annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 911—LIMES GROWN IN FLORIDA

§ 911.223 Expenses and assessment rate.

Expenses of $198,000 by the Florida Lime Administrative Committee are authorized, and an assessment rate of $0.14 per bushel of limes is established for the fiscal year ending March 31, 1985.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

§ 915.223 Expenses and assessment rate.

Expenses of $200,024 by the Avocado Administrative Committee are authorized, and an assessment rate of $0.11 per bushel of avocados is established for the fiscal year ending March 31, 1985.

PART 916—NECTARINES GROWN IN CALIFORNIA

§ 916.223 Expenses and assessment rate.

Expenses of $2,775,965 by the Nectarine Administrative Committee are authorized, and an assessment rate of $0.18 per No. 22D standard lug box of nectarines is established for the fiscal year ending February 28, 1985.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

§ 917.238 Expenses and assessment rate.

Expenses of $2,580,211 by the Plum Commodity Committee are authorized, and an assessment rate of $0.17 per No. 22D standard lug box of plums is established for the fiscal year ending February 28, 1985.

§ 917.239 Expenses and assessment rate.

Expenses of $2,190,086 by the Peach Commodity Committee are authorized, and an assessment rate of $0.14 per No. 22D standard lug box of peaches is established for the fiscal year ending February 28, 1985.

§ 917.240 Expenses and assessment rate.

Expenses of $810,954 by the Pear Commodity Committee are authorized, and an assessment rate of $0.20 per No. 29B special lug box of pears is established for the fiscal year ending February 28, 1985.

PART 918—FRESH PEACHES GROWN IN GEORGIA

§ 918.221 Expenses and assessment rate.

Expenses of $20,888 by the Industry Committee are authorized, and an assessment of $0.01 per bushel of peaches is established for the fiscal year ending February 28, 1985.

PART 921—FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

§ 921.223 Expenses and assessment rate.

Expenses of $23,393 by the Washington Fresh Peach Marketing Committee are authorized, and an assessment rate of $2.00 per ton of peaches is established for the fiscal year ending March 31, 1985. Unexpended funds may be carried over as a reserve.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

§ 922.224 Expenses and assessment rate.

Expenses of $5,095 by the Washington Apricot Marketing Committee are authorized, and an assessment rate of $1.50 per ton of apricots is established for the fiscal year ending March 31, 1985. Unexpended funds may be carried over as a reserve.

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

§ 923.224 Expenses and assessment rate.

Expenses of $65,280 by the Washington Cherry Marketing Committee are authorized, and an assessment rate of $0.80 per ton of cherries is established for the fiscal year ending March 31, 1985. Unexpended funds may be carried over as a reserve.

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

§ 924.224 Expenses and assessment rate.

Expenses of $27,937 by the Washington-Oregon Fresh Prune Marketing Committee are authorized, and an assessment rate of $0.80 per ton of prunes is established for the fiscal year ending March 31, 1985.

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHERN CALIFORNIA

§ 925.203 Expenses and assessment rate.

Expenses of $42,000 by the California Desert Grape Administrative Committee are authorized, and an assessment rate of $0.003 per 22-pound container of grapes is established for the fiscal year ending November 30, 1984. Unexpended funds may be carried over as a reserve.

PART 928—PAPAYAS GROWN IN HAWAII

§ 928.213 Expenses and assessment rate.

Expenses of $760,350 by the Papaya Administrative Committee are authorized, and an assessment rate of $0.0085 per pound of papayas is established for the fiscal year ending December 31, 1984. Unexpended funds may be carried over as a reserve.

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

§ 945.237 Expenses and assessment rate.

Expenses of $69,770 by the Idaho-Eastern Oregon Potato Committee are authorized, and an assessment rate of $0.0026 per hundredweight of assessable potatoes is established for the fiscal year ending July 31, 1985. Unexpended funds may be carried over as a reserve.

PART 946—IRISH POTATOES GROWN IN WASHINGTON

§ 946.237 Expenses and assessment rate.

Expenses of $24,900 by the State of Washington Potato Committee are authorized, and an assessment rate of $0.002 per hundredweight of potatoes is established for the fiscal period ending June 30, 1985. Unexpended funds shall be carried over as a reserve.

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

§ 947.237 Expenses and assessment rate.

Expenses of $39,395 by the Oregon-Northern California Potato Committee are authorized, and an assessment rate of $0.002 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1985. Unexpended funds may be carried over as a reserve.

PART 948—IRISH POTATOES GROWN IN COLORADO

§ 948.291 Expenses and assessment rate.

Expenses of $1,735 by the Colorado Area 3 Potato Committee are authorized, and an assessment rate of $0.002 per hundredweight of potatoes is established for the fiscal year ending June 30, 1985. Unexpended funds may be carried over as a reserve.

§ 948.292 Expenses and assessment rate.

Expenses of $34,083 by the Colorado Area 2 Potato Committee are authorized, and an assessment rate of $0.0015 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1985. Unexpended funds may be carried over as a reserve.

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

§ 953.221 Expenses and assessment rate.

Expenses of $10,000 by the Southeastern Potato Committee are authorized and an assessment rate of $0.0075 per hundredweight of potatoes is established for the fiscal period ending May 31, 1985. Unexpended funds may be carried over as a reserve.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

§ 958.228 Expenses and assessment rate.

Expenses of $545,000 by the Idaho-Eastern Oregon Onion Committee are authorized and an assessment rate of $0.09 per hundredweight of onions is established for the fiscal period ending June 30, 1985. Unexpended funds may be carried over as a reserve.

PART 967—CELERY GROWN IN FLORIDA

§ 967.220 Expenses and assessment rate.

Expenses of $125,000 by the Florida Celery Committee are authorized and an assessment rate of $0.02 per crate of celery is established for the fiscal year ending July 31, 1985. Unexpended funds may be carried over as a reserve.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

§ 982.329 Expenses, assessment rate, and operating reserve.

Expenses of $56,619 by the Filbert/Hazelnut Marketing Board are authorized, and an assessment rate payable by each handler in accordance with § 982.61 is fixed at 0.2 cent per pound of assessable filberts for the 1984–85 marketing year ending June 30, 1985. Unexpended funds are carried over as a reserve, or made available to handlers.

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

§ 985.304 Expenses, assessment rate, and operating reserve.

Expenses of $135,000 by the Spearmint Oil Administrative Committee are

authorized, and an assessment rate payable by each handler in accordance with § 985.41 is fixed at 10 cents per pound for salable spearmint oil for the 1984–85 marketing year ending May 31, 1985. Unexpended funds may be carried over as a reserve in the maximum amount permitted pursuant to § 985.42.

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

§ 993.335 Expenses and assessment rate.

Expenses of $260,736 by the Prune Marketing Committee are authorized, and an assessment rate payable by each handler in accordance with § 993.81 is fixed at $1.94 per ton for salable dried prunes for the 1984–85 crop year ending July 31, 1985.

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

Dated: August 9, 1984.

Thomas R. Clark,

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

[FR Doc. 84-21541 Filed 8-13-84; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 84-334]

Acarine Mite

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Domestic Quarantine Notices" by adding a new subpart 301.92, captioned "Acarine Mite." Subpart 301.92 quarantines the State of Texas and establishes regulations restricting the interstate movement of regulated articles from all or portions of Bee, Cameron, Chambers, Floyd, Hale, Harris, Hidalgo, Live Oak, Motley, Starr, Swisher, and Willacy counties in Texas. This document is necessary on an emergency basis to prevent the artificial spread of Acarine mite into noninfested areas of the United States.

DATES: Effective date of this amendment August 10, 1984. Written comments concerning this interim rule must be received on or before October 15, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728 Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glenn Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6365.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. Due to the possibility that Acarine mite could be spread artificially to certain noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest.

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

Background

This document amends the "Domestic Quarantine Regulations" in Part 301 of Title 7, Code of Federal Regulations (7 CFR Part 301) by adding a new subpart 301.92, captioned "Acarine Mite." Subpart 301.92 quarantines the State of Texas, designates areas in Texas as "regulated areas", designates certain articles as "regulated articles", and imposes conditions on the interstate movement of regulated articles from regulated areas.

The Acarine mite, *Acarapis woodi*, is an internal parasitic mite of honey bees (bees of the genus *Apis*). The mite reduces the ability of the bees to fly and thereby causes scarcity of food in bee colonies. Consequently the mite contributes to the loss of field bees which results in substantial reductions in pollination. An infestation of Acarine disease in honey bee colonies can severely damage important agricultural commodities that depend upon pollination by the bees for production. These agricultural commodities include forage crops, fruits, vegetables, and oil crops.

An infestation of Acarine mite was found on a bee farm in Weslaco, Texas (Hidalgo County) on July 3, 1984. As a result of surveys by inspectors of Plant Protection and Quarantine (PPQ), a unit within the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), the mite has subsequently been found in bee farms scattered throughout areas in the counties of Bee, Cameron, Chambers, Floyd, Hale, Harris, Hidalgo, Live Oak, Motley, Starr, Swisher, and Willacy Counties in Texas. These areas remain infested at this time. The Acarine mite is not known to occur anywhere else in the United States.

Officials of USDA and State agencies of Texas have begun an intensive Acarine mite survey and eradication program in the infested areas in Texas. Also, as explained below, Texas has taken action to impose restrictions on the intrastate movement of certain articles from the regulated areas in order to prevent the artificial spread of the Acarine mite within Texas. However, it is also necessary to impose restrictions on the interstate movement of certain articles from the regulated area in order to prevent the artificial spread of the Acarine mite to noninfested areas in other States. Accordingly, it is necessary as an emergency measure to establish Federal regulations for the purpose of preventing the artificial spread of the Acarine mite. These regulations are described below by section.

Quarantine and Regulations (Section 301.92)

Section 301.92(a) of subpart 301.92 reflects a finding by the Secretary of Agriculture that it is necessary to quarantine the State of Texas and impose regulations on the interstate movement of certain articles designated as regulated articles in order to prevent the artificial spread of Acarine mite. Section 301.92(b) prohibits any common carrier or other person from moving interstate from any regulated area any regulated article except in accordance with conditions prescribed in § 301.92–4. A footnote has been added for informational purposes. This footnote (footnote 1) references the authority of an inspector to stop and inspect, seize, quarantine, treat and otherwise dispose of regulated articles in accordance with the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

Definitions (Section 301.92–1)

Section 301.92–1 contains, for informational purposes, definitions of the following terms: "Acarine Mite," "Certificate," "Compliance Agreement," "Deputy Administrator," "Infestation," "Inspector," "Interstate," "Limited permit," "Moved," "Person," "Plant Protection and Quarantine," "Regulated area," "Regulated article" and "State." These terms are defined in accordance with definitions and authority set forth in the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee).

Regulated Articles (Section 301.92–2)

The regulations impose conditions on the interstate movement of articles which present a significant risk of spreading Acarine mite if moved without restrictions from areas regulated for Acarine mite into or through noninfested areas. These conditions are necessary to prevent the artificial spread interstate of Acarine mite by the movement of these articles. Such articles are designated as regulated articles and are prohibited from moving interstate from regulated areas, except in accordance with conditions specified in §§ 301.92–4 through 301.92–9.

Section 301.92–2 designates the following articles as regulated articles:

(a) Live bees of the genus *Apis*, in any life stage;

(b) Dead bees of the genus *Apis;*

(c) Used bee boards, hives, nests, nesting material, frames, comb, and shipping containers for such articles;

(d) Beeswax, unless it has been liquified;

(e) Pollen for bee feed; and

(f) Any other product, article, or means of conveyance, of any character whatsover, not covered by paragraphs (a) though (g) when it is determined by an inspector that it presents a risk of spread of the Acarine mite and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions in the regulations.

Based on research and experience, the articles listed in section 301.92–2 (a) through (g) as regulated articles are articles that are likely to cause the artificial spread of the Acarine mite. In addition, since other products, articles, or means of conveyance could, under certain circumstances, be found to present a risk of spreading the Acarine mite, these articles are regulated by paragraph (h). These articles would have to be determined to present a risk by an inspector on a case-by-case basis since it cannot be anticipated specifically which other products, articles, or means of conveyance, if any, would present such a risk. There is authority to regulate nonlisted products, articles, or means of conveyance as set forth in section 301.92(h) on an emergency basis in sections 105 and 106 of the Federal Plant Pest Act. If it appears that these additional products, articles, or means of conveyance generally present a risk of spreading Acarine mite an amendment to this rule to include such items in the list of regulated articles will be considered.

Regulated Areas (Section 301.92–3)

It is necessary to designate as regulated areas, areas in which the Acarine mite has been found, areas in which the Deputy Administrator has reason to believe the Acarine mite is present, areas deemed necessary to regulate because of their proximity to the Acarine mite or their inseparability for quarantine enforcement purposes from localities where Acarine mite has been found.

In accordance with this criteria, it is necessary to designate as regulated areas all or portions of 13 counties in Texas as follows:

Bee County: The portion of Bee County within the area bounded by a line beginning at the intersection of the Bee County line and Farm Road 623; then easterly on Farm Road 623 to the intersection of U.S. Highway 59; then westerly on U.S. Highway 59 to the intersection of the Bee County line; then northerly along Bee County line to the point of beginning.

Cameron County: The entire county.

Chambers County: The portion of Chambers County within the area bounded by a line beginning at the intersection of the county line and Interstate Highway 10, then easterly along Interstate Highway 10 to the intersection of Cotton Bayou, then southerly along Cotton Bayou to its intersection with Hackberry Gully, then southerly along an imaginary line to Trinity Bay, then along the shoreline to the Chambers County line, then northerly along the Chambers-Harris county line to the point of beginning.

Floyd County: The portion of Floyd County within the area bounded by a line beginning at the intersection of Farm Road 788 and the Floyd-Hale County line, then northerly along the county line to the Floyd-Swisher County line, then easterly along Floyd-Swisher County line to the intersection of Farm Road 378, then southerly along Farm Road 378 for 6 miles to an unnumbered Farm Road, then westerly along said Farm Road to the Floyd-Hale County line, then along the Floyd-Hale County line to the point of beginning.

That portion of Floyd County within the area bounded by a line beginning at the point of intersection of U.S. Highways 62/70 and the Floyd-Motley County line, then westerly along U.S. Highways 62/70 for 6½ miles to an imaginary point, then northerly 7 miles along an imaginary line to an imaginary point, then easterly along another imaginary line to the Floyd-Motley County line, then southerly along the Floyd-Motley County line to a point of beginning.

Hale County: The portion of Hale County within the area bounded by a line beginning at the point of the intersection of the Hale-Floyd County line and U.S. Highway 70, then southerly 4.5 miles along the Hale-Floyd County line to the intersection with Farm Road 2883, then westerly 2.75 miles on Farm Road 2883 to State Highway 789, then continuing westerly (after crossing State Highway 789) 1 mile on the unnumbered dirt road to the intersection with another unnumbered road, then northerly .5 miles on the second unnumbered road, then westerly 3.75 miles on a third unnumbered road to the intersection with Farm Road 400, then northerly on Farm Road 400 to Plainview, Texas, then continuing on Farm Road 400 for 2.5 miles, then easterly on an unnumbered dirt road for 2.5 miles to an intersection with another unnumbered road, then northerly .5 miles on that unnumbered road, then easterly along the unnumbered road to the intersection of the Hale-Floyd County line, then southerly along the county line to the point of beginning.

Harris County: The portion of Harris County within the area bounded by a line beginning at the intersection of the county line and Interstate Highway 10, then westerly along Interstate Highway 10 to the intersection of North Main Street in Baytown, then southerly on North Main Street to Lynchburg-Cedar Bayou Road, then westerly along Lynchburg-Cedar Bayou Road to its intersection with the Missouri Pacific Railroad, then southerly along the Missouri Pacific Railroad to the Houston Ship Channel, then along an imaginary center line of the Houston Ship Channel to its intersection with Beltway 8 Bridge (Jones Toll Bridge) then southerly on Beltway 8 to its intersection with Red Bluff Road, then southeasterly on Red Bluff Road to its intersection with Fairmont Parkway, then easterly on Fairmont Parkway to its intersection with State Road 146, then due east along an imaginary line to Galveston Bay, then along the shoreline to the Harris County line, then along Harris-Chambers County line to the point of beginning.

Hidalo County: The entire county.

Live Oak County: The portion of Live Oak County within the area bounded by a line beginning at the intersection of the Live Oak County line and U.S. Highway 59; then westerly on U.S. Highway 59 to the intersection of Interstate Highway 37; then northwesterly along Interstate Highway 37 to the intersection with State Highway 72; then easterly along State Highway 72 to its intersection with Farm Road 1358; then easterly on Farm Road 1358 to its intersection with Farm Road 623; then easterly on Farm Road 623 to the Live Oak County line; then southerly along the Live Oak County line to the point of beginning.

Motley County: That portion of Motley County within the area bounded by a line beginning at the point of intersection of U.S. Highways 62/70 and the Floyd-Motley County line, then northerly along the Floyd-Motley County line to the intersection with Farm Road 2999 Extension, then easterly 2.25 miles along an imaginary line to a point; then southerly along an imaginary line to the intersection of U.S. Highways 62/70, then westerly along U.S. Highways 62/70 to the point of beginning.

Starr County: The entire county.

Swisher County: The portion of Swisher County within the area bounded by a line beginning at the intersection of the Swisher, Floyd, and Hale County lines, then northerly to the intersection of Farm Road 2301, then northwesterly on Farm Road 2301 to a point 2.25 miles northerly at the intersection of the Swisher County line and an unnumbered county road, then easterly on that unnumbered county road to its intersection with the Swisher-Briscoe County line, then southerly along Swisher County line to its intersection with Swisher Floyd County line, then westerly along the county line to the point of beginning.

Willacy County: The entire county.

Conditions Governing the Interstate Movement of Regulated Articles From Regulated Areas (Sections 301.92–4 Through 301.92–9)

Section 301.92–4

Section 301.92–4[a] requires regulated articles moved interstate from regulated areas to be accompanied by a certificate issued and attached as prescribed by sections 301.92–5 through 301.92–9 or unless moved as prescribed in section 301.92–4(b).

Section 301.92–4(b) allows a regulated article to move interstate without a certificate or limited permit if the article originates outside of a regulated area, if it is moved directly through the regulated area in an enclosed vehicle or is enclosed by a covering adequate to prevent access by bees (such as canvas, plastic or closely woven cloth), if the point of origin is clearly indicated by shipping documents, and if the identity of the article is maintained.

In § 301.92–4, a footnote (Number 2) is added to remind persons of other applicable domestic plant quarantine and regulation requirements that need to be met during an interstate movement.

Section 301.92–5

Section 301.92–5 explains the conditions for issuing a certificate or limited permit. Under Federal domestic plant quarantine programs there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles upon a finding by the Department that, because of certain conditions (e.g. the article is free of Acarine mite), there is an absence of a pest risk prior to movement. Regulated articles accompanied by a certificate can be moved interstate without further restrictions being imposed. Limited permits are issued for regulated articles when the Department has determined that, because of a possible pest risk, such articles may be safely moved interstate only subject to further restrictions, e.g., movement to limited areas and movement for limited purposes.

Section 301.92–5(a) provides that a certificate shall be issued by an inspector for the movement of a regulated article if: (1) The inspector determines that the article comes from a premises of origin which is free from Acarine mite or the inspector determines that the regulated article, other than live or dead bees of the genus, *Apis,* has been kept in an enclosed container free of live or dead bees of the genus, *Apis,* for a period of 12 hours; and (2) the inspector determines that it will be moved in compliance with any additional emergency conditions deemed necessary to prevent the spread of Acarine mite pursuant to section 105 of the Federal Plant Pest Act; and (3) the inspector determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

Regulated articles, other than live or dead bees of the genus *Apis,* will be eligible for certification for movement if maintained in an enclosed container free of live or dead bees of the genus *Apis* for 12 hours because it has been determined that the Acarine mite, a parasitic mite, cannot survive for more than 12 hours without feeding on or being sheltered by a bee, live or dead.

A footnote (number 3) is added which explains that USDA can, pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), take emergency actions against any article moving into or through the United States or interstate which are believed to be infested or infected by plant pests.

Section 301.92–5(b) provides for the issuance of a limited permit (in lieu of a certificate) by an inspector for movement of a regulated article if, after consultation with the Deputy Administrator, it is determined that such article is to be moved to a specified destination for specified handling, utilization or processing, and upon evaluation of all of the circumstances involved, the movement will not result in the spread of Acarine mite.

Section 301.92–5(c) allows any person who has entered into and is operating under a compliance agreement to execute and issue a certificate or limited permit for the interstate movement of a regulated article once an inspector has made an initial determination that such article is eligible for a certificate or limited permit in accordance with § 301.92–5 (a) or (b). These initial determinations concerning the eligibility of regulated articles for issuance of a certificate or limited permit are limited to inspectors because of their nature and complexity.

Also, § 301.92–5(d) contains provisions for the withdrawal of a certificate or limited permit by an inspector upon a determination that the holder thereof has not complied with conditions for the use of the document. This section also contains provisions for notifying the holder of the reasons for the withdrawal and for holding a hearing if there is any conflict concerning any material fact.

Section 301.92–6

Section 301.92–6 provides for the issuance and cancellation of compliance agreements. Specifically, compliance agreements can be entered into by any person engaged in the business of growing, handling, or moving regulated articles who agrees in writing to comply with the provisions of subpart 301.92 and any conditions imposed pursuant thereto. Compliance agreements are provided for the convenience of persons who, because of their business, are involved in frequent shipments of regulated articles from regulated areas and are designated to insure that persons issuing certificates and limited permits are knowlegeable with respect

to the requirements of subpart 301.92 and have agreed to comply with them.

Section 301.92–6 also provides that a compliance agreement may be cancelled by an inspector supervising its enforcement whenever the inspector finds that a person who has entered into such an agreement has failed to comply with any of the provisions of this subject or any conditions imposed pursuant thereto. This section also contains provisions for notifying the holder of the compliance agreement of the reasons for cancellation and to provide such holder with an opportunity for a hearing to resolve a conflict as to any material fact. A footnote (number 4) is added to explain where compliance agreement forms can be obtained.

Sections 301.92–7, 301.92–8, and 301.92–9

Section 301.92–7 provides that any person who desires a certificate or limited permit to move regulated articles should request inspection by an inspector as far in advance as possible (no less than 48 hours before the desired movement). A footnote (number 5) is added for informational purposes to indicate how to contact the inspectors for inspection or how to obtain additional information from offices of Plant Protection and Quarantine.

Section 301.92–8 requires the certificate or limited permit issued for the movement of the regulated article to be attached to the regulated article, or to a container carrying the regulated article, or to the accompanying waybill or other shipping document during the interstate movement. These provisions are necessary for enforcement purposes and to ensure that persons desiring inspection services can arrange for them before the intended movement date.

Section 301.92–9 explains the Department's policy that services of an inspector needed in order for a person to comply with the provisions of the quarantine and regulations in subpart 301.92 are provided without cost during normal business hours, but that any other incidental costs or charges shall not be the responsibility of the Department.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competiton, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This amendment affects the interstate movement of regulated articles from all or portions of 12 counties in Texas. The number of affected entities in the 12 counties in Texas, approximately 20, compares with hundreds of small entities that move such articles interstate from nonregulated areas in Texas and several thousand small entities that move such articles interstate from other States.

Under these circumstances, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 7 CFR Part 301

Acarine mite, Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR Part 301 is amended by adding a new "Subpart—Acarine Mite" to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Acarine Mite

Quarantine and Regulations

Sec.

301.92 Quarantine and regulations; restrictions on interstate movement of regulated articles.
301.92–1 Definitions.
301.92–2 Regulated articles.
301.92–3 Regulated areas.
301.92–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.
301.92–5 Issuance and cancellation of certificates and limited permits.
301.92–6 Compliance agreement and cancellation thereof.
301.92–7 Assembly and inspection of regulated articles.
301.92–8 Attachment and disposition of certificates and limited permits.
301.92–9 Costs and charges.

Authority: Secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); (7 CFR 2.17, 2.51, and 371.2(c)).

* * * * *

Subpart—Acarine Mite

§ 301.92 Quarantine and regulations; restrictions on interstate movement of regulated articles.[1]

(a) *Quarantine and regulations.* The Secretary of Agriculture hereby quarantines the State of Texas in order to prevent the artificial spread of the Acarine mite, a dangerous plant pest not heretofore widely prevalent or distributed within and throughout the United States; and hereby establishes regulations governing the interstate movement of regulated articles specified in § 301.92–2.

(b) *Restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditions prescribed in this subpart.

§ 301.92–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Acarine mite.* The insect known as *Acarapis woodi* in any stage of development.

(b) *Certificate.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.92–5(c).

(c) *Compliance agreement.* A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(d) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

(e) *Infestation.* The presence of the Acarine mite or the existence of circumstances that make it reasonable to believe that the Acarine mite is present.

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

(f) *Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantines and regulations in this subpart.

(g) *Interstate.* From any State into or through any other State.

(h) *Limited permit.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.92–5(b).

(i) *Moved.* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

(j) *Movement or move.* The act of shipping, offering for shipment to a common carrier, receiving for transportation or transporting by a common carrier, or carrying, transporting, moving, or allowing to be moved by any means.

(k) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(l) *Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated thereunder.

(m) *Regulated area.* Any State, or any portion thereof, listed in § 301.92–3(c) or otherwise designated as a regulated area in accordance with § 301.92–3(b).

(o) *Regulated article.* Any article listed in § 301.92–2 or otherwise designated as a regulated article in accordance with § 301.92–2(c).

(p) *State.* Each of the several States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States and all other Territories and Possessions of the United States.

§ 301.92–2 Regulated Articles.

(a) Live bees of the genus *Apis*, in any life stage;

(b) Dead bees of the genus *Apis;*

(c) Used bee boards, hives, nests, nesting material, frames, comb and shipping containers for such articles;

(d) Beeswax, unless it has been liquified;

(e) Pollen for bee feed; and

(f) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) through (g) of this section, when it is determined by an inspector that it presents a risk of spread of the Acarine mite and the person in possession thereof has actual notice that the product, article or means of conveyance is subject to the restrictions of this section.

§ 301.92–3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which the Acarine mite has been found by an inspector or in which the Deputy Administrator has reason to believe that the Acarine mite is present, or each portion of a quarantine State which the Deputy Administrator deems necessary to regulate because of its proximity to the Acarine mite or its inseparability for quarantine enforcement purposes from localities in which the Acarine mite occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Acarine mite.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonregulated area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas:

Texas

Bee Country: The portion of Bee County within the area bounded by a line beginning at the intersection of the Bee County line and Farm Road 623; then easterly on Farm Road 623 to the intersection of U.S. Highway 59; then westerly on U.S. Highway 59 to the intersection of the Bee County line; then northerly along Bee County line to the point of beginning.

Cameron County: The entire county.

Chambers County: The portion of Chambers County within the area bounded by a line beginning at the intersection of the county line and Interstate Highway 10, then easterly along Interstate Highway 10 to the intersection of Cotton Bayou, then southerly along Cotton Bayou to its intersection with Hackberry Gully, then southerly along an imaginary line to Trinity Bay, then along the shoreline to the Chambers County line, then northerly along the Chambers-Harris County line to the point of beginning.

Floyd County: The portion of Floyd County within the area bounded by a line beginning at the intersection of Farm Road 788 and the Floyd-Hale County line, then northerly along the county line to the Floyd-Swisher County line, then easterly along Floyd-Swisher County line to the intersection of Farm Road 378, then southerly along Farm Road 378 for 6 miles to an unnumbered Farm Road, then westerly along said unnumbered Farm Road to the Floyd-Hale County line, then along the Floyd-Hale County line to the point of beginning.

That portion of Floyd County within the area bounded by a line beginning at the point of intersection of U.S. Highways 62/70 and Floyd-Motley County line, then westerly along U.S. Highways 62/70 for 6½ miles to an imaginary point, then northerly 7 miles along an imaginary line to an imaginary point, then easterly along another imaginary line to the Floyd-Motley County line, then southerly along the Floyd-Motley County line to a point of beginning.

Hale County: The portion of Hale County within the area bounded by a line beginning at the point of the intersection of the Hale-Floyd County line and U. S. Highway 70, then southerly 4.5 miles along the Hale-Floyd County line to the intersection with Farm Road 2883, then westerly 2.75 miles on Farm Road 2883 to State Highway 789, then continuing westerly (after crossing State Highway 789) 1 mile on the unnumbered dirt road to the intersection with another unnumbered

road, then northerly .5 miles on the second unnumbered road, then westerly 3.75 miles on a third unnumbered road to the intersection with Farm Road 400, then northerly on Farm Road 400 to Plainview, Texas, then continuing on Farm Road 400 for 2.5 miles, then easterly on an unnumbered dirt road for 2.5 miles to an intersection with another unnumbered road, then northerly .5 miles on that unnumbered road, then easterly along the unnumbered road to the intersection of the Hale-Floyd County line, then southerly along the county line to the point of beginning.

Harris County: The portion of Harris County within the area line beginning at the intersection of the county line and Interstate Highway 10, then westerly along Interstate Highway 10 to the intersection of North Main Street in Baytown, then southerly on North Main Street to Lynchburg-Cedar Bayou Road, then westerly along Lynchburg-Cedar Bayou Road to its intersection with the Missouri Pacific Railroad, the southerly along the Missouri Pacific Railroad to the Houston Ship Channel, then along an imaginary center line of the Houston Ship Channel to its intersection with Beltway 8 Bridge (Jones Toll Bridge) then southerly on Beltway 8 its intersection with Red Bluff Road, then southeasterly on Red Bluff Road to its intersection with Fairmont Parkway, then easterly on Fairmont Parkway to its intersection with State Road 146, then due east along an imaginary line to Galveston Bay, then along the shoreline to the Harris County line, then along Harris-Chambers County line to the point of beginning.

Hidalgo County: The entire county.

Live Oak County: The portion of Live Oak County within the area bounded by a line beginning at the intersection of the Live Oak County line and U.S. Highway 59; then westerly on U.S. Highway 59 to the intersection of Interstate Highway 37; then northwesterly along Interstate Highway 37 to the intersection with State Highway 72; then easterly along State Highway 72 to its intersection with Farm Road 1358; then easterly on Farm Road 1358 to its intersection with Farm Road 623; then easterly on Farm Road 623 to the Live Oak County line; then southerly along the Live Oak County line to the point of beginning.

Motley County: That portion of Motley County within the area bounded by a line beginning at the point of intersection of U.S. Highways 62/70 and the Floyd-Motley County line, then northerly along the Floyd-Motley County line to the intersection with Farm Road 2999 Extension, then easterly 2.25 miles along an imaginary line to a point; then southerly along an imaginary line to the intersection of U.S. Highways 62/70, then westerly along U.S. Highways 62/70 to the point of beginning.

Starr County: The entire county.

Swisher County: The portion of Swisher County within the area bounded by a line beginning at the intersection of the Swisher, Floyd, and Hale County lines, then northerly to the intersection of Farm Road 2301, then northwesterly on Farm Road 2301 to a point 2.25 miles northerly at the intersection of the Swisher County line and an unnumbered county road, then easterly on that unnumbered county road to its intersection with the Swisher-Briscoe County line, then southerly along Swisher County line to its intersection with Swisher-Floyd County line, then westerly along the county line to the point of beginning.

Willacy County: The entire county.

§ 301.92-4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[2]

Any regulated article may be moved interstate from any regulated area in a quarantined State only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.92-5 and 301.92-8;

(b) Without a certificate or limit permit, if

(1)(i) The article originated outside of any regulated area, and

(ii) Moved directly through (moved without stopping except under normal traffic conditions, such as for traffic lights or stop signs) any regulated area in an enclosed vehicle or is enclosed by a covering adequate to prevent access by bees (such as canvas, plastic, or closely woven cloth), and

(iii) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

§ 301.92-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if such inspector:

(1)(i) Determines, based on inspection of the premises of origin, that the premises are free from Acarine mite and the article has not been exposed to Acarine mite; or

(ii) Determines that the article, other than a live or dead bee of the genus, *Apis*, has been kept in an enclosed container free of live or dead bees of the genus, *Apis*, for a period of 12 hours; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Acarine mite pursuant to § 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); [3] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector [4] for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, or processing (such destination and other conditions to be specified in the limited permit), when upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of the Acarine mite because life stages of the pest will be destroyed by such specified handling, utilization, or processing;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Acarine mite pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); and

(3) Determines that it is eligible for such movement under all other; Federal domestic plant quarantines and regulations applicable to such article.

(c) Certificate and limited permits for use for movement of regulated articles may be issued by an inspector [4] or person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated

[2] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

[3] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

[4] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

article if the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that such article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.92-6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[5] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.92-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.92-5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector [4] to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such article shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.92-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at the times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document: *Provided however*, that the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.92-9 Costs and charges.

The service of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

Done at Washington, D.C., this 10th day of August 1984.

William F. Helms,

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

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BILLING CODE 3410-34-M

[5] Compliance Agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories.)

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7 CFR Part 354

[Docket No. 83-325]

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations which establish charges for reimbursable overtime work performed by employees of Plant Protection and Quarantine (PPQ) at border ports, seaports, and airports by reasssigning work locations from which inspectors may be dispatched and the locations where they will perform upon request inspection, quarantine, and other services relating to the importation and exportation of plants, animals, and other regulated articles; and by revising the commuted traveltime allowances involved in providing such reimbursable overtime services. These amendments are necessary in order to advise the public of the reassignment of work locations, service areas, and traveltime allowances that resulted from a restructuring the PPQ field organization. The effect of this amendment is to expand or reduce the commuted traveltime periods associated with providing the reimbursable overtime work.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Eggert, Director, National Administrative Planning Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 614 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7250.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR Part 354, captioned "Overtime Services Relating to Imports and Exports" (hereinafter referred to as regulations) set forth provisions for obtaining, on a reimbursable basis, inspection, quarantine, and other services pertaining to the importation and exportation of animals, plants and other articles during Sundays, holidays or at times outside the regular tour of duty of the employees of Plant Protection and Quarantine (PPQ) who perform such services. The inspection, quarantine, and other reimbursable overtime services authorized by 7 U.S.C. 2260 are provided upon request by any person, firm or corporation having ownership, custody, or control of the articles requiring such services.

This document amends § 354.2 of the regulations by revising the listing of offices where PPQ employees are stationed, the locations serviced by PPQ employees in these offices, and the traveltime allowances used in determining the charge to be assessed for the reimbursable overtime work.

Traveltime allowances reflect, as nearly as is practicable, the time, measured in hours, required for a PPQ employee to travel from the office where the employee is stationed to the locality where the reimbursable overtime service is provided. A traveltime allowance may be included in determining the charge assessed the recipient of the reimbursable overtime service provided.

Recently PPQ restructured its field organization by relocating or deleting areas previously designated as offices where PPQ employees would be stationed, the localities serviced by these offices, and the traveltime allowances used in determining the charge to be assessed for the reimbursable overtime work. This document is necessary to provide the public with notice of these changes.

Executive Order 12291 and Regulatory Flexibility Act

This amendment has been issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." This final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, or investment, productivity innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Mr. Harvey L. Ford, Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, has determined that this action will not have a substantial impact on a significant number of small entities. Specifically, this amendment affects only those entities that request the services of an inspector on a Sunday, a holiday, or on an overtime basis. Services of an inspector during regularly established hours of service at a port are still furnished free of charge to those requiring the service. The pay provisions appropriate for employees performing inspection and quarantine services at ports of entry, and the features of the reimbursable plan for recovering the costs of furnishing port of entry inspection depend upon facts within the knowledge of the Department of Agriculture. Public participation in this rulemaking proceeding would not make additional relevant information available to the Department. Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures on these amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the **Federal Register.**

List of Subjects in 7 CFR Part 354

Agricultural commodities, Government employees, Imports, Plants (agriculture), Quarantine, Transportation.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine, the administrative instructions appearing at 7 CFR 354.2 prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are revised in their entirety to read as follows:

§ 354.2 Administrative instructions prescribing commuted traveltime.

Each period of overtime and holiday duty, as defined in § 354.1 shall, in addition, include a commuted traveltime period for the respective ports, stations, and areas in which employees are located. The prescribed commuted traveltime periods are set forth below:

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Alabama:			
Birmingham (including Birmingham Municipal Airport).	Alabaster		2
Birmingham (including Birmingham Municipal Airport).	Pelham		2
Chickasaw	Mobile		2
Huntsville		1	
Mobile		2	
Montgomery		1	
Undesignated ports			3
Alaska:			
Anchorage		1	
Seward	Anchorage		6
Undesignated ports			3
Arizona:			
Davis-Monthan AFB, Tucson.	Nogales		4
Douglas		1	
Douglas	Nogales		6
Nogales		1	
Phoenix		2	
Phoenix	Nogales		6
Phoenix	Tucson		5
San Luis		2	
Sasabe	Nogales		4
Tucson		1	
Tucson	Nogales		3
Yuma International airport.		1	
Undesignated ports			3
Arkansas:			
Blytheville AFB		1	
Dardanelle	Conway		3
Dardanelle	Little Rock		3
Fort Smith	Conway		5
Fort Smith	Little Rock		6
Helena	Blytheville		5
Helena	Little Rock		5
Little Rock		1	
Little Rock	Conway		2
Little Rock AFB		1	
Little Rock AFB	Conway		2
Osceola	Blytheville		2
Pine Bluff	Conway		4
Pine Bluff	Little Rock	2	
Undesignated ports			3
West Memphis	Blytheville		3
Bahamas:			
Nassau		1	
Freeport		1	
Bermuda:			
Ferry Reach		1	
California:			
Andrade	Calexico		2
Antioch	San Francisco		4
Burbank	Los Angeles		3
Calexico		1	
Camp Pendleton, USMC, Oceanside.	San Diego		3
Castle AFB	Merced		1
El Segundo	Los Angeles		2
El Toro MCAS	Los Angeles		3
George AFB	Los Angeles		4
Hamilton AFB, Novato.	Travis AFB		3
Los Angeles (including San Pedro, Los Angeles Harbor, Los Angeles International Airport, Long Beach Harbor, and Long Beach Municipal Airport).		2	
March AFB	Los Angeles		4
March AFB	Riverside		1
Martinez	San Francisco		3
Mather Field AFB	Travis AFB		3
McClellan AFB	Travis AFB		3
Moffett Field NAS, Sunnyside.	San Francisco		3
Monterey	San Francisco		6
Norton AFB	Riverside		1
Norton AFB	Los Angeles		4
Ontario	Los Angeles		3
Pittsburg	San Francisco		4

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Port Chicago	San Francisco		3
Port Hueneme	San Pedro		4
Redwood City	San Francisco		2
Richmond	San Francisco		3
Rodeo	San Francisco		3
Sacramento		1	
Sacramento	San Francisco		5
Sacramento	Travis AFB		2
Sacramento Metropolitan Airport.	Travis AFB		3
San Diego (including Mexican border at San Ysidro; Brown, Gillespie, and Lindbergh Fields, Imperial Beach; North Island, Miramar and Naval and Civilian Maritime within the San Diego Unified Port District).		2	
San Francisco (including Alameda, Oakland, San Francisco International Airport, and Oakland International Airport).		2	
Seal Beach	Los Angeles		2
Stockton		1	
Stockton	Travis AFB		3
Tecate	San Diego		2
Tecate	San Ysidro		3
Travis AFB		1	
Travis AFB	San Francisco		4
Vallejo	San Francisco		2
Undesignated ports			3
Colorado:			
Denver (including Stapleton International Airport).		2	
Ent AFB (Peterson Field).	Denver		5
Connecticut:			
Bradley Field, Windsor Locks.	Boston, MA		6
Bradley Field, Windsor Locks.	Warwick, RI		6
Bradley International Airport, Windsor Locks.		1	
Bradley International Airport, Windsor Locks.	Hadley, MA		2
Bridgeport	Groton		4
Bridgeport	Warwich, RI		6
Bridgeport	Windsor Locks		4
Groton (including New London).	Wallington		4
Groton (including New London).	Windsor Locks		4
Groton (including New London).		2	
New Haven	Groton		3
New Haven	Warwick, RI		6
New Haven	Windsor Locks		3
New London	Warwick, RI		4
Windsor Locks	Groton		4
Windsor Locks	Wallingford		3
Undesignated ports			3
Delaware:			
Claymont	Dover		3
Claymont	Wilmington		1
Delaware City	Wilmington		2
Delaware City	Dover		3
Dover		1	
Greater Wilmington Airport.	Dover		3
Wilmington (including marine terminal and airport).		1	
Wilmington	Philadelphia, PA		3
Wilmington	Baltimore, MD		5
Wilmington	Dover		3
District of Columbia:			
Washington, D.C. Metropolitan area (including Arlington and Alexandria, VA; Andrews AFB, MD; and Washington Navy Yard).	Andrews AFB, MD.	2	
Washington, D.C. Metropolitan area (including Arlington and Alexandria, VA; Andrews AFB, MD; and Washington Navy Yard).	Beltsville, MD	2	
Washington, D.C. Metropolitan area (including Arlington and Alexandria, VA; Andrews AFB, MD; and Washington Navy Yard).	Dulles International Airport, VA.	2½	
Florida:			
Apalachicola	Panama City		3
Apalachicola	Pensacola		6
Boca Grande	Tampa		5
Eglin AFB	Panama City		3
Eglin AFB	Pensacola		3
Fort Lauderdale		1	
Fort Meyers	Tampa		5
Fort Pierce		1	
Fort Pierce	West Palm Beach		3
Jacksonville		2	
Key West		1	
Marathon	Key West		2
Miami		2	
Orlando		1½	
Orlando	Port Canaveral		3
Orlando	Ocoee		2
Panama City		1	
Panama City	Pensacola		5
Patrick AFB		1	
Pensacola		1	
Pensacola	Mobile, AL		3
Pensacola	Panama City		5
Port Canaveral		1	
Port Everglades		1	
Port St. Joe	Panama City		2
Port St. Joe	Pensacola		6
St. Petersburg/Clearwater.	Tampa	2	
Tampa		2	
West Palm Beach		1	
Undesignated ports			3
Georgia:			
Atlanta		2	
Brunswick	Savannah		4
Columbus	Atlanta		4
Marietta	Atlanta		2
St. Mary's	Jacksonville, FL		3
Savannah		2	
Undesignated ports			3
Hawaii:			
Barbers Point NAS	Honolulu		2
Hilo		1	
Honolulu		2	
Kaanapali, Lahaina, Maui.	Kahului, Maui		2
Kahului, Maui		1	
Kahului, Maui	Honolulu		4
Kailua, Kona	Hilo		5
Kaneohi MCAS	Honolulu		2
Kapaa	Lihue		2
Kapahi	Lihue		2
Keaau	Hilo		1
Keahole		1	
Keauhou	Keahole		2
Lihue, Kauai		1	
Lihue, Kauai	Honolulu		5
Wahiawa, Oahu	Honolulu		2
West Loch, Pearl Harbor.	Honolulu		2
Undesignated ports			3
Idaho:			
Mountain Home AFB	Caldwell		3
Mountain Home AFB	Twin Falls		4
Illinois:			
Chicago		3	
Peoria	Princeton		3
Indiana:			
Evansville	Franklin		6
Gary	Hanna		2
Indianapolis	Frankfort		3
Indianapolis	Franklin		2
Mount Vernon	Franklin		6
Undesignated ports			3
Iowa:			
Des Moines	Boone		3
Kentucky:			
Covington	Lexington		4
Fort Campbell	Brentwood, TN		4
Greater Cincinnati Airport.	Erlanger, KY	1	
Louisville	Lexington		4
Louisiana:			
Barksdale AFB, Shreveport.	Baton Rouge		6
Barksdale AFB, Shreveport.	Natchotoches		3½
Baton Rouge (including Port Allen).		2	
Buras	New Orleans		4
Burnside	Baton Rouge		3
Convent	Baton Rouge		3
Donaldsonville	Baton Rouge		3
England AFB	Alexandria	1	
England AFB, Alexandria.	Baton Rouge		5
England AFB, Alexandria.	Natchotoches		2½
Fouchon	New Orleans		5
Geismar	Baton Rouge		2
Lake Charles	Crowley		3
Lake Charles	Port Arthur, TX		3
Lake Charles		1	
Morgan City	New Orleans		4
New Orleans		2	
Ostrica	New Orleans		4
Plaquemine	Baton Rouge		2
St. Gabriel	Baton Rouge		2
St. James	Baton Rouge		3
Uncle Sam	Baton Rouge		3
Venice	New Orleans		4
Points on the Mississippi River above the St. Charles-Jefferson Parish boundary to and including Gramercy, LA; any point below Chalmette, LA, on the east bank; and Belle Chasse, LA, and points to and including Port Sulphur on the west bank.	New Orleans		3
Undesignated ports			3
Maine:			
Bangor		1	
Bangor	Augusta		3
Bath	Portland		2
Brunswick NAS	Portland		2
Brunswick NAS	Augusta		2
Bucksport	Bangor		2
Cousins Island	Portland		1
Eastport	Bangor		6
Harpswell	Portland		2
Kittery	Portland		3
Portland		1	
Portland	Augusta		3
Searsport	Augusta		4
Searsport	Bangor		3
Wiscasset	Portland		3
Winterport	Bangor		2
Undesignated ports			3

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Maryland:			
Aberdeen Proving Ground.	Baltimore		3
Andrews AFB		2	
Andrews AFB	Beltsville	2	
Andrews AFB	Dulles International Airport, VA.	2½	
Annapolis	Baltimore		3
Baltimore		3	
Cambridge	Baltimore		4
Cambridge	Dover, DE		4
Salisbury	Dover, DE		3
Salisbury	Baltimore		4
Undesignated ports	Dover, DE, or Dulles International Airport, VA.		3
(For other points in Maryland, see D.C. listing)			
Massachusetts:			
Boston		3	
Fall River	Boston		5
Fall River	Warwick, RI		3
Gloucester	Boston		4
New Bedford		2	
New Bedford	Boston		5
New Bedford	Warwick, RI		3
Otis ANG/CGNS	Boston		6
Otis ANG/CGNS	New Bedford		3
Otis ANG/CGNS	Warwick, RI		5
Plymouth	Warwick, RI		3
Provincetown	Warwick, RI		6
Sandwich	Boston		6
Sandwich	Warwick, RI		4
Somerset	Boston		4
Westover AFB	Boston		6
Westover AFB	Hadley		1
Woods Hole	Boston		6
Woods Hole	New Bedford		4
Woods Hole	Warwick, RI		5
Undesignated ports	Boston, New Bedford, MA and Warwick, RI.		3
Mexico:			
Camargo	Roma, TX	1	
Cuidad Acuna	Del Rio, TX	1	
Cuidad Jusrez	El Paso, TX	1	
Matamoros	Brownsville, TX	1	
Mier	Roma, TX	1	
Nuevo Cd. Guerraro	Roma, TX	1	
Nuevo Laredo	Laredo, TX	1	
Nuevo Progreso	Progreso, TX	1	
Ojinago	Presidio	1	
Piedras Negras	Eagle Pass, TX	1	
Reynosa	Hidalgo, TX	1	
Michigan:			
Bay City	Detroit		5
Battle Creek	Kalamazoo		2
Detroit (including Detroit Metropolitan Airport, Inkster).		3	
Kent County Airport	Grand Rapids	1	
Monroe	Detroit		3
Muskegon	Detroit		6
Muskegon	Grand Rapids		2
Muskegon	Kalamazoo		4
Port Huron	Detroit		4
Saginaw	Detroit		5
South Haven	Detroit		6
Minnesota:			
Duluth		1	
Minneapolis-St. Paul		2	
Silver Bay	Duluth		3
Mississippi:			
Greenville		1	
Gulfport	Hattiesburg		3
Gulfport	Pascagoula		2
Keesler AFB	Brookhaven		4
Keesler AFB	Hattiesburg		4
Keesler AFB	Pascagoula		2
Natchez	Brookhaven		4
Pascagoula		1	
Pascagoula	Mobile, AL		3
Vicksburg	Florence		3
Undesignated ports			3
Missouri:			
Kansas City		1	
Kansas City	St. Charles		6
Kansas City International Airport.	Boone, IA		6
Kansas City International Airport.	St. Louis		6
Kansas City International Airport.		2	
Richards-Gebeur AFB	Kansas City	2	
Rosecrans AFB	Kansas City		3
St. Louis and St. Louis International Airport.	St. Louis	2	
Whiteman, AFB	Kansas City		4
Montana:			
Butte International Airport.	Billings		6
Great Falls International Airport.	Great Falls	1	
Nevada:			
Las Vegas		1	
Reno		1	
New Hampshire:			
Keene Airport, Keene	Canaan		4
Keene Airport, Keene	Groton		6
Newington	Portland, ME		3
Pease AFB	Portland, ME		3
Portsmouth	Portland, ME		3
Portsmouth	Manchester		3
Undesignated ports	Manchester, NH and Rouses Point, NY.		3
New Jersey:			
Atlantic City	Bridgeton		3
Atlantic City	Freehold		3
Bridgeport (Monsanto)	Wilmington, DE		1
Burlington	Philadelphia, PA		3
Coast Guard Sta., Cape May.	Bridgeton		4
Deepwater (Penns Grove).	Wilmington, DE		1
Lakehurst NAS	McGuire AFB		2
McGuire AFB	Freehold		2
McGuire AFB	Bridgeton		4
McGuire AFB	Trenton		2
McGuire AFB, Wrightstown.		2	
Paulsboro	Philadelphia, PA		3
Trenton		2	
New Mexico:			
Albuquerque		1	
Columbus	El Paso, TX		6
Columbus	Las Cruces		4
Holloman AFB, Alamogordo.	El Paso, TX		4
Undesignated ports			3
New York:			
Buffalo		2	
Chateaugay (including Churubusco and Cannon Corners).	Rouses Point		2
Jamaica, Long Island		2	
Lewiston	Buffalo		2
Massena	Rouses Point		4
New York		3	
Niagara Falls	Buffalo		2
Ogendsburg	Rouses Point		5
Oswego	Buffalo		6
Plattsburgh	Rouses Point		2
Rochester	Buffalo		4
Roosevelt Town	Rouses Point		4
Rouses Point (including Champlain).		1	
Syracuse		1	
Syracuse	Buffalo		6
Undesignated ports	Buffalo or Rouses Point.		3
North Carolina:			
Camp Lejeune	Kenansville or Kinston.		3
Camp Lejeune	Wallace or Wilmington.		3
Camp Lejeune	Morehead City		2
Charlotte		2	
Cherry Point	Kinston		3
Cherry Point	Morehead City		1
Elizabeth City		1	
Morehead City		1	
Morehead City	Kinston		3
New River MCAS	Morehead City		3
New River MCAS	Kenansville		3
New River MCAS	Wallace		3
Pope AFB	Fayetteville	1	
Pope AFB	Raeford		2
Seymour-Johnson AFB.	Goldsboro	1	
Sunny Point Army Terminal, Southport.	Wilmington		2
Wilmington		1	
Undesignated ports			3
Ohio:			
Akron	Cleveland		2
Ashtabula	Cleveland		3
Cincinnati	Toledo		6
Cleveland		2	
Columbus	Cleveland		6
Columbus	Marysville		2
Columbus	Sidney		5
Columbus	Washington Court House.		3
Dayton	Marysville		3
Dayton	Sidney		2
Dayton	Toledo		6
Dayton	Washington Court House.		3
Fairport Harbor	Cleveland		2
Greater Cincinnati Airport (Boone County, KY).	Erlanger, KY	1	
Lorraine	Cleveland		2
Lunken Airport	Erlanger, KY		1
Rickenbacker AFB	Cleveland		6
Toledo		2	
Toledo	Romulus, MI		4
Undesignated ports			3
Oklahoma:			
Altus AFB	Oklahoma City		6
Altus AFB	Elk City		3
Muskogee		1	
Port of Catoosa	Muskogee		3
Port of Catoosa	Oklahoma City		6
Port of Muskogee	Oklahoma City		6
Port of Verdigres	Oklahoma City		6
Tulsa International Airport.	Muskogee		3
Tulsa International Airport.	Oklahoma City		6
Tinker AFB, Oklahoma City.		1	
Will Rogers World Airport, Oklahoma City.		1	
Undesignated ports	Oklahoma City		3
Oregon:			
Astoria		1	
Astoria	Portland		5
Coos Bay (including North Bend).		1	
Newport	Coos Bay		5
Port Westward	Astoria		2
Portland		2	
Westport	Astoria		2
Undesignated ports			3
Pennsylvania:			
Allentown-Bethlehem Easton Airport.	Moosic		5
Allentown-Bethlehem Easton Airport.	Allentown	2	
Allentown-Bethlehem Easton Airport.	Carlisle		5
Chester	Philadelphia		3
Chester	Wilmington, DE		1
Erie	Buffalo, NY, or Cleveland, OH.		4
Erie	Meadville		3
Erie	Mercer		4
Greater Pittsburgh International Airport.	Cleveland, OH		6

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Greater Pittsburgh International Airport.	Meadville		5
Greater Pittsburgh International Airport.	Mercer		4
Greater Pittsburgh International Airport.	Pittsburgh	3	
Harrisburg International Airport.	Carlisle		2
Harrisburg International Airport.	Allentown		4
Harrisburg International Airport.	Moosic		6
Harrisburg International Airport.	Philadelphia		5
Harrisburg International Airport.	University Park		5
Harrisburg International Airport.	Williamsport		6
Marcus Hook	Philadelphia		3
Marcus Hook	Wilmington, DE		1
Philadelphia		3	
Philadelphia	McGuire Air Force Base.		3
Philadelphia	Wilmington, DE		3
Tullytown	Philadelphia		3
Wilkes-Barre/ Scranton Airport.	Allentown		5
Wilkes-Barre/ Scranton Airport.	Williamsport		6
Wilkes-Barre/ Scranton Airport.	Moosic		2
Willow Grove NAS	Philadelphia		3
Puerto Rico:			
Aguadilla	Mayaguez		2
Aguirre	Ponce		2
Arecibo	San Juan		3
Borinquen Field	Mayaguez		2
Fajardo	Roosevelt Road		1
Fajardo	San Juan		3
Guanica	Mayaguez		2
Guanica	Ponce		2
Guayama	Ponce		2
Guayanilla	Ponce		2
Humacao and Yabucoa.	San Juan		4
Mayaguez (including points from Rameyto Cabo Rojo).	San Juan		5
Mayaguez and El Mani Airport.		1	
Ponce (including all subports in the Ponce customs district).	San Juan		4
Ponce and Mercedita Airport.		1	
Roosevelt Roads		1	
San Juan		2	
Tallaboa (Penuelas)	Ponce		2
Yabucoa	Roosevelt Roads		3
Rhode Island:			
Davisville NSD	Boston, MA		4
Davisville NSD	Warwick		2
Melville	Warwick		3
Newport	Boston, MA		5
Newport	Warwick		4
Portsmouth	Warwick		3
Providence	Boston, MA		4
Providence	Warwick		2
Quonset Point	Boston, MA		4
Quonset Point	Warwick		2
Saunderstown	Warwick		3
Tiverton	Warwick		3
Warwick		2	
Undesignated ports			3
South Carolina:			
Beaufort-Port Royal	Charleston		4
Beaufort-Port Royal	Savannah		3
Charleston		2	
Columbia	Charleston		4
Columbia		1	
Georgetown	Charleston		3
Greenville-Spartanburg.		1	
McEntire NG Air Base	Columbia		2
McEntire NG Air Base, Eastover.	Charleston		4
Myrtle Beach AFB	Charleston		4
Myrtle Beach AFB	Conway		1
Shaw AFB	Columbia and Florence.		2
Shaw AFB, Sumter	Charleston		4
Undesignated ports			3
Tennessee:			
Knoxville		1	
Memphis		1	
Memphis	Dyersburg		4
Millington	Dyersburg		3
Millington	Memphis		2
Nashville		1	
Undesignated ports			3
Texas:			
Alamo	Hidalgo		1
Aransas Pass	Corpus Christi		2
Barbours Cut	Houston		3
Bayport	Houston		3
Baytown	Houston		2
Beaumont	Port Arthur		2
Beaumont	Lake Charles		3
Brownsville		1	
Carswell Field, Fort Worth.	Dallas-Fort Worth Regional Airport.		3
Corpus Christi		1	
Corpus Christi NAS	Corpus Christi		1
Dallas		1	
Dallas (including Love Field).	Dallas-Fort Worth Regional Airport.		1
Dallas-Fort Worth Regional Airport.		1	
Dallas-Fort Worth Regional Airport.	Denton		2
Dallas-Fort Worth Regional Airport.	Waxahachie		3
Del Rio		1	
Del Rio	Eagle Pass		3
Donna	Hidalgo		2
Dyess AFB	Abilene	1	
Eagle Pass		1	
El Paso		1	
Fabens	El Paso		2
Falcon Heights	Roma		1
Freeport	Galveston or Houston.		3
Fort Hood	College Station		5
Fort Hood	Waco		3
Galveston		1	
Galveston	Houston		4
Gregory	Corpus Christi		1
Harbor Island	Corpus Christi		2
Harlingen		1	
Harlingen	McAllen		2
Hidalgo		1	
Hidalgo	Brownsville		3
Houston (except Houston Intercontinental Airport).		2	
Houston Intercontinental Airport.		3	
Kelly AFB	San Antonio		2
Kelly AFB	Boerne		3
La Feria	Hidalgo		2
Laredo		1	
Laughlin AFB	Del Rio		1
Love Field	Waxahachie		2
Love Field	Denton		2
McAllen	Hidalgo		1
Meacham Field	Dallas-Fort Worth Regional Airport.		2
Mercedes	Hidalgo		2
Mission	Hidalgo		1
Orange	Port Arthur		2
Orange	Lake Charles		2
Pharr	Hidalgo		1
Point Comfort		1	
Point Comfort	Corpus Christi		5
Port Arthur		1	
Port Arthur	Lake Charles or Baton Rouge.		3
Port Isabel	Brownsville		2
Port Lavaca	Corpus Christi		4
Presidio		1	
Progreso		1	
Progreso	Brownsville or Hidalgo.		2
Randolph AFB	San Antonio		2
Rio Grande City	Roma		1
Robert Grey Army Airfield.	College Station		5
Robert Grey Army Airfield.	San Antonio		6
Robert Grey Army Airfield.	Waco		3
Rockport	Corpus Christi		2
Roma		1	
Roma	Hidalgo		3
Roma	Brownsville		5
Roma	Laredo		4
Sabine Pass	Port Arthur		1
San Antonio		1	
San Juan	Hidalgo		1
Texas City	Galveston		1
Weslaco	Hidalgo		2
Undesignated ports			3
Utah:			
Salt Lake City International Airport.		2	
Hill Air Force Base, Ogden.	Salt Lake City		4
Vermont:			
Alburg	Rouses Point, NY.	1	
St. Albans (including Highgate Springs and Morses Line).	Rouses Point, NY.		2
Undesignated ports	Rouses Point, NY.		3
Virgin Islands:			
Alexander Hamilton Airport, St. Croix.		1	
Charlotte Amalie, St. Thomas.		1	
Christiansted, St. Croix.		1	
Frederiksted, St. Croix		1	
Virginia:			
Alexandria or Arlington.	Andrews AFB, MD.	2	
Alexandria or Arlington.	Dulles International Airport.	2½	
Alexandria or Arlington.	Beltsville, MD	2	
Dulles International Airport.		2	
Dulles International Airport.	Baltimore, MD		3
Dulles International Airport.	Beltsville, MD	2½	
Dulles International Airport.	Fredericksburg		3
Hopewell	Norfolk		5
Norfolk Metropolitan Area (including Chesapeake, Hampton, Newport News, Portsmouth and Virginia Beach).		2	
Quantico MCAS	Dulles International Airport.		3
Quantico MCAS	Fredericksburg	1½	
Richmond	Norfolk		5
Undesignated ports (For other points in Virginia, see District of Columbia listing)			3
Washington:			
Anacortes	Blaine		3

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Anacortes	Seattle		5
Ault Field	Blaine		4
Ault Field	Seattle		5
Bellingham	Blaine		2
Bellingham	Seattle		6
Bangor NSD	Seattle		4
Blaine		1	
Cherry Point	Blaine		1
Cherry Point	Seattle		6
Edmonds	Seattle		2
Everett	Seattle		3
Ferndale	Blaine		2
Ferndale	Seattle		6
Fort Lewis	Tacoma		2
Grays Harbor	Astoria, OR		3
Grays Harbor	Tacoma		4
Grays Harbor	Seattle		6
Kalama	Portland, OR		3
Longview	Astoria or Portland, OR.		3
Lynden	Blaine		2
McChord AFB	Tacoma		2
McChord AFB	Seattle		3
Olympia	Tacoma		2
Olympia	Seattle		3
Paine Field	Seattle		3
Point Wells		2	
Port Angeles	Tacoma or Seattle.		6
Port Townsend	Seattle		4
Raymond	Astoria, OR		2
SEA TAC Airport		2	
SEA TAC Airport	Tacoma		2
Seattle		2	
Snohomish County Airport.	Seattle		2
Sumas	Blaine		2
Tacoma		1	
Tacoma	Seattle		3
Vancouver		2	
Willapa Bay	Astoria, OR		2
Willapa Bay	Tacoma		4
Willapa Bay	Seattle		6
Undesignated ports	Astoria or Portland, Oregon, Tacoma, Seattle.		3
West Virginia:			
Kanawha Airport	Charleston	1	
Kanawha Airport	Clarksburg		6
Wisconsin:			
Green Bay	Milwaukee		6
Kenosha	Milwaukee		2
Madison	Milwaukee		4
Milwaukee		2	
Milwaukee	O'Hare International Airport, Chicago, IL.		5
Racine	Milwaukee		2
Superior	Duluth, MN	1	
Undesignated ports	Duluth, MN or Milwaukee.		3
Temporary detail:			
Any inspection point to which an employee may be temporarily detailed.		1	

(64 Stat. 561 (7 U.S.C. 2260); (7 CFR 2.17, 2.51, 371.2(c)))

Done at Washington, D.C., this 7th day of August 1984.

Harvey L. Ford,

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

[FR Doc. 84-21297 Filed 8-13-84; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 339]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 339 establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 17–23, 1984. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 339 (§ 908.639) becomes effective August 17, 1984.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures 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 regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The regulation is consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on February 14, 1984. The committee met again publicly on August 7, 1984, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges. The committee reports the demand for Valencia oranges is improved.

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 there is insufficient time between the date when information upon which this regulation is based became available 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. To effectuate the declared policy of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been notified of the regulation and its effective date.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

Section 908.639 is added as follows:

§ 908.639 Valencia Orange Regulation 339.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 17, 1984, through August 23, 1984, are established as follows:

(a) District 1: Unlimited cartons;

(b) District 2: 350,000 cartons;

(c) District 3: Unlimited cartons.

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

Dated: August 9, 1984.

Thomas R. Clark,

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

[FR Doc. 84-21543 Filed 8-13-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1030

[Docket No. AO-361-A20]

Milk in the Chicago Regional Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Chicago Regional order to provide the operators of certain supply plants a choice of methods by which their plants may qualify as pool plants. A "reserve supply plant" provision allows supply plants that meet certain criteria to be pool plants without having to regularly ship milk to distribution plants unless the market administrator determines

that such shipments are needed to meet the fluid milk demands of the market. A plant that fails to meet such a "call" for shipments will lose its status as a pool reserve supply for one year.

The market administrator could determine that pool reserve supply plants, in one or more areas, will have to make qualifying shipments of milk if milk is needed at distributing plants in the respective call area. The shipping requirements could be at different levels within a call area or between areas that, together, would define the call area.

Alternatively, a supply plant operator may choose to pool a plant by making monthly shipments to qualifying plants. The shipments are required each month at a rate equal to the marketwide Class I utilization percentage for the same month of the preceding year. Plants pooled through the latter provision will not be subject to any call to ship milk issued by the market administrator. However, each such plant will have to make the required shipments, since handlers no longer would be able to form pool units composed of more than one plant.

Another change requires each producer to ship one day's production each month to the pool plant that receives and reports such milk as producer milk. Such shipments previously were required once a month during September through March.

This action is based on the record of a public hearing held in May 1983, at the request of a group of dairy farmer cooperatives that represents more than one-half of the producers who supply this market. The changes herein reflect current marketing conditions and tend to facilitate stable and orderly marketing of milk supplies associated with the Chicago Regional market.

Issuance of the amended order is favored by more than two-thirds of the producers who supplied milk to the market in March 1984.

EFFECTIVE DATE: September 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

Prior documents in this proceeding:

Notice of Hearing: Issued April 25, 1983; published April 29, 1983 (48 FR 19380).

Partial Decision: Issued August 4, 1983; published August 11, 1983 (48 FR 36464).

Order Amending Order: Issued August 17, 1983; published August 24,1983 (48 FR 38448).

Recommended Decision: Issued April 9, 1984; published April 12, 1984 (49 FR 14511).

Correction to Recommended Decision: Published April 20, 1984 (49 FR 16803).

Extension of Time for Filing Exceptions: Issued May 8, 1984; published May 14, 1984 (49 FR 20303).

Final Decision: Issued July 25, 1984; published July 31, 1984 (49 FR 30482).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Chicago Regional order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.),* and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than September 1, 1984. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Marketing Programs, was issued April 9, 1984 (49 FR 14511), and the decision of the Assistant Secretary containing all amendment provisions of this order was issued July 25, 1984 (49 FR 30482). The changes effected by this order will replace certain performance requirements that otherwise would come into operation on September 1, and which would require advance notice of certain operations to the market administrator. Failure to make the changes effective on September 1 would result in a need to make certain handler arrangements that would only be effective for a short period of time. This undesirable effect will be avoided by providing that the amended order shall be fully operational on September 1, 1984. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1984, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

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

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1030

Milk marketing order,
Milk,
Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Chicago Regional marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as

amended, and as hereby further amended, as follows:

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. Section 1030.6 is revised to read as follows:

§ 1030.6 Supply plant and reserve supply plant.

Except as provided in paragraph (c) of this section, "supply plant" and "reserve supply plant" are defined as follows:

(a) "Supply plant" means a plant from which a Grade A fluid milk product is shipped or transshipped during the month to another plant. Such supply plant shall be equipped with storage capacity sufficient to hold the largest quantity of fluid milk product either received in the plant or shipped from the plant as a single load during the month, except that no storage capacity shall be maintained in a plant described in § 1030.4(a).

(b) "Reserve supply plant" means a plant that is located in the marketing area or in that protion of the State of Wisconsin that is not included in the marketing area of any federal milk marketing order. This definition shall include any plant located in the Wisconsin portion of the Upper Midwest federal milk order marketing area that was a pool plant for at least three consecutive months immediately preceeding the effective date of this paragraph so long as it continues to maintain pool status.

(c) Any plant located on the premises of a pool distributing plant pursuant to § 1030.7(a) shall not be considered a supply plant or a reserve supply plant unless it is located in a building that is entirely separate from the distributing plant.

2. Section 1030.7 is revised to read as follows:

§ 1030.7 Pool plant.

Except as provided in paragraphs (d) and (f) of this section, "pool plant" means:

(a) A distributing plant or unit described in paragraph (a)(4) of this section from which during the month the disposition of fluid milk products specified in paragraph (a)(2) of this section is not less than 10 percent of the receipts specified in paragraph (a)(1) of this section and from which the disposition of fluid milk products specified in paragraph (a)(3) of this section as a percent of the receipts specified in paragraph (a)(1) of this section is not less than 45 percent in each of the months of September, October, November, and December, 35 percent in each of the months of January, February, March, and August, and 30 percent in all other months.

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted to nonpool plants and to pool supply plants and pool reserve supply plants pursuant to § 1030.13, but excluding producer milk diverted to other pool distributing plants, receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II and III uses from other pool distributing plants, and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.44(a)(8)(i)(*a*) and (ii) and the corresponding step of § 1030.44(b).

(2) Packaged fluid milk products, except filled milk, disposed of as either route disposition in the marketing area or moved to other plants from which it is disposed of as route disposition in the marketing area. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Packaged fluid milk products, except filled milk, disposed of as either route disposition or moved to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(4) A unit consisting of at least one distributing plant and one or more additional plants of a handler at which milk is processed and packaged or manufactured shall be considered as one plant for the purpose of meeting the requirements of this paragraph if all such plants are located within the State of Wisconsin or that portion of the marketing area within the State of Illinois, and if, prior to the first day of the month, the handler operating such plants has filed a written request for such plants to be considered a unit with the market administrator.

(b) A supply plant from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transshipped and received and physically unloaded into plants described in paragraph (d) of this section as a percent of the Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c) including producer milk diverted pursuant to § 1030.13, but excluding packaged fluid milk products that are disposed of from such plant as route disposition, is not less than the marketwide Class I utilization percentage for the same month of the preceding year, subject to the conditions set forth in paragraph (d) of this section.

(c) A reserve supply plant, subject to the following conditions:

(1) At least 47,000 pounds of Grade A milk from producers are received and physically unloaded into the plant at least one day each month. To be a pool plant for December each year, each reserve supply plant must ship during any month of September through December of the same year, at least one tank truck load (not less than 47,000 pounds) of Grade A fluid milk products to a pool distributing plant pursuant to paragraph (a) or (e) of this section;

(2) The operator of the plant has filed a request with the market administrator for pool plant status at least 15 days prior to the first day of the month in which such status is desired to be effective. Upon becoming qualified as a pool plant pursuant to this paragraph, such status shall continue to be effective through the third month following the month in which the operator notifies the market administrator that the plant will seek qualification as a pool plant pursuant to paragraph (b) of this section for the next consecutive three months, unless the operator requests nonpool status for the plant prior to the first day of the month for which nonpool status is requested, the plant subsequently fails to meet all the conditions of this paragraph, or the plant qualifies as a pool plant under another order.

(3) Subject to the conditions set forth in paragraph (d) of this section, the operator of the reserve supply plant supplies fluid milk products (except filled milk) and/or condensed skim milk to plants described in § 1030.7(d)(1) or supplies fluid milk products (except filled milk) to plants described in paragraphs (d)(2), (d)(3), and (d)(4) of this section that are located within an area(s) designated by the market administrator as the "call area" in compliance with any announcement by the market administrator requesting a minimum level(s) of shipments, as further provided below:

(i) The market administrator may require such supplies of milk products from operator(s) of any pool reserve supply plant(s) within the call area whenever he finds that milk supplies for Class I use at one or more pool distributing plants within the call area are needed from one or more plants qualifying under this paragraph. Such requirement(s) shall be expressed as a percent of the Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c), including producer milk diverted

pursuant to § 1030.13, but excluding packaged fluid milk products that are disposed of from such plant(s) as route disposition, but such percent shall not exceed twice the percentage shipping requirement for a pool plant pursuant to paragraph (b) of this section. Before making such a finding, the market administrator shall investigate the need for such shipments either on his own initiative or at the request of interested persons. If his investigation shows that such shipments might be appropriate, he shall issue a notice stating that a shipping announcement is being considered and inviting data, views, and arguments with respect to the proposed shipping announcement; and

(ii) Failure of a handler to comply with any announced shipping requirement, including making any significant change in his marketing operations that the market administrator determines has the impact of forcing or evading such an announcement, shall result in immediate loss of pool status for the plant pursuant to this paragraph. Such loss of pool status shall also apply to any other reserve supply plant that the market administrator determines was utilized by any handler to aid or abet the forcing or evading of such announcment. A plant losing pool status in this manner, or a plant that requests nonpool status, or that elects to qualify as a pool supply plant for three consecutive months and fails to so qualify during any of such months, may not again qualify as a pool plant pursuant to this paragraph for a period of one year from the date on which pool status was last held.

(4) To be a pool plant under this paragraph during April through August, a plant must meet the following conditions:

(i) The plant must have been a pool plant under this order during each of the preceding months of September through March; or

(ii) The plant must have been a pool plant under this order during any six months of the preceding September through March and an other order plant during one such month, except that this provision shall not apply during the first three months that a plant has changed status from a pool reserve supply plant to a pool supply plant.

(d) Qualifying shipments pursuant to the requirements of paragraph (b) of this section and pursuant to any notice issued under paragraph (c)(3)(i) of this section may be made to the following plants, except that shipments from a reserve supply plant to plants described in paragraphs (d)(1), (d)(2), and (d)(3), or (d)(4) of this section that are outside the call area may count as if delivered to a pool distributing plant within the call area if the market administrator is notified of the amount of any such commitments to ship milk prior to such notice:

(1) Pool plants described in paragraph (a) of this section, subject to the following conditions:

(i) The quantity of condensed skim milk and fluid milk products moved (including milk diverted) from supply plants and reserve supply plants to each distributing plant that is a pool plant pursuant to paragraph (a) or (e) of this section that shall count towards meeting the shipping requirements of this paragraph shall be a net quantity assignable at each such pool plant pro rata to supply plants and reserve supply plants in accordance with total receipts from such plants. The net quantity shall be computed by subtracting from the quantity of fluid milk products and condensed skim milk received from supply plants and reserve supply plants the following:

(*a*) The quantity of condensed skim milk not disposed of in a fluid milk product and the quantity of fluid milk products in the form of bulk milk and skim milk moved from the pool distributing plant to pool supply plants and/or pool reserve supply plants plus any such bulk shipments to nonpool plants as Class II or Class III milk other than:

(*1*) Transfers or diversions classified pursuant to § 1030.40(b)(3); and

(*2*) Transfers or diversions on New Year's Day, Memorial Day, July 4, Labor Day,Thanksgiving, Christmas, and on any Saturday if no milk is received at the pool distributing plant from a supply plant or reserve supply plant, in an amount not in excess of 120 percent of the average daily receipts of producer milk pursuant to § 1030.13(a) at the plant during the prior month, less the quantity of producer milk diverted pursuant to § 1030.13(d) on such day. If no producer milk was received in the distributing plant during the prior month, the average daily receipt during the current month shall be used for this purpose; and

(*b*) If milk is diverted from the pool distributing plant on the date of the receipts from the supply plant or the reserve supply plant, the quantity so diverted, except any diversion of milk (not to exceed 3 days' production of any individual producer) made because of any emergency situation such as breakdown of trucking equipment or hazardous road conditions if such emergency is reported to the market administrator.

(ii) Qualifying shipments from reserve supply plants to pool distributing plants within the call area may originate from any plant or producer milk supplies of the handler. The computation of location adjustments pursuant to § 1030.52(c) (8), (9), and (10) shall be based on the location of the plant subject to the call or the location of the plant(s) from which shipments are actually made in compliance with the call, whichever results in the lesser location adjustment on such shipments;

(iii) Shipments from sources other than the reserve supply plant(s) subject to the call and milk supplies for which a cooperative association is the handler pursuant to § 1030.9(c) must be in addition to any shipments already being made by the handler and may not result from shifting milk supplies from a pool distributing plant outside the call area to one within the call area; and

(iv) The operator of a supply plant or a reserve supply plant may include as qualifying shipments deliveries to pool distributing plants directly from farms of producers pursuant to § 1030.13(d).

(2) Plants of producer-handlers;

(3) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of milk which receives a Class I classification at the transferee plant; and

(4) Distributing plants fully regulated under other Federal orders, except that credit for such shipments from such plant shall be limited to the quantity of milk shipped to pool distributing plants during the month. Credits for shipments to other order plants shall not include any such shipments made on the basis of agreed-upon Class II or Class III utilization.

(e) Any plant that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraph (b) or (c) of this section that is unable to meet such performance standards because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than two consecutive months.

(f) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or exempt distributing plant;

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the

Act, unless it is qualified as a pool plant pursuant to paragraph (a), (b), (c), or (e) of this section and a greater volume of fliud milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order; and

(3) That portion of a plant that is physically separated from the Grade A portion of such plant, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

3. In § 1030.13, paragraphs (d)(1), (d)(2), (d)(3), and (d)(6) are revised to read as follows:

§ 1030.13 Producer milk.

* * * * *

(d) * * *

(1) Milk from a dairy farmer shall not be eligible for diversion unless at least one day's production is received and physically unloaded during the month at the pool plant where such milk is reported as producer milk;

(2) Milk from a dairy farmer who was not a producer during the previous month shall not be eligible for diversion until at least one day's production is received and physically unloaded at the pool plant where such milk is reported as producer milk;

(3) Milk diverted to a nonpool plant(s) for the account of the operator of a pool plant, or a handler described in § 1030.9(b), shall not exceed the market's combined Class II and Class III utilization percentage for the same month of the preceding year of the total quantity of producer milk for which it is the handler (or, in the case of a cooperative the producer milk that the cooperative association causes to be delivered to or diverted from pool plants), except that the percentage specified herein shall not apply to the operator of a pool reverse supply plant during the months of April through August;

* * * * *

(6) Any milk diverted in excess of the limits prescribed in paragraph (d)(3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk. Otherwise, the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which dairy farmer's milk should not be producer milk; and

* * * * *

4. In § 1030.30, the introductory text of paragraphs (a) and (a)(3) are revised to read as follows:

§ 1030.30 Reports of receipts and utilization.

* * * * *

(a) Each handler, with respect to each of his pool plants (except that if a handler so requests and the request is approved by the market administrator, a single report for supply plants and/or reserve supply plants and a single report for distributing plants may be filed), shall report the quantities of skim milk butterfat contained in or represented by:

* * * * *

(3) Receipts of fluid milk products and bulk fluid cream products from pool plants of other handlers (or other pool plants, as applicable), including a separate statement of the net receipts from each supply plant and/or from each reserve supply plant, computed pursuant to § 1030.7(d)(1)(i);

* * * * *

5. In § 1030.41, the introductory text of paragraph (a) is revised to read as follows:

§ 1030.41 Shrinkage.

* * * * *

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant (or at all of a handler's supply plants and/or reserve supply plants combined or at all of a handler's distributing plants combined if such reports are filed pursuant to § 1030.30) to the respective quantities of skim milk and butterfat:

* * * * *

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

Effective date: September 1, 1984.

Signed at Washington, D.C., on: August 8, 1984.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc 84-21487 Filed 8-13-84; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 552 and 563b

[No. 84-400]

Conversion From Mutual to Stock Form

Dated: August 2, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; solicitation of comments.

SUMMARY: The Federal Home Loan Bank ("Board") is making permanent the three-year restriction on offers to acquire and acquisitions of the stock of recently-converted insured institutions that was adopted as a temporary final rule in Board Resolution No. 84–90, effective February 29, 1984. The final rule will also apply on a temporary basis to all converted institutions that were subjected to any regulatory post-conversion restriction on acquisitions as of February 29, 1984. The extended acquisition restriction will provide converted institutions a better opportunity to deploy conversion proceeds into productive assets, will protect against takeovers designed to gain control of a converted institution's conversion proceeds, and will foster the integrity and objectives of the conversion process.

EFFECTIVE DATE: August 2, 1984; comments must be received by October 8, 1984.

ADDRESS: Send comments to Director, Public Information Services Branch, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Attorney, Corporate and Securities Division (202–377–6457); J. Larry Fleck, Deputy Director, Corporate and Securities Division (202–377–6413); or Julie L. Williams, Associate General Counsel, Director, Corporate and Securities Division (202–377–6459).

SUPPLEMENTARY INFORMATION: By Resolution No. 84–90, dated February 23, 1984, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), temporarily extended the regulatory restriction on offers to acquire and acquisitions of more than ten percent of the stock of recently-converted insured institutions from one year to three years following conversion. 49 FR 7356 (Feb. 29, 1984) (to be codified at 12 CFR 563b.3(i)(3)). This action was taken in order to provide converting institutions a more effective period of time in which to deploy conversion proceeds into productive assets. The extension was necessitated by recent takeover speculation and other acquisition efforts targeted to converted institutions. This activity tended to divert association management from the task of investing conversion proceeds and managing their converted institutions and was caused by the failure of the former one-year restriction on acquisitions to deter

speculators from staking out positions in recently-converted institutions, and working to make such institutions takeover targets. Concluding that speculative activity and acquisition efforts in the first year following conversion were not only undermining the integrity of previous conversions but also creating disincentives to future conversions, the Board determined to extend the § 563b.3(i) restriction on acquisitions from one year to three years following completion of conversion.

In order to allow the Board an opportunity to assess the impact of the rule, the extension was adopted as a temporary final rule with an expiration date of August 31, 1984. To minimize market disruption, the three-year restriction was applied only to institutions that had not begun offering stock prior to the effective date. Associations that had begun stock offerings prior to February 29, 1984, remained subject to only a one-year restriction.

The Board received twenty-seven comment letters. Nineteen comments were received from insured institutions, both stock and mutual. Other comments came from three industry groups and five individuals including two United States Congressmen. The comments unanimously favored adoption of a permanent rule extending the § 563b.3(i) post-conversion acquisition restriction to three years. Commenters agreed with the Board's assessment that the former one-year period did not provide sufficient protection from threatened takeovers to allow converted institutions to deploy their conversion proceeds in an orderly manner. Several recently-converted institutions recounted the difficulties they had experienced in dealing with potential takeovers and the concomitant speculative interest in their stock, while trying to adjust to a stock conversion. One commenter noted that, in order to maintain shareholder loyalty, an institution faced with a potential takeover will be forced to invest its conversion proceeds in higher-risk ventures for short-term gains rather than engaging in the long-term portfolio restructuring which is necessary for future profitability. Accordingly, takeover speculation in the critical period immediately following conversion has the potential to create dislocations in the nation's home financing system and additional risks for the FSLIC Insurance Fund.

It was also noted that the costs of obtaining working control of a recently-converted institution are artificially low. First, the price of the institution's stock does not yet reflect the value of the conversion proceeds when invested in income-producing assets. Second, because of the widespread distribution of the institution's stock, control requires the accumulation of only a small percentage of outstanding shares. Accordingly, recently converted institutions may be considered unusually vulnerable to takeovers and takeover speculation during the period immediately following conversion.

More than half of the commenters, however, urged that the permanent rule be modified to cover institutions that had commenced their stock offerings prior to February 29, 1984, the effective date of the rule. It was suggested that § 563b.3(i) could allow associations to opt out of its coverage by shareholder vote to avoid hardship. A number of associations that had converted prior to that date contended that the phase-in of the three-year rule had the effect of focusing speculative interest on those associations that were still subject to only a one-year restriction. It was noted in this regard that an unprecedented number of institutions had converted in 1983. These included many strong associations that would be considered attractive takeover targets and were therefore most in need of takeover protection. Commenters contended that if a three-year restriction is considered more appropriate than a one-year restriction, it is illogical not to apply it to all institutions.

It was further asserted that application of the three-year rule to existing stock institutions should not be considered to infringe on the rights of investors. Commenters pointed out that disclosures in offering documents put investors on notice that the future performance of savings and loan stocks would be greatly influenced by actions of regulatory agencies. It was also noted that since any regulatory change, even one not related to securities, could have an impact on the value of thrift stock, investor impact alone cannot be the decisive factor in drafting regulations. Commenters submitted that the Board's primary responsibility under the National Housing Act is the maintenance of a sound home financing system and that speculative expectations should yield to this concern.

In formulating the temporary amendments contained in Resolution No. 84–90, the Board considered the potential reaction of the investing public to an additional restriction on the accumulation of thrift stock and only applied the three-year rule to associations that had not yet offered stock to the public. The response to the Board's request for comments, however, leads it to conclude that the disruption caused by takeover speculation is sufficiently severe and the failure to include already converted institutions in the coverage of the rule creates such a significant inequity in treatment, that the three-year rule should be applied more broadly. The Board has carefully considered the impact of a broader rule on persons who purchased conversion stock. However, the Board has concluded that the conversion program must be administered in a manner that accords paramount concern to the purposes of the conversion program and the health of the thrift industry.

As has been previously and consistently declared, the protection of the conversion program is one of the Board's most important missions. Speculation in thrift stock in the period immediately following conversion has the potential to disrupt operations during a critical point in the development of the institution. These threats to the integrity of the conversion process compel the Board to address speculation in thrift stock. Indeed, regulatory action is required by the Congressional mandate to prevent the "raiding" of converting institutions, S. Rep. No. 902, 93d Cong. 2d Sess. 3–5, *reprinted in*, 1974 U.S. Code Cong. & Ad. News 6119, 6122–23. Moreover, the threat faced by institutions that converted in 1983 is of special concern to the Board. Because of the record number of conversions that took place in 1983, the experience of those institutions will have an inordinate impact on the health of the industry as a whole. Because of favorable market conditions, institutions converting in 1983 also attracted unusually large amounts of cash in their conversions.

Against these concerns, the Board must balance the legitimate interests of investors. The Board's staff has monitored the market valuations of recently-converted insured institutions and discerned no significant difference in the stock prices of institutions converting under the three-year rule as compared to institutions subject to the former one-year rule that can be attributed to the extended three-year period. Although takeover rumors may inflate the prices of certain stocks, it appears that there has been no discernible decline in the relative valuation of converting institutions and that stock prices are generally more dependent on market conditions and a myriad of diverse factors than on the presence or absence of a regulatory

restriction on acquisitions. In the few instances where institutions are subject to active takeover initiatives, it is noted further that § 563b.3(i) is not a flat prohibition against takeovers of newly-converted institutions. The Board may approve a bid for a recently-converted insured institution if there is no basis for denial under § 563b.3(i)(6). Finally, it is noted that for institutions whose stock is traded on an exchange or on the NASDAQ system, the extension of the restriction on the acquisition of more than ten percent of an association's stock does not significantly increase the regulatory approvals required beyond those already imposed by the Board's Change-in-Control Regulations, 12 CFR 563.18–2 (1984), which are also triggered by ten-percent acquisitions in the case of such actively-traded institutions. Extension of § 563b.3(i) merely allows the Board to give greater weight to the needs of the conversion program in takeover situations and to begin regulatory scrutiny at an earlier point.

Accordingly, the Board has determined to make permanent the three-year restriction and to further apply it on a six-month temporary basis to insured institutions that completed their conversions on or after March 1, 1983. In this way, the new three-year rule will apply to all insured institutions that were subject to the former one-year post-conversion acquisition restriction as of the effective date of Resolution No. 84–90. With regard to institutions whose post-conversion takeover protection expired between February 29, 1984, and the adoption of this resolution, § 563b.3(i)(4) is amended to exempt any legitimate acquisition of more than ten percent of a converted institution's stock occurring after the expiration of the former one-year rule but prior to the adoption of the three-year rule. In order to avail themselves of this exemption, acquirors must have entered into a binding obligation to acquire the affected stock prior to the effective date of this rule. Additional acquisitions after the effective date of the rule will be subject to the requirements of the rule, however. It is the Board's view that this formula best balances the legitimate interests of investors while preserving the objectives of the conversion process.

The Board recognizes that while the expended coverage departs from the rule which the Board adopted in Resolution No. 84–90, the scope of the issues on which comments were solicited encompassed this treatment and numerous commenters did address expansion of the scope of the rule in their comments. Nevertheless, the Board again is requesting comment for a period of sixty days. However, the Board continues to be concerned that, if such a restriction on acquisitions were issued as a proposal, potential acquirors would accelerate their takeover plans solely to complete acquisitions prior to final implementation of the rule after notice and comment. In the Board's view, this potential disruption to the market and to the operations of insured institutions can best be avoided by adopting the restriction as a temporary final rule while comments are being considered.

The Board is also amending § 563b.3(i) to further clarify the term "acting in concert" as used in the definition of "person" in § 563b.3(i)(8) in order to better emphasize that acting in concert does not require proof of an agreement if the effect of the concerted activity is the achievement of a common goal. Acting in concert takes place if the participants are aware of the common design and knowingly participate therein.

In addition to the foregoing, the Board is taking this opportunity to clarify the portion of Resolution No. 84–90 expanding the authority of converting insured institutions to include anti-takeover provisions in their stock charters. Although that action permitted insured institutions converting from mutual to stock form to adopt various anti-takeover provisions, the amendments did not address the permissibility of the charter amendment for existing federal stock associations or whether the anti-takeover amendment should follow a particular form. To address the first issue, the Board is amending § 552.4(b) to include a pre-approved anti-takeover charter amendment incorporating the restrictions enumerated in Resolution No. 84–90 that may be adopted by all federal associations within five years of conversion, for up to five years after conversion. In order to eliminate any confusion as to wording for the anti-takeover charter amendments available in connection with conversion of an association from the mutual to stock form and to expedite processing of conversion applications, the Board is amending § 563.3(i)(7) to require converting institutions to use the language of the new pre-approved charter section. An institution may seek to adopt the anti-takeover provisions of the new section in whole or in part. This revision will save the considerable amount of staff time now spent discussing individual anti-takeover provisions.

Pursuant to its authority under § 5 of the Home Owners' Loan Act, 12 U.S.C. 1464 (1982), the Board specifically intends to preempt any state law that would prevent a federal association from adopting the prescribed anti-takeover provisions and such associations will not be required to submit opinions of counsel on whether the provisions are permissible under state law. The ability of converting state-chartered insured institutions to adopt these provisions will, of course, continue to be subject to state law. Accordingly, state-chartered insured institutions converting to stock form will be required to submit state law opinions on the permissibility of the pre-approved provisions.

Federal associations that have already converted may amend their charters to incorporate some or all of the new pre-approved provisions as long as they are within five years of conversion. Such amendments will not require state law opinions. In addition, existing federal stock associations that wish to include any other anti-takeover charter provision, including an anti-takeover charter section that covers the same subject matter but varies from the pre-approved section, may still seek approval of proposed anti-takeover charter sections on a case-by-case basis. However, such applications must be accompanied by state law opinions as specified in § 552.4(c).

Finally, the Board is amending § 563b.3(i)(2) to resolve an ambiguity in the Conversion Regulations. That paragraph will now specify that no person may purchase shares in excess of the purchase limitations set forth in an institution's plan of conversion. Section 563b.3(c)(7) of the Conversion Regulations directs conversion applicants to include a provision in their plans of conversion limiting maximum purchases in the conversion stock offering. While § 563b.3(d)(5) allows maximum purchases of ten percent of the offering to a limited extent, the maximum purchase limitation can generally be no greater than five percent. Although the Board has always considered purchases in violation of an approved plan of conversion a violation of the Conversion Regulations, the absence of an explicit regulatory prohibition of such purchases has apparently engendered confusion regarding the consequences of violating these plan restrictions. To remedy the problem, the Board is amending § 563b.3(i)(2) to specifically provide that purchases in excess of the purchase limitations established in a plan of conversion constitute violations of the Board's regulations. The maximum purchase limitations serve the Board's goal of achieving a widespread distribution of conversion stock.

Accordingly, enforcement of these limitations is an appropriate area for the Board's concern.

The Board determines for good cause that the public notice and comment procedures of 5 U.S.C. 553(b) and 12 CFR 508.12 and 508.13 and the thirty-day delayed effective date requirement of 5 U.S.C. 552(d) and 12 CFR 508.14 are unnecessary, impracticable and contrary to the public interest with respect to these amendments. *See* 5 U.S.C. 552.3 (b)(3)(B) and (d)(3) (1982); 12 CFR 508.11 and 508.14(c) (1984). The Board believes that good cause exists for immediate implementation of the extension in order to serve the public interest by averting the injury to insured institutions previously described. In addition, the Board has concluded that the likelihood of substantial market disruption as a result of potential acquirors accelerating their acquisition plans solely in order to avoid imposition of the restriction after a notice and comment period and of market uncertainty in view of a proposed rule compels adoption of the rule in final form. The Board notes also that substance of the rule was effectively presented for public comment when it was adopted as a temporary final rule in Resolution No. 84-90 and that comment is requested on those portions of the amendments that were not contained in Resolution No. 84-90. The Board further determines that immediate implementation of the amendments regarding charter amendments serves the public interest by clarifying the previous amendments and expediting the conversion process. Finally, the Board deems the amendments to § 563b.3(i) (2) and (8) as interpretive in nature and affirming longstanding policy. *See* 5 U.S.C. 553 (b)(3)(A) and (d)(2) (1982); 12 CFR 508.11 and 508.14(b) (1984).

List of Subjects in 12 CFR Parts 552 and 563b

Savings and loan associations, Securities.

Accordingly, the Board hereby amends Part 552 of Subchapter C and Part 563b of Subchapter D, Chapter V, Title 12 of the *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 552—INCORPORATION, ORGANIZATION AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

1. Amend § 552.4 by adding a new paragraph (b)(8) thereto as follows; and amending paragraph (c) thereof by adding to the first sentence thereto, between the words "amendments" and "regarding", the phrase "not listed in paragraph (b) of this section".

§ 552.4 Charter amendments.

* * * * *

(b) * * *

(8) Notwithstanding the law of the state in which the association is located, a Federal stock association may amend its charter by renumbering existing sections as appropriate and adding a new section 8 as follows:

Section 8. *Certain Provisions Applicable for Five Years.* Notwithstanding anything contained in the Association's charter or bylaws to the contrary, for a period of [specify number of years up to five] years from the date of completion of the conversion of the Association from mutual to stock form, the following provisions shall apply:

A. *Beneficial Ownership Limitation.* No person shall directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of any class of an equity security of the Association. This limitation shall not apply to a transaction in which the Association forms a holding company without change in the respective beneficial ownership interests of its stockholders other than pursuant to the exercise of any dissenter and appraisal rights or the purchase of shares by underwriters in connection with a public offering.

In the event shares are acquired in violation of this Section 8, all shares beneficially owned by any person in excess of 10% shall be considered "excess shares" and shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matters submitted to the stockholders for a vote.

For purposes of this Section 8, the following definitions apply:

(1) The term "person" includes an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization or similar company, a syndicate or any other group formed for the purpose of acquiring, holding or disposing of the equity securities of the Association.

(2) The term "offer" includes every offer to buy or otherwise acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value.

(3) The term "acquire" includes every type of acquisition, whether effected by purchase, exchange, operation of law or otherwise.

(4) The term "acting in concert" means (a) knowing participation in a joint activity or conscious parallel action towards a common goal whether or not pursuant to an express agreement, or (b) a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangements, whether written or otherwise.

B. *Cumulative Voting Limitation.* Stockholders shall not be permitted to cumulate their votes for election of directors.

C. *Call for Special Meetings.* Special meetings of stockholders relating to changes in control of the Association or amendments to its charter shall be called only upon direction of the Board of Directors.

* * * * *

§ 552.6 [Amended]

2. Amend § 552.6 by inserting, immediately preceding the second sentence in paragraph (a) thereof and the first sentence of paragraph (f) (1) and (3) thereof, the clause: "Unless otherwise provided in the association's charter,".

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563b—CONVERSION FROM MUTUAL TO STOCK FORM

Subpart A—Standard Conversions

3. Amend § 563b.3 by removing the last sentence in paragraph (i) (3) thereof and revising paragraphs (i) (2), (4), (7) and (8) as follows:

§ 563b.3 General principles for conversions; applicability of subpart.

* * * * *

(i) *Acquisition of securities of converting and converted insured institutions.* * * *

(2) *Prohibition of offers and certain acquisitions.* Prior to the completion of a conversion, no person shall make any offer, or any announcement of an offer, for any security of the converting insured institution issued in connection with the conversion nor shall any person knowingly acquire securities of the converted insured institution issued in connection with the conversion in excess of the maximum purchase limitations established in the institution's approved plan of conversion pursuant to paragraph (c) (7) or (d) (5) of this section.

* * * * *

(4) *Savings clause for certain offers and acquisitions.* (i) The provisions of paragraph (i)(3) of this section shall not apply to an offer to acquire or an acquisition of the beneficial ownership of more than ten percent of any class of an equity security of an insured institution that completed its conversion prior to March 1, 1983; *Provided,* that the offer or acquisition shall not have been made without the approval of the Corporation during the first year following the date of completion of the conversion, and *Provided further,* that after February 1, 1985, the provisions of paragraph (i)(3) shall not apply to offers and acquisitions of equity securities of an insured institution that had commenced its conversion stock offering

prior to February 29, 1984. A conversion shall be deemed completed on the date all its conversion stock was sold. A conversion stock offering shall be deemed to have commenced on the date on which the subscription offering circular was declared effective by the Corporation or its delegate.

(ii) The provisions of paragraph (i)(3) shall not apply to an offer to acquire or an acquisition of more than ten percent of any class of an equity security of an insured institution: *Provided*, that the offer or acquisition was made prior to February 29, 1984 (or August 2, 1984, in the case of an insured institution that commenced a conversion stock offering prior to February 29, 1984), and involved shares in an insured institution not subject to § 563b.3 (i)(3) at the time or the offer or acquisition received the prior written approval of the Corporation. For purposes of this subparagraph (4)(ii), an acquisition of shares shall be presumed to have been made if the acquiror entered into a binding written agreement for the transfer of shares. An offer shall be deemed made when communicated.

* * * * *

(7) *Optional charter provisions.* The plan of conversion may provide for the charter of the converted insured institution to include, for a specified period of not more than five years following the date of the completion of the conversion, any or all of the provisions of § 552.4(b)(8) of this chapter: *Provided*, that if the insured institution is converting to a state-chartered stock institution, it shall include in its application an opinion of counsel independent of the institution that such charter provisions are permissible under the law of the applicable state. At any annual or special meeting of its shareholders, a converted state-chartered insured institution may adopt any charter provision regarding the acquisition by any person or persons of its equity securities that would be permitted to be adopted by a savings and loan association or savings bank chartered by the state in which the converted insured institution is chartered, and a coverted Federally insured institution may adopt any such charter provision permitted under § 552.4 of this chapter.

(8) *Definitions.* (i) The term "person" includes an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization or similar company, a syndicate or any other group formed for the purpose of acquiring, holding or disposing of securities of an insured institution. (ii) The term "offer" includes every offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value. (iii) The term "security" includes non-transferable subscription rights issued pursuant to a plan of conversion as well as a "security" as defined in 15 U.S.C. 78c(2)(10). (iv) The term "acting in concert" means (*a*) knowing participation in a joint activity or conscious parallel action towards a common goal whether or not pursuant to an express agreement, or (*b*) a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangements, whether written or otherwise. When persons act together for such purpose, their group is deemed to have acquired their stock.

* * * * *

(Sec. 402(j) of the National Housing Act, 12 U.S.C. 1725(j) (1982); sec. 5 of the Home Owners' Loan Act, 12 U.S.C. 1464 (1982))

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc 84-21479 Filed 8-13-84; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 84F-0041]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to permit the use of hydrogen peroxide in the sterilization of food-contact surfaces at concentrations below those that are currently specified for sterilizing food-contact surfaces. This action responds to a petition filed by Keller and Heckman.

DATES: Effective August 14, 1984; objections by September 13, 1984.

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: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of March 13, 1984 (49 FR 9473), FDA announced that a petition (FAP 4B3777) had been filed by Keller and Heckman, 1150 17th St. NW., Washington, DC 20036, proposing that the food additive regulations be amended in 21 CFR 178.1005 to permit the use of hydrogen peroxide as a sterilizing agent at concentrations below those that are currently specified for sterilizing food-contact surfaces.

Review of the current hydrogen peroxide regulations revealed an error in the identity of the additive, which prescribed the regulated material as an "aqueous solution containing 30 to 35 percent hydrogen peroxide (CAS Reg. No. 7722-84-1) by volume." Hydrogen peroxide solutions are customarily listed by weight. The administrative record for 21 CFR 178.1005 does not support the designation of hydrogen peroxide "by volume." FDA is therefore correcting this inadvertent error in the regulations to identify hydrogen peroxide solutions as aqueous solutions containing not more than 35 percent hydrogen peroxide by weight.

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 that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h) 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 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 therefore 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) and redelegated to the Director, Center for Food Safety and Applied Nutrition (21 CFR 5.61), Part 178 is amended in § 178.1005 by revising the introductory paragraph and paragraphs (a), (d), and (e)(1) to read as follows:

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

§ 178.1005 Hydrogen peroxide solution.

* * * * *

Hydrogen peroxide solution identified in this section may be safely used in the sterilization of polyolefin food-contact surfaces.

(a) *Identity.* For the purpose of this section, hydrogen peroxide solution is an aqueous solution containing not more than 35 percent hydrogen peroxide (CAS Reg. No. 7722–84–1) by weight, meeting the specifications prescribed in paragraph (c) of this section.

* * * * *

(d) *Limitations.* No use of hydrogen peroxide solution in the sterilization of food-packaging material shall be considered to be in compliance if more than 0.1 part per million (ppm) of hydrogen peroxide can be determined in distilled water packaged under production conditions (assay to be performed immediately after packaging).

(e) *Conditions of use.* (1) Hydrogen peroxide solution identified in and complying with the specifications in this section may be used by itself or in combination with other processes to treat olefin polymer food-contact surfaces complying with § 177.1520 of this chapter to the extent at least equivalent to attaining commercial sterility through thermal process for metal containers as provided in Part 113 of this chapter.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 13, 1984, 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 is effective August 14, 1984.

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

Dated: August 3, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84–21439 Filed 8–13–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Mountaire Vitamins, Inc. (formerly Mountaire Feeds and Vitamin Premixes), providing for safe and effective use of a 48-gram-per-pound pyrantel tartrate premix in making 9.6- and 19.2-gram-per-pound pyrantel tartrate intermediate premixes subsequently used to make complete swine feeds.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Mountaire Vitamins, Inc., P.O. Box 9210, 400 North Poplar St., North Little Rock, AR 72114, is sponsor of NADA 137–138 submitted on its behalf by Pfizer, Inc. The NADA provides for use of a 48-gram-per-pound pyrantel tartrate premix in making 9.6- and 19.2-gram-per-pound pyrantel tartrate intermediate premixes. The intermediate premixes are used in making complete swine feeds used for aid in prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; for aid in prevention of establishment, removal, and control of nodular worm (*Oesophagostomum* spp.) infections; and for removal and control of large roundworm (*Ascaris suum*) infections.

The NADA is approved and the regulations are amended to reflect this approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.485 by adding new paragraph (a)(21) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.485 Pyrantel tartrate.

(a) * * *

(21) To 043734: 9.6 and 19.2 grams per pound, paragraphs (e) (1) through (3) of this section.

* * * * *

Effective date: August 14, 1984.

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

Dated: August 7, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-21438 Filed 8-13-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins and Salinomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A.H. Robins Co., providing for safe and effective use of a complete broiler feed manufactured with separately approved bambermycins and salinomycin premixes. The feed is used for prevention of coccidiosis and improved feed efficiency.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: A.H. Robins Co., 1405 Cummings Dr., P.O. Box 26609, Richmond, VA 23261, filed NADA 134-284 providing for use of bambermycins at 1 to 3 grams per ton in combination with salinomycin at 40 to 60 grams per ton in complete broiler feeds. The feeds are used for prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima* and improved feed efficiency. The NADA is approved and the regulations are amended accordingly. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. In § 558.95 by adding new paragraph (e)(1)(xii) to read as follows:

§ 558.95 Bambermycins.

* * * * *

(e) * * *

(1) * * *

(xii) *Amount per ton.* Bambermycins 1 to 3 grams, plus salinomycin 40 to 60 grams.

(*a*) *Indications for use.* For prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* and improved feed efficiency.

(*b*) *Limitations.* For broiler chickens only: Do not feed to laying chickens; feed continuously as sole ration; not approved for use with pellet binders; may be fatal if accidentally fed to adult turkeys or horses; as salinomycin sodium biomass provided by No. 000031 in § 510.600(c) of this chapter.

* * * * *

2. In § 558.550 by adding new paragraph (c)(2)(ii) to read as follows:

§ 558.550 Salinomycin.

* * * * *

(c) * * *

(2) * * *

(ii) Bambermycins as in § 558.95.

Effective date. August 14, 1984.

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

Dated: August 8, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-21438 Filed 8-13-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 17

[Docket No. R-84-1191; FR-1644]

Administrative Claims; Implementing Certain Provisions of the Debt Collection Act of 1982

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: The Debt Collection Act of 1982 (the Act) requires changes in the way the Department collects money owed it. This rule implements the provisions of the Act for reporting an individual debtor to a consumer reporting agency, authority to contract for private collection services, as well as procedures for administrative offset and salary offset. Each of these procedures contains safeguards for the debtor, while enhancing the Department's ability to collect money owed it.

DATES: Effective date: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not until further notice of the effectiveness of this interim rule is published in the **Federal Register.** Comment due date: October 15, 1984.

ADDRESSES: Comments on the rule: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Samuel B. Rothman, Office of General Counsel, Program Compliance and Enforcement Division, Room 10240, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755-7184. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1449, applicable sections codified at 31 U.S.C. 3701, 3711, 3716, 3718, and 5 U.S.C. 5514) (the Act) makes several changes in the way Executive and legislative agencies collect debts owed the Government. The purpose of the Act is to improve the

ability of the Government to collect money owed it, while adding certain notice requirements and other protections applicable to the Government's relationship to the debtor. This interim rule implements several provisions of the Act.

Generally, the Act enhances the Government's ability to collect money owed it, first, by allowing the Government to disclose, to a consumer reporting agency, information from a system of records to the effect that an individual is responsible for a claim under the Act. (This has proved to be one of the most effective deterrents against late payments in the private sector.) The Act also allows the head of an agency to make contracts for private collection services to recover indebtedness owed the United States. And, the Act establishes new provisions relating to the use of administrative and salary offset as a means of collecting money owed the Government.

The Act provides additional protection to the consumer by requiring that an individual debtor be provided notice of a debt and the opportunity to review the record and enter into a written repayment agreement before the Government releases the name of the individual debtor to a consumer reporting agency, or before the money is collected by offset.

The Act requires agencies to issue regulations implementing various provisions of the new law which are consistent with uniform standards issued jointly by the Department of Justice and the General Accounting Office (DOJ/GAO). DOJ/GAO issued final standards on March 9, 1984 (See 49 FR 8889). In addition, the Department's regulations on salary offset must be consistent with offset regulations issued by the Office of Personnel Management. OPM issued final rules on July 3, 1984 (see 49 FR 27470). The provisions of the Act which are being implemented in this rulemaking are summarized below:

Disclosure to a Consumer Reporting Agency

Section 3 of the Debt Collection Act (codified at 31 U.S.C. 3711(f)) authorizes that agencies report delinquent individual debtors to a consumer reporting agency. This particular provision applies to individuals, which include only natural persons. The Act requires that several procedural protections be provided to the individual debtor before the release of any information concerning the overdue payment. In addition, the Act requires that the agency report any significant change in circumstance (for example, payment of the debt) to the consumer reporting agency.

Section 17.76 of this rule provides for disclosure to a consumer reporting agency. Under this provision, the Department will release information only after there has been a determination that the debt is valid and overdue and that a written notice has been sent to the individual debtor. This written notice will state that the individual's payment of a debt is overdue, and that the Department will disclose this information to a consumer reporting agency in not less than 60 days. The debtor has a right to a full explanation of the debt, which includes a review of applicable Department records on the debt. In addition, the debtor may avoid the reporting of the claim to a consumer reporting agency by entering into an agreement to repay the debt under terms agreed to by the Secretary.

Contracts for Collection Services

Section 13 of the Debt Collection Act (codified at 31 U.S.C. 3718) authorizes the head of an agency to enter into a contract with a person for collection services to recover debts owed the United States. The Act requires that certain provisions be contained in any contract that the agency enters into for collection services. Section 17.77 codifies the minimum provisions of the contract required by the Act, which include:

(1) The Secretary retains the authority to resolve a dispute, which includes terminating a collection action or referring the matter to the Attorney General for civil remedies; and

(2) The person contracted with is subject to the Privacy Act of 1974, as it applies to private contractors, as well as subject to State and Federal laws governing debt collection practices, such as the Debt Collection Practices Act.

Administrative Offset

The procedures authorized for administrative offset are contained in section 10 of the Debt Collection Act (codified at 31 U.S.C. 3716) and will be implemented in conjunction with other authority of the Department to offset. As with the provision for reporting to a consumer reporting agency, the Act requires that notice procedures be observed by the agency before any offset takes place. In addition, administrative offset authorized by the Act is limited, because the Act states that these offset provisions do not apply to an agency of the United States government, of a State government or of a unit of general local government.

Sections 17.100–17.118 contain the administrative offset provisions adopted by the Department. These regulations cover such aspects of offset as coordinating collection with another Federal agency (for example, when HUD is owed the money, but the Department needs another Federal agency to collect the money by offset), notice that will be provided to a debtor before the offset begins, the opportunity to inspect the Department's records related to the particular debt, the opportunity to enter into a repayment agreement with the Secretary, and time periods in which the debtor must notify the Department of his or her election of any of these procedures. Review of the record includes a review by the Department of the written record pertaining to the debt, and, in some situations, a hearing. The conditions for these two procedures are outlined in the rule.

Section 17.115 sets out specific procedures for offset against amounts payable from the Civil Service Retirement and Disability Fund.

Salary Offset

Section 5 of the Debt Collection Act (codified at 5 U.S.C. 5514) establishes new procedures to be used when an agency wishes to collect money owed it by offsetting the salary of a Federal employee. Like administrative offset, agencies may cooperate with one another when one agency is owed the debt, but the debtor is the employee of another agency. The salary offset provisions contained in the Debt Collection Act contain similar, although somewhat greater, opportunities for an employee to review the determination of indebtedness before an offset is implemented by an agency. In addition, each agency's regulations must be consistent with the Office of Personnel Management's regulations.

The Department's regulations on salary offset are contained in §§ 17.125–17.140 of this rule. The procedures for salary offset are similar to those for administrative offset. In the salary offset procedure, however, an employee against which an offset is sought is automatically entitled to a hearing to review the Secretary's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period. Similar to the administrative offset procedures, the employee must give notice of intent to take advantage of any of these procedures in the time period prescribed in the regulations.

Request for Public Comments

The Department seeks public comment on this interim rule. Interested persons should submit comments to the Rules Docket Clerk at the address identified in the "ADDRESSES" section of this Preamble. While the Department encourages comments in all of its rulemakings, it cautions the reader that most of the provisions contained in this rule are required specifically by the Debt Collection Act of 1982. There is therefore, limited discretion available to make changes in the substantive elements in the rule.

Other Matters

1. The Administrative Procedure Act (APA) (5 U.S.C. 551–559) establishes procedures for agencies to follow in promulgating rules. The requirements for informal rulemaking include the opportunity for prior notice and written comment before the adoption of a final rule (see 5 U.S.C. 553). The APA also provides exemptions from proposed rulemaking in certain circumstances. As a matter of policy, the Department provides for prior notice and comment whenever practicable. In the case of this rule the Department has determined that there is good cause for issuing this rule for effect without prior opportunity for comment. The Department bases its determination on the clear language of the statute, which details all substantive aspects of this rule. In addition, large portions of the rule provide protections to the public, and thus it benefits individuals to have these rules effective as soon as possible. All public comments will be considered and a follow-up final rule will be issued once review of the comments has been completed.

2. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

3. This rule does not constitute a major rule as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a 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.

4. In accordance with the provisions of section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities such as would require the development of a regulatory impact analysis. The Department recognizes that there may be increased costs to individuals as a result of this rule. However, such increases are imposed *only if* an individual is late in making payments to the Department. In addition, these procedures are mandated by the Debt Collection Act of 1982.

5. Under section 3518 of the Paperwork Reduction Act of 1980 and 5 CFR 1320.3(c), the information collection provisions contained in these regulations are not subject to the Office of Management and Budget review and approval.

6. This rule was listed as item number 262 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902, 15957) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 17

Claims, Government employees.

Accordingly, 24 CFR is amended as follows:

PART 17—ADMINISTRATIVE CLAIMS

1. By revising the table of contents for Part 17 to read as follows:

Subpart A—Claims Against Government Under Federal Tort Claims Act

General Provisions

Sec.
17.1 Scope; definitions.

Procedures

17.2 Administrative claim; when presented; appropriate HUD office.
17.3 Administrative claim; who may file.
17.4 Administrative claim; evidence and information to be submitted.
17.5 Investigations.
17.6 Claims investigation.
17.7 Authority to adjust, determine, compromise and settle claims.
17.8 Limitations on authority.
17.9 Referral to Department of Justice.
17.11 Final denial of claim.
17.12 Action on approved claim.

Subpart B—Claims Under the Military Personnel and Civilian Employee's Claims Act of 1964

Sec.
17.40 Scope and purpose.
17.41 Claimants.
17.42 Time limitations.
17.43 Allowable claims.
17.44 Restrictions on certain claims.
17.45 Unallowable claims.
17.46 Claims involving carriers or insurers.
17.47 Settlement of claims.
17.48 Computation of amount of award.
17.49 Attorney's fees.
17.50 Claims procedures.

Subpart C—Procedures for the Collection of Claims by the Government

General Provisions

17.60 Scope and definitions.
17.61 Incorporation of joint standards by reference.
17.62 Subdivision and joining of claims.
17.63 Authority of offices to attempt collection of claims.
17.64 Referral of claims to the Assistant Secretary for Administration.
17.65 Authority of offices to compromise claims or suspend or terminate collection action.
17.66 Department claims officer.
17.67 Claims files.
17.68 Monthly report of collection action.
17.69 Accounting control.
17.70 Record retention.
17.71 Suspension or revocation of eligibility.
17.72 Methods of collection and imposition of late charges.
17.73 Standards for compromise of claims.
17.74 Standards for suspension or termination of collection action.
17.75 Referral to GAO or Justice Department.
17.76 Disclosure to a Consumer Reporting Agency.
17.77 Contracts for Collection Services.

Administrative Offset Provisions

17.100 Scope.
17.101 Coordinating administrative offset with another Federal agency.
17.102 Notice requirements before offset.
17.103 Exceptions to notice requirements.
17.104 Review within the Department of a determination of indebtedness.
17.105 Review of departmental records related to the debt.
17.106 Written agreement to repay debt as alternative to administrative offset.
17.107 Stay of offset.
17.108 Types of review.
17.109 Review procedures.
17.110 Determination of indebtedness and appeal from determination.
17.111 Procedures for administrative offset: single debt.
17.112 Procedures for administrative offset: multiple debts.
17.113 Procedures for administrative offset: interagency cooperation.
17.114 Procedures for administrative offset: time limitation.
17.115 Procedures for administrative offset: offset against amount from the Civil Service Retirement and Disability Fund.

Sec.
17.116 Procedures for administrative offset: offset of debtor's judgment against the United States.
17.117 Procedures for administrative offset: imposition of interest.
17.118 Miscellaneous provisions: correspondence with the Department.

Salary Offset Provisions

17.125 Scope.
17.126 Coordinating offset with another Federal agency.
17.127 Determination of indebtedness.
17.128 Notice requirements before offset.
17.129 Request for a hearing.
17.130 Result if employee fails to meet deadlines.
17.131 Written decision following a hearing.
17.132 Review of departmental records related to the debt.
17.133 Written agreement to repay debt as alternative to salary offset.
17.134 Procedures for salary offset: when deductions may begin.
17.135 Procedures for salary offset: types of collection.
17.136 Procedures for salary offset: methods of collection.
17.137 Procedures for salary offset: imposition of interest.
17.138 Non-waiver of rights.
17.139 Refunds.
17.140 Miscellaneous provisions: correspondence with the Department.

Authority: Section 7(d) of the Housing and Urban Development Act (42 U.S.C. § 3535(d)).

2. By redesignating Subpart B—Collection of Claims by the Goverment Under the Federal Claims Collection Act of 1966 as Subpart C, revising the title to read as follows:

Subpart C—Procedures for Collection of Claims by the Government and by adding an undesignated center heading "General Provisions" immediately following the Part heading, and by redesignating the section numbers in the left column as the section numbers in the right column:

Old Section	*New Section*
17.20	17.60
17.21	17.61
17.22	17.62
17.23	17.63
17.24	17.64
17.25	17.65
17.26	17.66
17.27	17.67
17.28	17.68
17.29	17.69
17.30	17.70
17.31	17.71
17.32	17.72
17.33	17.73
17.34	17.74
17.35	17.75

3. By redesignating Subpart C—Claims Under the Military Personnel and Civilian Employees Claims Act of 1964 as Subpart B—Claims Under the Military Personnel and Civilian Employees Claims Act of 1964. (Section numbers remain the same.)

4. By revising the authority citation for new Subpart B to read as follows:

Authority: Sec. 3, 78 Stat. 767 (31 U.S.C. 3721); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

5. By revising the authority citation for new Subpart C to read as follows:

Authority: 31 U.S.C. 3711, 3716, 3718; 5 U.S.C. 5514; sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

6. By amending new § 17.60 (old § 17.20) by revising the section heading and paragraph (b) to read as follows:

§ 17.60 Scope and definitions.

* * * * *

(b) *Definitions.* As used in this subpart:

"Administrative Offset" means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government

"Agency" means:

(1) An Executive department, military department, Government corporation, or independent establishment as defined in 5 U.S.C. § 101, 102, 103, or 104, respectively;

(2) The United States Postal Service; or

(3) The Postal Rate Commission.

"Claim" means the same as "Debt".

"Consumer Reporting Agency": Means (1) any person, that for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer (individual) credit information or other information on consumers for the purpose of providing consumer reports to third parties, and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. (15 U.S.C. § 1681a(f)); or

(2) any person who, for monetary fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of (i) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in paragraph (1) of this definition), or (ii) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.

"Debt" means an amount owed to the United States and past due, from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from assigned mortgages or deeds of trust, direct loans, advances, repurchase demands, fees, leases, rents, royalties, services, sale of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

"Debtor" means the same as "person".

"Department" means the Department of Housing and Urban Development.

"Department Claims Officer": (see § 17.66).

"Determination" means the point at which the Secretary decides that the debt is valid.

"Disposable Pay" means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after deductions required by law. Deductions from pay include:

(1) Amounts owed by the individual to the United States;

(2) Amounts withheld for Federal employment taxes;

(3) Amounts properly withheld for Federal, State, or local income tax purposes, if the withholding of the amount is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependent to which he or she were entitled. The withholding of additional amounts under 26 U.S.C. 3402(i) may be permitted only when the individual presents evidence of tax obligation which supports the additional withholding;

(4) Amounts deducted as health insurance premiums, including, but not limited to, amounts deducted from civil service annuities for Medicare where such deductions are requested by the Health Care Financing Administration;

(5) Amounts deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. Amounts withheld as Survivor Benefit Plan or Retired Serviceman's Family Protection Plan payments are considered to be normal retirement contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are considered to be supplementary;

(6) Amounts deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemen's Group Life Insurance and "Basic Life" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary;

(7) Amounts withheld from benefits payable under title II of the Social

Security Act where the withholding is required by law;

(8) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home; and

(9) Fines and forfeitures ordered by a court-martial or by a commanding officer.

"Employee" means a current employee of a Federal agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

"Office" means the organization of each Assistant Secretary, the Government National Mortgage Association (GNMA), the Solar Energy and Energy Conservation Bank and each Field Office.

"Pay" means basic pay, special pay, income pay, retired pay, retainer pay, or, in case of an employee not entitled to basic pay, other authorized pay.

"Person" means any natural person or persons, profit or nonprofit corporations, partnership, association, trust, estate, government or government subdivision or other entity which is capable of owing a debt to the Government. For purposes of the interest provisions, person does not include an agency of the United States Government, a State government, or a unit of general local government.

"Salary offset" means a deduction from the pay of an employee without his or her consent to satisfy a debt. Salary offset is one type of administrative offset which may be used by the Department in the collection of claims.

"Secretary" means the Secretary of the Department of Housing and Urban Development or his or her designee.

"United States" includes an "agency" of the United States.

"Waiver" means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee t an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. § 2774, or 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other law.

7. By amending new § 17.72 (old § 17.32) by revising the section heading and paragraphs (b), (c), and (f) as follows:

§ 17.72 Methods of collection and imposition of late charges.

* * * * *

(b) *Methods of collection: administrative and salary offset.* The Department may use administrative offset and salary offset procedures as alternative methods for the collection of money owed the Department from those set out in this section. For specific procedures on administrative offset see §§ 17.00–17.118. For specific procedures on salary offset see §§ 17.125–17.140.

(c) *Method of collection: liquidation of collateral.* Where the Department holds security or collateral that may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument, such procedures will be followed if the debtor fails to pay his or her debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value, or unless special circumstances require judicial foreclosure.

* * * * *

(f) *Omission not a defense.* Failure of HUD to comply with any standard prescribed in 4 CFR Parts 101 through 105 or in this subpart shall not be available as a defense to any debtor.

8. By adding a new § 17.76 to read as follows:

§ 17.76 Disclosure to a Consumer Reporting Agency.

(a) *Definition.* For purposes of this section, individual means a natural person.

(b) *Conditions for disclosure.* The Secretary may disclose to a Consumer Reporting Agency information from a system of records to the effect that an individual is responsible for a debt. Before doing so, the Secretary will ensure that:

(1) The notice for the system of records required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) indicates that the information in the system may be disclosed to a Consumer Reporting Agency;

(2) There has been Departmental review of the debt and a determination that the debt is valid and overdue;

(3) There has been written notice sent to the individual informing the individual:

(i) That payment of the debt is overdue;

(ii) That the Department intends to disclose to a Consumer Reporting Agency, within not less than 60 days after sending the notice, that the individual is responsible for the debt;

(iii) Of the specific information intended to be disclosed to the Consumer Reporting Agency; and

(iv) Of the rights of the individual to a full explanation of the debt, to dispute any information in the records of the Department concerning the debt, as determined by the Secretary, and to administrative appeal or review with respect to the debt; and

(4) The individual has neither repaid or agreed to repay the debt under a written repayment plan signed by the individual and agreed to by the Secretary nor has filed for review of the claim under paragraph (c) of this section.

(c) *Limitations on disclosure.* The Secretary may not disclose information to a Consumer Reporting Agency unless the Department has:

(1) Obtained satisfactory assurances from each Consumer Reporting Agency that the agency is complying with the Fair Credit Reporting Act (15 U.S.C. § 1681) and any other Federal laws governing the provision of consumer credit information;

(2) Provided, upon request by the individual alleged to be responsible for the claim, the opportunity to review the claim, including an opportunity for reconsideration of the initial decision on the claim; and

(3) Taken reasonable action to locate an individual for whom the Secretary does not have a current address to send a notice under paragraph (b)(3) of this section.

(d) *Additional responsibilities of the Department.* In providing information to a Consumer Reporting Agency, the Department will only disclose:

(1) Information necessary to establish the identity of the individual, including name, address and taxpayer identification number;

(2) The amount, status, and history of the claim; and

(3) The program under which the claim arose.

In all cases, the Department will notify each Consumer Reporting Agency to which the original disclosure was made of any substantial change in the condition or amount of the claim. This includes promptly correcting or verifying information about the claim requested by the Consumer Reporting Agency.

9. By adding a new § 17.77 to read as follows:

§ 17.77 Contracts for collection services.

The Secretary may enter into a contract or contracts for collection services to recover indebtedness owed the Department. Any such contract will include the following provisions:

(a) The Secretary retains the authority to resolve a dispute, compromise a claim, end collection action or refer a matter to the Attorney General to bring civil action;

(b) The person contracted with by the Secretary is subject to the Privacy Act of 1974 to the extent provided for in 5 U.S.C. 552a(m), the section on government contractors;

(c) The person contracted with by the Secretary is subject to State and Federal laws governing debt collection practices,

such as the Debt Collection Practices Act, 15 U.S.C. 1692; and

(d) The person contracted with agrees to provide to the Secretary, if asked to return the file to the Department so that the Secretary may refer the account to the Department of Justice for litigation, any data contained in the files relating to actions previously taken to collect the debt, the current address of the debtor, as well as the current credit data of the debtor or any current other information requested and available.

10. By adding new undesignated center heading and §§ 17.100 through 17.118 as set forth below:

Administrative Offset Provisions

§ 17.100 Scope.

(a) The standards set forth in §§ 17.100 through 17.118 are the Department's procedures for the collection of money owed to the government by means of administrative offset. These procedures apply to the collection of debts as authorized by common law, by 31 U.S.C. 3716, or under other statutory authority. These procedures will not be used when a statute provides its own collection procedure, for procedures for grant reduction as a remedial action in grant programs (including the CDBG program), when explicitly prohibited by a statute, or when the United States has a judgment against the debtor. Unless otherwise provided for by statute, these procedures do not apply to an agency of the United States, a State government, or unit of general local government. In addition, these procedures do not apply to debts arising under the Internal Revenue Code of 1954 (26 U.S.C. 1–9602), the Social Security Act (42 U.S.C. 301–1397f), or the tariff laws of the United States.

(b) The Secretary will use administrative offset to collect claims which are certain in amount in every instance in which collection is determined to be feasible and not prohibited by law. The Secretary will determine feasibility on a case-by-case basis, exercising sound discretion. In determining feasibility the Secretary will consider:

(1) The debtor's financial condition;

(2) Whether offset would substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated; and

(3) Whether offset best serves to further and protect all of the interests of the United States.

§ 17.101 Coordinating administrative offset with another Federal agency.

(a) *When HUD is owed the debt.* When the Department is owed a debt, but another Federal agency is responsible for making the payment to the debtor against which administrative offset is sought, the other agency shall not initiate the requested administrative offset until the Department provides the agency with a written certification that the debtor owes the Department a debt (including the amount and basis of the debt and the due date of the payment) and that the Department has complied with these regulations.

(b) *When another agency is owed the debt.* The Department may administratively offset money it owes to a person who is indebted to another agency if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount) and that the person has been given the procedural rights required by 31 U.S.C. 3716 and 4 CFR Part 102.

§ 17.102 Notice requirements before offset.

Except as provided in § 17.103, deductions will be made only after the Secretary makes a determination that an amount is owed and past due and provides the debtor with a minimum of 30 calendar days written notice. This Notice of Intent to Collect by Administrative Offset (Notice of Intent) will state:

(a) The nature and amount of the debt;

(b) That the Secretary intends to collect the debt by administrative offset until the debt and all accumulated interest and other charges are paid in full;

(c) That the debtor has a right to obtain review within the Department of the Secretary's initial determination of indebtedness (see § 17.104);

(d) That the debtor has a right to inspect and copy Department records related to the debt, as determined by the Secretary, and will be informed as to where and when the inspection and copying can be done after the Department receives notice from the debtor that inspection and copying are requested. (see § 17.105); and

(e) That the debtor may enter into a written agreement with the Secretary to repay the debt, so long as the terms of the repayment agreement proposed by the debtor are agreeable to the Secretary. (see § 17.106).

§ 17.103 Exceptions to notice requirements.

(a) In cases where the notice requirements specified in § 17.102 already have been provided to the debtor in connection with the same debt under some other proceeding, the Secretary is not required to duplicate those requirements before effecting administrative offset.

(b) The Secretary may effect administrative offset against a payment to be made to a debtor before completion of the procedures required by § 17.102 if (1) failure to make the offset would substantially prejudice the Government's ability to collect the debt, and (2) the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset must be followed promptly by the completion of those procedures. Amounts recovered by offset but later found not to be owed to the Secretary will be refunded promptly.

§ 17.104 Review within the Department of a determination of indebtedness.

(a) *Notification by debtor.* A debtor who receives a Notice of Intent has the right to request Departmental review of the determination of indebtedness. To exercise this right, the debtor must send a letter requesting review to the Secretary. The letter must explain why the debtor seeks review and must be received by the Secretary within 20 calendar days of the date of the Department's Notice of Intent.

(b) *Secretary's response.* In response to a timely request for review of the initial determination of indebtedness, the Secretary will notify the debtor whether review will be by review of the record or by hearing. The notice to the debtor will include the procedures used for reviewing the record or will include information on the date, location and procedures to be used if review is by a hearing.

§ 17.105 Review of departmental records related to the debt.

(a) *Notification by debtor.* A debtor who intends to inspect or copy Departmental records related to the debt as determined by the Secretary must send a letter to the Secretary stating his or her intention. The letter must be received by the Secretary within 20 calendar days of the date of the Department's Notice of Intent.

(b) *Secretary's response.* In response to timely notification by the debtor as described in paragraph (a) of this section, the Secretary will notify the debtor of the location and time when the

debtor may inspect or copy Department records related to the debt.

§ 17.106 Written agreement to repay debt as alternative to administrative offset.

(a) *Notification by debtor.* The debtor may, in response to a Notice of Intent, propose a written agreement to repay the debt as an alternative to administrative offset. Any debtor who wishes to do this must submit a proposed written agreement to repay the debt. This proposed written agreement must be received by the Secretary within 20 calendar days of the date of the Department's Notice of Intent.

(b) *Secretary's response.* In response to timely notification by the debtor as described in paragraph (a) of this section, the Secretary will notify the debtor whether the debtor's proposed written agreement for repayment is acceptable. It is within the Secretary's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination the Secretary will balance the Department's interest in collecting the debt against hardship to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, the Secretary will accept a repayment agreement instead of offset only if the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 17.107 Stay of offset.

If the debtor timely notifies the Secretary that he or she is exercising a right described in § 17.104 or § 17.106, the offset will be stayed until the Secretary either makes a determination concerning the debtor's proposal to repay the debt or issues a written decision following review of the record or, where appropriate, a hearing. However, interest continues to run during any stay.

§ 17.108 Types of review.

(a) *Hearing.* The Secretary will provide the debtor with a reasonable opportunity for hearing if:

(1) An applicable statute authorizes or requires the Secretary to consider waiver of the indebtedness and the waiver determination turns on credibility or veracity; or

(2) The debtor requests reconsideration of the debt and the Secretary determines that the question of the indebtedness cannot be resolved by review of the documentary evidence.

(b) *Review of the record.* Unless the Secretary determines that a hearing is required (see paragraph (a) of this section), the Secretary will provide for a review of the record (a review of the documentary evidence).

§ 17.109 Review procedures.

(a) *Hearings.* (1) The appropriate Deputy Assistant Secretary (DAS) or designee conducts the hearing. The DAS or designee will take steps necessary to ensure that the hearing is conducted in a fair and expeditious manner. If necessary, the DAS or designee may administer oaths of affirmations.

(2) The DAS or designee does not use the formal rules of evidence with regard to admissibility of evidence or the use of evidence once admitted. However, parties may object to clearly irrelevant material.

(3) The DAS or designee records all significant matters discussed at the hearing. There is no "official" record or transcript provided for these hearings.

(4) A debtor may represent himself or herself or may be represented by an attorney or other person. The Secretary is represented by the General Counsel or his or her designee.

(5) The Secretary proceeds first by presenting evidence on the relevant issues. The debtor then presents his or her evidence regarding these issues. The Secretary then may offer evidence to rebut or clarify the evidence introduced by the debtor.

(b) *Review of the record.* The appropriate DAS or designee will review all material related to the debt which is in the possession of the Department. The DAS or designee makes a determination based upon a review of this written record, which may include a request for reconsideration of the determination of indebtedness, or such other relevant material submitted by the debtor.

§ 17.110 Determination of indebtedness and appeal from determination.

(a) Following the hearing or the review of the record, the DAS or designee will issue a written decision which includes the supporting rationale for the decision. The decision of the DAS or designee is the final agency action with regard to the particular administrative offset.

(b) Copies of the DAS decision will be distributed to the General Counsel for the Department, the Department's Office of Finance and Accounting, the debtor and the debtor's attorney or other representative, if applicable.

§ 17.111 Procedures for administrative offset: single debt.

(a) Offset will commence 31 days after the debtor receives the Notice of Intent, unless the debtor has requested a hearing (see § 17.104) or has entered into a repayment agreement (see § 17.106).

(b) When there is review of the debt within the Department, offset will begin after the DAS determination has been issued under § 17.110 and a copy of the determination is received by the Department's Office of Finance and Accounting.

§ 17.112 Procedures for administrative offset: multiple debts.

The Secretary will use the procedures identified in § 17.111 for the offset of multiple debts. However, when collecting multiple debts the Secretary will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 17.113 Procedures for administrative offset: interagency cooperation.

The Department will make use of all possible methods of cooperating with other Federal agencies in effecting collections by offset.

§ 17.114 Procedures for administrative offset: time limitation.

(a) The Secretary may not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Secretary's right to collect the debt first accrued, unless facts material to the Secretary's right to collect the debt were not known and could not reasonably have been known by the officials of the Department who were responsible for discovering and collecting such debts.

(b) When the debt first accrued is determined according to existing law regarding the accrual of debts. (See, for example, 28 U.S.C. 2415.)

§ 17.115 Procedures for administrative offset: offset against amounts payable from Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, the Secretary may request that moneys which are due and payble to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in one or more payments to collect debts owed to the Secretary by the debtor. The Secretary submits the request to the appropriate officials of the Office of Personnel Management (OPM) in accordance with OPM regulations and procedures.

(b) To request administrative offset under paragraph (a) of this section, the Secretary will provide a written certification that:

(1) The debtor owes the Secretary a debt, including the amount of the debt;

(2) The Secretary has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The Secretary has complied with the Department's regulations contained in these regulations.

(c) Once the decision is made to request administrative offset under paragraph (a) of this section, the Secretary will make the request as soon as practical after completion of the applicable procedures necessary for the Office of Personnel Management to identify the debtor's account and to add a notation in the debtor's file in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund. (This notation will satisfy any requirement that offset be initiated before the applicable statute of limitations expires.)

(d) If, at the time the debtor makes a claim for payments from the Fund, at least one year has elapsed since the offset was originally made, the debtor may offer a satisfactory repayment plan instead of offset upon establishing that changed financial circumstances would render the offset unjust.

(e) If the Department collects part or all of the debt by other means before deductions are made or completed under paragraph (a) of this section, the Secretary will act promptly to modify or terminate the Department's request for offset under paragraph (a) of this section.

§ 17.116 Procedures for administrative offset: offset of debtor's judgment against the United States.

Collection by offset against a judgment obtained by a debtor against the United States will be accomplished in accordance with 31 U.S.C. 3728.

§ 17.117 Procedures for administrative offset: imposition of interest.

Interest will be charged in accordance with § 17.72.

§ 17.118 Miscellaneous provisions: correspondence with the Department.

(a) All correspondence from the debtor to the Secretary shall be addressed to the Department Claims Officer, Office of Finance and Accounting, Department of HUD, Washington, D.C. 20410.

(b) The Department Claims Officer will deliver any correspondence to the appropriate Deputy Assistant Secretary within four working days.

11. By adding new undesignated center heading and §§ 17.125 through 17.140 as set forth below:

Salary Offset Provisions

§ 17.125 Scope.

(a) The provisions set forth in §§ 17.125 through 17.140 are the Department's procedures for the collection by salary offset of a Federal employee's pay to satisfy certain debts owed the government.

(b) These regulations apply to collections by the Secretary from:

(1) Current employees of the Department and other agencies who owe debts to the Department; and

(2) Current employees of the Department who owe debts to other agencies.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954 (26 U.S.C. 1–9602); the Social Security Act (42 U.S.C. 301–1397f); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(d) These regulations identify the types of salary offset available to the Department, as well as certain rights provided to the employee, which include a written notice before deductions begin, the opportunity to petition for a hearing and to receive a written decision if a hearing is granted. These employee rights do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(e) Nothing in these regulations precludes the compromise, suspension or termination of collection actions where appropriate under the Department's regulations contained elsewhere in this subpart (see 24 CFR 17.60–17.77).

§ 17.126 Coordinating offset with another Federal agency.

(a) *When HUD is owed the debt.* When the Department is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until the Department provides the agency with a written certification that the debtor owes the Department a debt (including the amount and basis of the debt and the due date of the payment) and that the Department has complied with these regulations.

(b) *When another agency is owed the debt.* The Department may use salary offset against one of its employees who is indebted to another agency if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount) and that the employee has been given the procedural rights required by 5 U.S.C. 5514 and 5 CFR Part 550, Subpart K.

§ 17.127 Determination of indebtedness.

In determining that an employee is indebted, the Secretary will review the debt to make sure that it is valid and past due.

§ 17.128 Notice requirements before offset.

Except as provided in § 17.125(d), deductions will not be made unless the Secretary first provides the employee with a minimum of 30 calendar days written notice. This Notice of Intent to Offset Salary (Notice of Intent) will state:

(a) That the Secretary has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(b) The Secretary's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest are paid in full;

(c) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(d) An explanation of the Department's requirements concerning interest, unless such payments are excused in accordance with § 17.72;

(e) The employee's right to inspect and copy Department records relating to the debt;

(f) The employee's right to enter into a written agreement with the Secretary for a repayment schedule differing from that proposed by the Secretary, so long as the terms of the repayment schedule proposed by the employee are agreeable to the Secretary;

(g) The right to a hearing, conducted by an administrative law judge of the Department or a hearing official of another agency, on the Secretary's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period, so long as a petition is filed by the employee as prescribed by the Secretary;

(h) That the timely filing of a petition for hearing will stay the collection proceedings; (See § 17.129).

(i) That a final decision on the hearing will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee

requests and the hearing officer grants a delay in the proceedings;

(j) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Ch. 75, 5 CFR Part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority.

(k) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(l) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(m) The method and time period for requesting a hearing.

§ 17.129 Request for a hearing.

(a) Except as provided in paragraph (d) of this section, an employee must file a petition for a hearing, that is received by the Secretary not later than 20 calendar days from the date of the Department's notice described in § 17.128 if an employee wants a hearing concerning—

(1) The existence or amount of the debt; or

(2) The Secretary's proposed offset schedule.

(b) The petition must be signed by the employee and should admit or deny the existence of or the amount of the debt, or any part of the debt, briefly setting forth any basis for a denial. If the employee objects to the percentage of disposable pay to be deducted from each check, the petition should state the objection and the reasons for it. The petition should identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position.

(c) Upon receipt of the petition, the Department will send the employee a copy of the Salary Offset Hearing Procedures Manual of the Department of Housing and Urban Development.

(d) If the employee files a petition for hearing later than the 20 calendar days as described in paragraph (a) of this section, the hearing officer may accept the request if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the filing deadline (unless the employee has actual notice of the filing deadline).

§ 17.130 Result if employee fails to meet deadlines.

An employee waives the right to a hearing, and will have his or her disposable pay offset in accordance with the Secretary's offset schedule, if the employee:

(a) fails to file a petition for a hearing as prescribed in § 17.129; or

(b) is scheduled to appear and fails to appear at the hearing.

§ 17.131 Written decision following a hearing.

Written decisions provided after a request for a hearing will include:

(a) A statement of the facts presented to support the nature and origin of the alleged debt;

(b) The hearing officer's analysis, findings and conclusions, in light of the hearing, concerning the employee's or the Department's grounds;

(c) The amount and validity of the alleged debt; and

(d) The repayment schedule, if applicable.

§ 17.132 Review of departmental records related to the debt.

(a) *Notification by employee.* An employee who intends to inspect or copy departmental records related to the debt must send a letter to the Secretary stating his or her intention. The letter must be received by the Secretary within 20 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* In response to timely notice submitted by the debtor as described in paragraph (a) of this section, the Secretary will notify the employee of the location and time when the employee may inspect and copy Department records related to the debt.

§ 17.133 Written agreement to repay debt as alternative to salary offset.

(a) *Notification by employee.* The employee may propose, in response to a Notice of Intent, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt which is received by the Secretary within 20 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* In response to timely notice by the debtor as described in paragraph (a) of this section, the Secretary will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the Secretary's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination, the Secretary will balance the Department's interest in collecting the debt against hardship to the employee. If the debt is delinquent and the employee has not disputed its existence or amount, the Secretary will accept a repayment agreement instead of offset only if the employee is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 17.134 Procedures for salary offset: When deductions may begin.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Secretary's Notice of Intent to collect from the employee's current pay.

(b) If the employee filed a petition for hearing with the Secretary before the expiration of the period provided for in § 17.129, then deductions will begin after the hearing officer has provided the employee with a hearing, and the final written decision is in favor of the Secretary.

(c) If an employee retires or resigns before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to the procedures for administrative offset (see §§ 17.100–17.118).

§ 17.135 Procedures for salary offset: Types of collection.

A debt will be collected in a lump-sum or in installments. Collection will be by lump-sum collection unless the employee is financially unable to pay in one lump-sum, or if the amount of the debt exceeds 15 percent of disposable pay. In these cases, deduction will be by installments.

§ 17.136 Procedures for salary offset: Methods of collection.

(a) *General.* A debt will be collected by deductions at officially-established pay intervals from an employee's current pay account, unless the employee and the Secretary agree to alternative arrangements for repayment. The alternative arrangement must be in writing, signed by both the employee and the Secretary.

(b) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made.

unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in three years. Installment payments of less than $25 per pay period or $50 a month will be accepted only in the most unusual circumstances.

(c) *Sources of deductions.* The Department will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay.

§ 17.137 Procedures for salary offset: Imposition of interest.

Interest will be charged in accordance with § 17.72.

§ 17.138 Non-waiver of rights.

So long as there are no statutory or contractual provisions to the contrary, no employee involuntary payment (of all or a portion of a debt) collected under these regulations will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

§ 17.139 Refunds.

The Department will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) The Department is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

§ 17.140 Miscellaneous provisions: Correspondence with the Department.

The employee shall file an original and two copies of a request for a hearing with the Clerk, Office of the Chief Administrative Law Judge, Room 2158, Department of HUD, Washington, D.C. 20410, on official work days between the hours of 8:45 a.m. and 5:15 p.m. All other correspondence shall be submitted to the Department Claims Officer, Department of Housing and Urban Development, Washington, D.C. 20410. Documents may be filed by personal delivery or mail. All documents shall be printed, typewritten, or otherwise processed in clear, legible form and on letter-size paper.

Dated: August 6, 1984.

Philip Abrams,

Acting Secretary.

[FR Doc. 84-21214 Filed 8-8-84; 8:45 am]
BILLING CODE 4210-32-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 301

Incentive Grants; Expansion of Age Range

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations to expand the age range of children who may receive services under the Incentive Grants program under section 619 of the Education of the Handicapped Act, as amended by the Education of the Handicapped Act Amendments of 1983, Pub. L. 98-199. Handicapped children ages birth to three years of age may now be served with these funds.

EFFECTIVE DATE: These regulations will take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Ms. Sheila Friedman, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3621), Washington, D.C. 20202. Telephone: (202) 732-1055.

SUPPLEMENTARY INFORMATION: The Incentive Grants program established under section 619 of Part B of the Education of the Handicapped Act (20 U.S.C. 1419) authorizes grants to State educational agencies to provide special education and related services to handicapped children from birth through five years of age. States are entitled to payments under this program based on the number of handicapped children ages three through five who are receiving special education and related services.

A notice of proposed rulemaking was published in the **Federal Register** on March 21, 1984 (49 FR 10554). There are no changes in this amendment as a result of the public comment received. The comments received in response to this notice and the Secretary's responses are summarized below:

Comment: One commenter, while recognizing the permissive nature of the authorization of services to handicapped children from birth to three years of age under section 619 of the Act, expressed concern about the role of agencies other than the State educational agency in providing services to those children. The commenter believes that the Federal Government should require all other agencies that receive Federal funds specifically earmarked for handicapped children from birth to three years of age to provide appropriate medical and social services, which may be needed more often for those children than educational services.

Response: No change has been made. The Secretary appreciates the need for strong coordination efforts among the various State agencies serving handicapped children from birth to three years of age. The Secretary believes, however, that this coordination can be effectively achieved under the recently added Early Childhood State Grants program under section 623 of Part C of the Act. Under section 623(b) of the Act, the Secretary is authorized to make a grant to each State, through the State educational agency or other State agency, to assist a State in planning, developing, or implementing a comprehensive service delivery system for the provision of special education and related services to handicapped children from birth through five years of age. Section 623(b)(3)(C) of the Act stipulates that the State Plan will be closely coordinated with child find efforts under section 612(2)(C) of the Act and with Incentive Grants activities under this part. A "comprehensive service delivery system" is defined, under § 309.50(b) of the regulations for the Handicapped Children's Early Education Program, to include, among other things: "Coordination of the activities of educational, health, social services, and other agencies to ensure effective use of available services and to relate service delivery programs to State and local planning."

Comment: Some commenters suggested that children ages birth to three years of age be counted for funding.

Response: No change has been made. The statute does not authorize counting children ages birth to three years of age. The amount of the Incentive Grant is based on the number of handicapped children ages three through five who are receiving special education and related services in the State.

Comment: One commenter objected to the language in proposed § 301.1, "The State shall use funds . . . to give special education and related services to handicapped children . . . birth to three years of age" because it implies that a State must serve handicapped children ages birth to three years of age.

Response: No change has been made. Section 301.1 specifies that Incentive Grants funds may only be used to serve

handicapped children ages birth through five. Section 301.1 does not require States to serve handicapped children ages birth to three years of age.

This amendment is a technical change in the Incentive Grants program regulations, 34 CFR Part 301, which reflects an amendment to the authority for that program, section 619 of the Act, made in Pub. L. 98-199. That change expanded the age range of handicapped children eligible to receive services under the Incentive Grants program from three through five to birth through five.

The report of the House Committee on Education and Labor on the Education of the Handicapped Act Amendments of 1983 states that research studies of the past decade confirm that early identification, diagnosis and treatment of handicapping conditions can significantly reduce the number and severity of handicaps in later life. Early efforts to reduce the limiting effects that physical and cognitive impairments have on major life functions increase the potential benefits of the educational system..

See H.R. Rep. No. 410, 98th Cong., 1st Sess. 24 (1983). *See, also,* S. Rep. No. 191, 98th Cong., 1st Sess. 14 (1983).

States may expand services to children from birth to three years of age at their discretion. Section 619 does not require services to this group. States which elect to serve children from birth to three years of age will, however, need to amend their approved applications for fiscal years 1984-1986.

Changes to implement the expanded age groups are made in §§ 301.1(c) and 301.5(a), (d) of these regulations. No other changes are being made. States will continue to receive payments based on the number of handicapped children served ages three through five.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's specific plans and actions for this program.

Paperwork Reduction Act of 1980

The information collection requirements in these regulations (§ 301.5) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned an OMB control number. The control number appears as a citation at the end of Part 301.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These amendments to the regulations for the Incentive Grants program expand the age range of handicapped children eligible for special education and related services. Inclusion of additional children will be on a voluntary basis. The regulations will not have a signficant economic impact on States or local educational agencies participating in the program.

Assessment of Educational Impact

In the notice of proposed rulemaking published in the **Federal Register** on March 21, 1984, the Department requested comments on whether the proposed regulations required information that is already being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 301

Administrative practices and procedures, Education, Education of handicapped, Grant programs-education, Preschool.

Citation of Legal Authority

A citation of statutory of other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.027; Incentive Grants)

Dated: August 9, 1984.

T. H. Bell,

Secretary of Education.

PART 301—INCENTIVE GRANTS

The Secretary revises Part 301 of Title 34 of the Code of Federal Regulations as follows:

1. Section 301.1 is amended by revising paragraph (c) to read as follows:

§ 301.1 Scope; purpose.

* * * * *

(c) The State shall use funds provided under this part to give special education and related services to handicapped children in the age groups named in paragraph (b) of this section and to handicapped children from birth to three years of age.

* * * * *

2. Section 301.5 is amended by revising paragraphs (a) and (d) to read as follows:

§ 301.5 Application contents.

* * * * *

(a) A description of the State's goals and objectives for meeting the educational needs of handicapped children from birth through five years of age. These goals and objectives must be consistent with the State's full educational opportunity goal under § 300.123 of this chapter.

* * * * *

(d) A description of the impact the proposed activities will have on handicapped children from birth through five years of age. This description must include evidence that the proposed activities are of sufficent size, scope, and quality to warrant the amount of the expenditure. The application must indicate the number of children to be served and the number of handicapped children who will be benefitted indirectly. If children are to be benefitted indirectly, there must be a rationale that demonstrates the benefit.

* * * * *

(20 U.S.C. 1419)

(Information collection requirements contained in § 301.5 have been approved under OMB control number 1820-0028.)

[FR Doc. 84-21459 Filed 8-13-84; 8:45 am]

BILLING CODE 4000-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-187; FCC 84-355]

Implementation of the Plan for AM Broadcasting in Region 2

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action concludes the proceeding in BC Docket No. 82-187 by adopting a series of changes in the Commission's AM technical rules to reflect changes in international agreements.

DATE: Effective September 13, 1984.

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

FOR FURTHER INFORMATION CONTACT: Jonathan David, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of implementation of the plan for AM broadcasting in Region 2 (BC Docket No. 82-187).

Adopted: July 26, 1984.
Released: August 7, 1984.

1. The Commission has before it the *Notice of Inquiry* in this proceeding and the responses to it filed by various broadcast licensees, organizations and consultants.

2. The focus of this proceeding was on the steps needed to implement the Plan for AM broadcasting for Region 2 which had been adopted at Rio de Janeiro as part of the Final Acts of the Administrative Conference on Medium Frequency (AM) Broadcasting in Region 2. As the *Notice* explained, the Agreement contemplates an immediate initiation of steps to achieve compliance with the new protection standards applicable under the Region 2 Final Acts. In addition, the *Notice* invited responses on matters appropriate to include in bilateral agreements to be negotiated with neighboring countries and on specific issues relating to Cuban interference and the special needs of Puerto Rico and the Virgin Islands.

3. Most of the comments focused on Cuban interference problems, something which has since been the subject of a separate rule making proceeding in MM Docket No. 84-1 concerning compensation for expenses incurred in mitigating the effects of Cuban interference. Several other topics of a technical nature also were mentioned, but for the most part, these were directed to the ongoing negotiations which have since led to the new bilateral AM broadcasting agreement with Canada signed on January 17, 1984, as well as the new AM Agreement now being negotiated with Mexico. Finally, some brief mention was given to issues relating to the needs of Puerto Rico and the Virgin Islands.

4. A number of important developments have taken place since this proceeding was inaugurated. Because of these developments the Commission believes it preferable to deal with the few technical matters on which specific prior rule making is not required and to begin a new proceeding to consider the full range of changes needed as a result of the new international agreements. In a companion action taken today, we have begun just such a proceeding.

5. As far as the present proceeding is concerned, there are two sets of rule changes which can be made. Because of the nature of the changes in question, public comment would serve no useful purpose and as a result, prior rule making procedures are unnecessary. One set of changes does no more than conform the Commission's rules in several respects to the requirements contained in or the terms used by the new international agreements.[1] The other, discussed below, is of a more substantial character, but here too the purpose is to conform the Commission's rules to the international agreement.

6. *"Go-no-go" rules.* Section 73.37(a) of the rules reflects the so-called "go-no-go" prohibited contour overlap provisions that were adopted July 1, 1964. This rule generally provides that no applications for a new station or change of facilities for an existing station will be accepted for filing if it would lead to overlap of specified field strength contours. In effect, by prohibiting such overlap, these provisions establish the minimum separation requirements between co-channel stations and those on 1st, 2nd, and 3rd adjacent channels. Note 3 to § 73.37 provides exceptions in the application of this Section in those instances where the overlap lies entirely over water or where the only overlap involved would be that caused to a foreign station. In the latter case the provisions of NARBA and the U.S. Mexican Agreement apply. However, where overlap would be received from a foreign station the provisions of § 73.37 apply rather than the terms of the international agreement.

7. The new international agreements that have been variously referred to earlier in this *Report* use a somewhat different approach to establish separation requirements between stations in different countries. These agreements generally apply a system of protection standards that is referred to as a "protected contour system." In such a system, protected contours are defined, and co-channel and adjacent channel stations are required to protect them in accordance with agreed protection ratios. As long as the protected contour does not extend beyond the boundary of the country within which the protected station is located, the resulting separation between two stations, either co-channel or an adjacent channels, is generally consistent with the separation that would result through application of § 73.37(a) of the Commission's rules. However, a difference develops when the protected contour does extend beyond the border. In such a case, international agreements call for protection only up to the border and for this purpose apply applicable protection ratios to the calculated field strength of the protected stations along the border. The use of ratios at the border permits the location of a U.S. station in an area that would be precluded from such use if the domestic criteria solely were used (§ 73.37(a)). In effect, the required separation internationally when applying ratios at the border is not as great as it is domestically. This is so because § 73.37(a) takes into account the actual location of the contours. It is, therefore, possible for a U.S. application to be in full compliance with applicable international agreements and, yet, be denied because of overlap prohibited by § 73.37 of the rules.

8. This has been a particular problem with regard to the overlap of 2 mV/m and 25 mV/m contours between U.S. proposals and existing foreign stations on 2nd adjacent channels. An inconsistency occurs here because the international agreements do not prohibit 2 mV/m and 25 mV/m contours to overlap as does § 73.37. For example, if a U.S. station were the first station built in a border area and a foreign station was proposed across the border from it, there is the possibility that the foreign station could provide full protection to the U.S. station in accordance with the applicable international agreement

[1] These changes, essentially of an editorial nature, are as follows: Section 73.28(d) is deleted because its provisions are out of date; § 73.37 note 10 and § 73.68(e)(3) are revised to employ metric units with English units being supplied parenthetically, and § 73.1650 is revised to reflect the current status of international agreements and to indicate where copies of those agreements may be obtained.

while at the same time causing 2mV/m and 25 mV/m overlap to the U.S. station. On the other hand, if a U.S. application is filed that would lead to similar received overlap with a foreign station, the application would not be accepted for filing.

9. This can result in the loss of U.S. rights in border areas because potential U.S. and foreign applicants are competing for the same spectrum space on unequal terms. Whatever argument exists for this prohibition domestically, it makes no sense to apply it unilaterally internationally. In such cases involving second adjacent channel overlap we believe that compliance with the terms of applicable international agreements is sufficient for determining acceptability of the application.

10. Based on the above considerations we have decided to amend Note 3 to § 73.37 to indicate that this section will not apply in the case of overlap with a foreign station on a 2nd adjacent channel and compliance with the applicable international agreement will be the determining factor. In other respects, applications should comply with overlap prohibitions as is now the case. We are also amending Note 3 in order to make reference to § 73.1650 of the rules which lists applicable international agreements. Elsewhere in this *Report* § 73.1650 is being amended to include the Region 2 AM Broadcasting Agreement and the new U.S./Canada AM Broadcasting Agreement.

11. Authority for this action is contained in sections 303 (c), (f), (g), and (r) of the Communications Act of 1934, as amended. Compliance with the notice and comment provisions of the Administrative Procedure Act is unnecessary, inasmuch as the amendments ordered do not impose additional burdens, are unlikely to be controversial, and do not raise issues upon which comments would serve any useful purpose. 5 U.S.C. 553(b)(3)(B). Because notice and comment are unnecessary, this matter is exempted from the requirements of the Regulatory Flexibility Act. 5 U.S.C. 601(2) and 603.

12. Accordingly, it is ordered, That effective September 13, 1984, the Commission's Rules and Regulations are amended as set forth in the attached Appendix.

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

14. For further information contact Larry Olson, (202) 632-6955 or Jonathan David, (202) 632-7792 or Frederic Schottland, (202) 632-5414.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

§ 73.28 [Amended]

1. 47 CFR 73.28 is amended by removing paragraph (d) in its entirety.

2. 47 CFR 73.37 is amended by revising Note 3 and Note 10 to read as follows:

§ 73.37 Applications for broadcast facilities; showing required.

* * * * *

Note 3: The provisions of this section concerning prohibited overlap of signal strength contours will not apply where: (1) the area of overlap lies entirely over sea water: or (2) the only overlap involved would be that caused to a foreign station, in which case the provisions of the applicable international agreement, as identified in § 73.1650, will apply. When overlap would be received from a foreign station, the provisions of this section will apply, except where there would be overlap with a foreign station with a frequency separation of 20 kHz. In the latter case the provisions of the international agreement will apply in lieu of this section.

* * * * *

Note 10: Where the term "aural service" is used in paragraphs (e)(1)(iii) and (e)(2)(iii), it is intended to mean interference-free groundwave service provided by a commercial AM broadcast station with a field strength of 5 mV/m or higher, or service provided by a commercial FM broadcast station with a field strength of 3.16 mV/m (70 dBu) or higher. Stations whose transmitter sites are located more than 80.47 kilometers (50 miles) from the nearest boundary of the community designated in the application shall be excluded from consideration in determining the existence of such aural services.

3. 47 CFR 73.68 is amended by revising paragraph (e)(3) to read as follows:

§ 73.68 Sampling systems for antenna monitors.

* * * * *

(e) * * *

(3) If that portion of the sampling system above the base of the towers is modified or components replaced, a partial proof of performance shall be executed subsequent to these changes consisting of at least 10 field strength measurements on each of the radials established in the latest complete proof of performance of the antenna system. These measurements shall be made at locations, all within 3 to 16 kilometers (2 to 10 miles) from the antenna, which were utilized in such proof, including, on each radial, the location, if any, designated as a monitoring point in the station authorization. Measurements shall be analyzed in the manner prescribed in § 73.186. The partial proof of performance shall be accompanied by common point impedance measurements made in accordance with § 73.54.

* * * * *

4. 47 CFR 73.1650 is amended by revising paragraph (a)(1); renumbering existing paragraphs (a)(2) and (a)(3) as (a)(4) and (a)(5) respectively; and adding new paragraphs (a)(2) and (a)(3) to read as follows:

§ 73.1650 International broadcasting agreements.

(a) AM broadcast station agreements.

(1) The U.S.A. is signatory to the North American Regional Broadcasting Agreement (NARBA) with the Bahama Islands and the Dominican Republic.

(2) The U.S.A. is a signatory to the Regional Agreement for the Medium Frequency Broadcasting Service in Region 2 (Region 2 AM Agreement).

(3) The U.S.A. and Canada are signatories to a separate agreement (U.S./Canadian Agreement).

(4) The U.S.A. and Mexico are signatories to a separate agreement (U.S./Mexican Agreement).

(5) The U.S.A. has separate, bilateral agreements with Canada, Mexico and the Bahama Islands pertaining to pre-sunrise authority and a separate agreement with Mexico for post-sunset authority.

* * * * *

[FR Doc 84-21455 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1125; RM-4531]

FM Broadcast Station in Mount Bullion, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Eric R. Hilding, assigns Channel 260 to Mount Bullion, California, as that community's first FM service.

EFFECTIVE DATE: October 12, 1984.

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

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations, (Mount Bullion, California); MM Docket No. 83-1125, RM-4531.

Adopted: July 30, 1984.
Released: August 6, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 48 FR 50574, published November 2, 1983, proposing the assignment of Class B FM Channel 260 to Mount Bullion, California, as that community's first FM service. The *Notice* was adopted in response to a petition filed by Eric R. Hilding ("petitioner"). Petitioner filed comments reaffirming his interest in applying for the channel, if assigned. No comments in opposition to the proposal were received.

2. The Commission believes that the public interest would be served by the assignment of FM Channel 260 to Mount Bullion, California, in order to provide a first FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 12, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following city:

City	Channel No.
Mount Bullion, California	260

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

5. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-21496 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1127; RM-4521]

FM Broadcast Station in Strasburg, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 285A to Strasburg, Virginia, as that community's first local FM service, in response to a petition filed by John T. Galanses.

EFFECTIVE DATE: October 12, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Stanley Schmulewitz, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b) table of assignments, FM broadcast stations (Strasburg, Virginia); MM Docket No. 83-1127, RM-4521.

Adopted: July 30, 1984.
Released: August 6, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 50582, published November 2, 1983, issued in response to a petition filed by John T. Galanses ("petitioner") proposing the assignment of Channel 285A to Strasburg, Virginia, as that community's first local FM broadcast service. Supporting comments were filed by the petitioner in which he reaffirmed his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. In consideration of the above, we believe the public interest would be served by assigning Channel 285A to Strasburg, Virginia, since it could provide a first local FM service to the community.

3. As indicated in the *Notice*, Channel 285A can be assigned to Strasburg consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

4. Accordingly pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 12, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended to include the community listed below, as follows:

City	Channel No.
Strasburg, Virginia	285A

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

6. For further information concerning the above, contact Nancy V. Joyner or Stanley Schmulewitz, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-21495 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-478; RM-4371]

TV Broadcast Station in Blanco, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 52 to Blanco, Texas, in response to a petition filed by Opal Chadwell. The assignment would provide for a first television service to Blanco.

EFFECTIVE DATE: October 12, 1984.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b) table of assignments television broadcast stations (Blanco, Texas); MM Docket No. 83-478, RM-4371.

Adopted: July 30, 1984.
Released: August 6, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making* 48 FR 27578, published June 16, 1983, which proposed the assignment of UHF television Channel 52 to Blanco, Texas, as its first television assignment. The *Notice* was issued in response to a petition filed by Opal Chadwell

("petitioner"). Supporting comments were filed by the petitioner and by David K. Bamberger [1], both stating their intention to apply for the channel, if assigned. Comments were also filed by Harte-Hanks Television, Inc. ("Harte-Hanks") and by the Association of Maximum Service Telecasters ("MST"). Petitioner filed reply comments.

2. Harte-Hanks comments that the proposal to allocate Channel 52 to Blanco is short-spaced by 13.1 miles to a pending proposal to assign Channel 59 to San Antonio, Texas (MM Docket No. 83–421).[2] Harte-Hanks asserts that a Channel 52 assignment to Blanco would be in the public interest and at the same time meet the requirements of section 307(b) of the Communications Act.

3. In its comments MST also refers to the short-spacing of a Channel 52 assignment to Blanco and Channel 59 to San Antonio, Texas. It suggests that the Commission eliminate the conflict by proposing and alternate channel for either city that would comply with the spacing requirements.

4. In response the petitioner states that she support the conclusion reached by Harte-Hanks. She points to other cases where the Commission recognized a first local service as a top priority in the assignment of FM channels, citing, *Honolulu, Hawaii* 52 RR 2d 595 (1982) *and Loudon, Tennessee, et.al.*, 52 RR 2d 1265 (1982). Petitioner again urges the Commission to assign Channel 52 to Blanco, Texas.

5. We believe that the public interest would be served by the assignment of Channel 52 to Blanco, Texas. The petitioner has adequately demonstrated the need for a first television assignment to that community. Channel 52 can be assigned in compliance with the minimum distance separation requirements and other technical criteria.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 12, 1984, the TV Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Blanco, Texas	52+

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

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Allocations Branch, Mass Media Bureau.

[FR Doc. 84–21497 Filed 8–13–84; 8:45 am]

BILLING CODE 6712–01–M

[1] David K. Bamberger requests acceptance of his comments filed after the cut-off date. Since these comments merely relate to his support of the proposal, the pleading has been accepted.

[2] In an earlier action the Commission has assigned Channel 60 to San Antonio, Texas, with no short-spacing to any proposed or existing assignments. Therefore, that proposal will not be considered herein as a conflict with the current rule making.

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

[AC–84–4]

Contract Clauses

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This General Services Administration Acquisition Regulation (GSAR) Acquisition Circular (AC) temporarily amends the GSAR, Ch. 5 (APD 2800.12), to revise the prescriptive language for the use of the clause at 552.209–73, Product Removal from Qualified Products List, and the clause at 552.232–77, Availability of Funds. The Circular also revises the text of contract clause at 552.232–77, Availability of Funds; 552.242–70, Status Report of Orders and Shipments; 552.246–72, Responsibility for Supplies—Rejected Supplies; and 552.246–73, Source Inspection. The intended effect is to provide uniform procedures for contracting under the regulatory system.

DATES: Effective: August 6, 1984. Expiration: This Circular expires 6 months after issuance unless canceled earlier.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, Washington, DC 20405 (202) 523–4754.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that this document will not have a significant economic effect on a substantial number of small entities and therefore the agency did not prepare a regulatory flexibility analysis. All forms referenced which contained information collection requirements have been approved under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and the OMB Control Number appears on the form as illustrated in Part 533.

List of Subjects in 48 CFR Parts 532 and 552

Government procurement.

Authority: 40 U.S.C. 486(c).

In 48 CFR Ch. 5, the following acquisition circular is added to Appendix C at the end of this chapter to read as follows:

Dated: August 6, 1984.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

General Services Administration Acquisition Regulation Acquisition Circular (AC–84–4)

August 6, 1984.

To: All GSA contracting activities.
Subject: Contract clauses.

1. *Purpose.* This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR), Chapter 5, APD 2800.12, to revise various clauses in Part 552 and to revise the prescription for use of a clause in Part 532.

2. *Background.*

a. Public Buildings Service (PBS) requested the clause at 552.232–77, Availability of Funds, be revised to address extensions of the contract period as well as option periods.

b. The Office of Federal Supply and Services (FSS) requested the clause at 552.242–70, Status Report of Orders and Shipments, be revised to permit contractors to submit order status information in an acceptable automated format rather than manually on the GSA Form 1678, Status Report of Orders and Shipments, as is currently required. In addition, FSS requested that paragraph (a)(2), the clause at 552.246–73, Source Inspection, be revised to delete the reference to "the Office of Engineering and Technical Management" and substitute "the Contract Management Division".

c. Miscellaneous corrections to the matrixes for Construction and Architect-Engineering contracts are also made.

3. *Effective date.* August 6, 1984.

4. *Expiration date.* This Circular expires 6 months after issuance unless canceled earlier.

5. *Reference to regulation.* Sections 509.206–2, 532.705–1, 552.209–73, 552.232–77, 552.242–70, 552.246–72, 552.246–73, 552.307 and 552.314 of the GSAR.

6. *Explanation of change.*

PART 509—CONTRACTOR QUALIFICATIONS

a. Section 509.206–2 is revised to read:

509.206–2 Solicitation provisions and contract clauses.

The contracting officer shall insert one of the clauses at 552.209–73, Product Removal from Qualified Products List, in solicitations and contracts, when qualified products are to be procured. These clauses supplement the clauses at FAR 52.209–1 and 52.209–2.

PART 532—CONTRACT FINANCING

b. Section 532.705–1 is revised to read as follows:

532.705–1 Clauses for contracting in advance of funds.

The contracting officer shall insert the clause at 552.232–77, Availability of Funds, in solicitations and contracts for services which are "severable" when option provisions are included, when the contract will be chargeable to funds of the new fiscal year and the contract action is to be initiated before the funds are available, or when the performance period may span fiscal years.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

c. Section 552.209–73 is amended to revise the prescription language for use of the clauses to read as follows:

552.209–73 Product removal from Qualified Products List.

As prescribed in 509.206–2, insert one of the following clauses in solicitations and contracts when qualified products are to be procured (use with FAR 52.209–1 and 52.209–2).

* * * * *

d. Section 552.232–77 is revised to read as follows:

552.232–77 Availability of funds.

As prescribed in 532.705–1, insert the following clause in solicitations and contracts for services which are "severable" when option provisions are included, when the contract will be chargeable to funds of the new fiscal year and the contract action is to be initiated before the funds are available, or when the contract performance period may span fiscal years.

Availability of Funds (July 1984)

The authorization of performance of work under this contract during the initial contract period and any option or extension period(s) is contingent upon the appropriation of funds to procure this service. If the contract is awarded, extended, or option(s) exercised, the Government's obligation beyond the end of the fiscal year (September 30), in which the award or extension is made or option(s) exercised, is contingent upon the availability of funds from which payment for the contract services can be made. No legal liability on the part of the Government for payment of any money beyond the end of each fiscal year (September 30) shall arise unless or until funds are made available to the Contracting Officer for this procurement and written notice of such availability is given to the Contractor.

(End of Clause)

e. Section 552.242–70 is amended to revise the clause to read as follows:

552.242–70 Status report of orders and shipments.

* * * * *

Status Report of Orders and Shipments (July 1984)

(a) The Contractor shall furnish to the Administrative Contracting Officer (ACO) a report covering orders received and shipments made during each calendar month this contract is in effect. The information required by the Government shall be reported on GSA Form 1678, Status Report of Orders and Shipments, in accordance with instruction on the form, and forwarded to the ACO not later than the seventh workday after the close of each reporting period.

(b) Submission of the information is an automated printout form as an attachment to the GSA Form 1678 is acceptable when authorized by the ACO. In that instance, blocks 1 through 5 of the GSA Form 1678 shall be completed and attached as a cover page to the automated report.

(c) An initial supply of GSA Form 1678 will be forwarded to the Contractor with the contract. Additional copies of the form, if needed, may be obtained from the ACO, or the Contractor may reproduce the form.

(End of Clause)

f. Section 552.246–72 is amended by revising the clause to read as follows:

552.246–72 Responsibility for supplies (Rejected Supplies).

* * * * *

Responsibility for Supplies—Rejected Supplies (July 1984)

As provided in FAR 52.246–16, the Contractor shall bear all risks as to rejected supplies after notice of rejection. The Contractor shall be liable for all costs, including but not limited to storage costs, incurred by the Government in taking such measures as are expedient to save unnecessary loss to the Contractor. Should the Contractor upon due notice fail to remove or provide instructions for the removal of the rejected supplies within the period specified by the Government, or within a reasonable period of time if no period is specified, the supplies may be stored for the Contractor's account, or reshipped to the Contractor at the Contractor's expense, or sold to the highest bidder on the open market and the proceeds applied against the accumulated storage and other costs, including costs of the sale. The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

g. Section 552.246–73 is amended to revise the clause title and paragraph (a)(2) to read as follows:

552.246–73 Source inspection.

* * * * *

Source Inspection (July 1984)

(a) * * *

(1) * * *

(2) Inspection responsibility will be assigned to the Contract Management Division of the GSA regional office having jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for source inspection is located. The Contractor shall notify, or arrange for his subcontractor to notify, that office at least 10 days prior to the date when supplies will be ready for inspection. Shipments shall not be made until released by the Contract Management Division unless release is otherwise authorized under terms of a currently applicable Quality Approved Manufacturer Agreement.

* * * * *

(h) The matrix[1] for Fixed-Price Construction in 552.307 is revised to

[1] The matrixes do not appear in the Federal Register or the Code of Federal Regulations. The matrixes were filed with the original document establishing the General Services Administration Acquisition Regulation (GSAR) published at 49 FR 10792, Mar. 22, 1984.

change clause numbers 552.203–1 and 552.209–1 to 552.203–70 and 552.209–70 respectively.

i. The matrix[1] for Architect-Engineering in 552.314 is revised to change provision number 552.209–70 to 552.209–71.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84–21472 Filed 8–13–84; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administrator

50 CFR Part 661

[Docket No. 40453–4053]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure, recreational salmon fishery.

SUMMARY: The Secretary of Commerce announces closures of the ocean recreational salmon fishery in the fishery conservation zone (FCZ) between Cape Shoalwater, Washington, and Klipsan Beach, Washington, and in the special fishery zone between the south jetty at the mouth of the Columbia River and Cape Falcon, Oregon, at midnight August 8, 1984, when the quota of 43,000 coho salmon is projected to be reached.

EFFECTIVE DATE: Closures of the FCZ from Cape Shoalwater to Klipsan Beach, Washington, and from the south jetty at the mouth of the Columbia River to Cape Falcon, Oregon, to recreational salmon fishing is effective at 0001 hours Pacific Daylight Time (PDT), August 9, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas E. Kruse, Acting Director, Northwest Region, NMFS, 7600 Sand Point Way N.E. BIN C1 5700, Seattle, WA 98115; telephone 208–526–6150.

SUPPLEMENTARY INFORMATION: Emergency regulations to manage the ocean commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California were published in the **Federal Register** on May 3, 1984, 49 FR 18853.

The emergency regulations specify at § 661.42(a)(2) that when a quota for the recreational fishery, for any species of salmon in any portion of the fishery management area, is projected by the Regional Director to be reached on or by a certain date, the Secretary will close, by publishing a notice in the **Federal Register**, the recreational fishery as of the date the quota will be reached.

The coho quota for the ocean recreational fishery in the area from Cape Shoalwater, Washington, to Cape Falcon Oregon, is 43,000 fish, as shown in Table 3 of § 661.42(a)(1) of the emergency regulations. Based on the most recent catch and effort information supplied by the Washington Department of Fisheries (WDF) and the Oregon Department of Fish and Wildlife (ODFW), the recreational fishery in the area between Cape Shoalwater and Klipsan Beach, Washington, and between the south jetty at the mouth of the Columbia River and Cape Falcon, Oregon, is projected to reach the 43,000 coho salmon quota by midnight August 8, 1984. The Secretary therefore issues this notice closing the recreational fishery effective midnight, August 8, 1984.

The Acting Director, Northwest Region, NMFS, consulted with the Directors of WDF and ODFW and advised the Executive Director, Pacific Fishery Management Council, regarding this closure. The Directors of WDF and ODFW will close State waters adjacent to the FCZ on August 8, 1984, concurrent with the closure of Federal waters.

As provided under § 661.42(d), all information and data relevant to this notice of closure have been compiled in aggregate form and are available for public review from 8:00 a.m. to 4:30 p.m. weekdays at the above address.

Other Matters

This action is taken under the authority of 50 CFR 661.42 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: August 8, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology National Marine Fisheries Service.

[FR Doc. 84–21461 Filed 8–9–84; 2:10 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 49, No. 158
Tuesday, August 14, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 448

[Docket No. 0801S]

Extra Long Staple (Pima) Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to issue a new Part 448 in Chapter IV of Title 7 of the Code of Federal Regulations, effective for the 1985 and succeeding crop years, for the purpose of prescribing procedures for insuring extra long staple (Pima) cotton in certain counties where such cotton is produced. The intended effect of this proposed rule is to issue regulations for such purpose to be known as 7 CFR Part 448—Extra Long Staple (Pima) Cotton Crop Insurance Regulations under the authority contained in the Federal Crop Insurance Act, as amended.

DATES: *Comment Date:* Written comments, data, and opinions on this proposed rule must be submitted not later than October 15, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 (December 15, 1983). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1989.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On March 28, 1984, the Board of Directors of FCIC approved Docket No. CI-ELS-85-2, authorizing FCIC to offer a program of crop insurance on extra long staple (Pima) cotton in counties where such cotton is ordinarily produced, effective for the 1985 and succeeding crop years. The regulations contained in this proposed rule are to become effective for the 1985 and succeeding crop years offering protection against crop damage or loss from natural causes. All comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 448

Crop insurance, Extra long staple (Pima) cotton.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to issue a new part in Chapter IV of Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 448 Extra Long Staple (Pima) Cotton Crop Insurance Regulations, effective for the 1985 and succeeding crop years. Part 448 is added to read as follows:

PART 448—EXTRA LONG STAPLE (PIMA) COTTON CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and Succeeding Crop Years

Sec.

448.1 Availability of extra long staple cotton insurance.
448.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
448.3 OMB control numbers.
448.4 Creditors.
448.5 Good faith reliance on misrepresentation.
448.6 The contract.
448.7 The application and policy.
Appendix A, Counties Designated for Extra Long Staple (Pima) Cotton Crop Insurance.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 448.1 Availability of extra long staple cotton insurance.

Insurance shall be offered under the provisions of this subpart on extra long staple cotton in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which extra long staple cotton insurance will be offered.

§ 448.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for extra long staple cotton which will be included in the county actuarial table on

file in service offices and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 448.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 448) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 448.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, an involuntary transfer, or similar interest shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 448.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the extra long staple cotton insurance contract, whenever (a) an insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believes to be insured, or believed the terms of the insurance contract to have been compiled with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000 finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured relied thereon in good faith and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto.

§ 448.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance. The contract shall cover the extra long staple cotton crop as provided in the policy. The contract shall consist of the application, the policy, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the service office.

§ 448.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the extra long staple cotton crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) Extra long staple cotton contracts in effect for the 1985 crop year may be amended from year to year and are continuous unless terminated in accordance with their terms. A new application is not required by these regulations for subsequent crop years unless the policy is terminated.

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Extra Long Staple Cotton Insurance Policy for the 1985 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Extra Long Staple Cotton—Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. Insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire.
(3) Insects;
(4) Plant disease.
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) When an irrigation practice apply, failure of the water supply from an unavoidable cause occurring after the beginning of planting, unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(8).

b. We do not insure against loss of production due to:

(1) The neglect, mismanagement or wrong doing of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good cotton farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and share insured.

a. The crop insured shall be Extra Long Staple ("ELS") cotton and American Upland lint ("AUP") cotton if the acreage was originally planted to ELS cotton, which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be ELS cotton (or AUP cotton when the acreage was originally planted to ELS cotton) planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect. The acreage insured of skip-row cotton shall be the acreage occupied by the rows of cotton after eliminating the skipped-row portions, unless otherwise provided by the actuarial table.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured ELS cotton at the time of planting.

d. We do not insure any acreage:

(1) Which is non-irrigated and from which a hay crop was harvested or on which a small grain crop reached the heading stage in the same calendar year;

(2) Planted in excess of the limitations established by any program administered by the United States Department of Agriculture;

(3) Which is new ground acreage;

(4) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(5) Which is irrigated and an irrigated practice is not provided for by the actuarial table, unless you elect to insure the acreage

as nonirrigated by reporting it as insurable under section 3;

(6) Which is destroyed, it is practical to replant to ELS cotton, and such acreage is not replanted;

(7) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(8) Which you have elected to exclude (the exclusion must be by unit, in writing on our form and made before the closing date for submitting applications as established by the actuarial table except that, if a unit is acquired after such date, an exclusion may be filed up to 15 days after the acquisition but not later than the acreage reporting date); or

(9) Planted to a type or variety of cotton not established as adapted to the area or excluded by the actuarial table.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good cotton irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good cotton irrigation practice, except failure of the water supply from an unavoidable cause occuring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree, in writing, to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report on our form:

a. All the acreage of ELS cotton in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in an ELS cotton planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production gurantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. The production guarantees in the actuarial table are the second stage guarantees. The first stage guarantee is 60 percent of the second stage guarantee. The stages are:

(1) First Stage—From planting until 60 days after the final planting date for ELS cotton or until the shedding of the first blooms, whichever occurs first (We may limit the liability to the first stage if the cotton was damaged during this period to the extent that farmers generally would not further care for the cotton); or

(2) Second Stage—All insured cotton after the first stage.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

Number of loss years [2]	Number of loss years [2]					
	0	1	2	3	4	5+
Percentage adjustment	80	100	115	135	165	200

[1] The experience period used for determining the number of "loss years" for the 1985 crop year shall be the period beginning with the 1979 crop year and extending through the 1983 crop year (for the 1985 policy). The experience period will expand each year until a 10 year base period is reached.

[2] A "Loss Year" is defined as a year in which the yield (actual or established) is below the production guarantee for the unit or practice (where the unit consists of more than one practice).

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the ELS cotton is planted and ends at the earliest of:

a. Total destruction of the cotton;

b. Removal of the cotton from the field;

c. Final adjustment of a loss; or

d. January 31 following planting.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the cotton on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the cotton and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice if you are going to replant any acreage originally planted to ELS cotton to AUP cotton.

(3) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(4) If probable loss is later determined, immediate notice shall be given and a representative sample of unharvested cotton (at least 10 feet wide and the entire length of the field) shall be left for a period of 15 days from the date of the notice, unless we give you written consent to harvest the sample.

(5) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) total destruction of the cotton on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. You may not destroy any cotton on which an indemnity shall be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the cotton which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the cotton on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of cotton on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Any mature ELS cotton production which is or can be harvested shall be reduced when, due solely to insured causes, the quality of the ELS cotton produced is such that the price quotation for ELS cotton of like grade, staple length and micronaire reading (price A) is less than 75 percent of price B. Price B shall be the market price quotation at the same market for ELS cotton of the grade, staple length and micronaire reading designated in our actuarial table for this

purpose. The price quotations for prices A and B shall be the market price quotations on the earlier of the day the loss is adjusted or the day the damaged ELS cotton was sold. In the absence of a price quotation(s) on such date, the price quotations for the nearest prior date for which an ELS cotton price quotation was listed for prices A and B will be used.

The pounds of production to be counted herein shall be determined by multiplying the number of pounds of such production (harvested and unharvested) by price A and dividing the result by 75 percent of price B.

(2) Any AUP cotton harvested from acreage originally planted to ELS cotton will be reduced by the factor obtained by dividing the price of the AUP cotton by the price of ELS cotton of the grade, staple length and micronaire reading shown in our actuarial table. The prices will be determined on the earlier of the date the loss is adjusted or the date the AUP cotton was sold.

(3) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage, and potential production lost due to uninsured causes and failure to follow recognized good cotton farming practices;

(b) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Only the appraised production in excess of the difference between the first and second stage guarantee for any acreage not covered by (a) and (b) above and which does not qualify for the second stage guarantee will be counted except as provided in (d) below;

(d) The entire appraisal for uninsured causes will be counted.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of cotton becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) Any appraisal of the AUP cotton on acreage originally planted to ELS cotton will be reduced by the factor determined in Section 9e(2) above. If prices are not yet available, the previous year's season average price will be used.

(6) The cotton stalks shall not be destroyed on any acreage for which an indemnity is claimed, until consent is given by us. An appraisal of not less than the second stage guarantee may be made on acreage where the stalks have been destroyed without our consent.

(7) We may determine the amount of production of any unharvested cotton on the basis of field appraisals conducted after the end of the insurance period.

(8) When you have elected to exclude hail and fire as insured causes of loss and the cotton is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(9) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the cotton is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all cotton produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are March 31.

e. If you die or are judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by November 30 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of cotton crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and

related information regarding cotton insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "Cotton" means Extra Long Staple Cotton and acreage replanted to American Upland Cotton if the acreage was originally planted to Extra Long Staple Cotton.

d. "County" means the county shown on the application and:

(1) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) Any additional land identified by an ASCS farm serial number for the county but not physically located in the county.

e. "Crop year" means the period within which the cotton is normally grown and shall be designated by the calendar year in which the cotton is normally harvested.

f. "ELS cotton" means Extra Long Staple Cotton (also called Pima Cotton and American-Egyptian Cotton).

g. "Harvest" means the removal of the seed cotton from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "New ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

k. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

l. "Replanted" means performing the cultural practices required necessary to replant acreage to AUP cotton which was originally planted to ELS cotton.

m. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. "Skip-row" means planting patterns consisting of alternating rows of cotton and fallow rows (or rows or another crop) as defined by ASCS.

o. "Tenant" means a person who rents land from another person for a share of the cotton or a share of the proceeds therefrom.

p. "Unit" means all insurable acreage of cotton in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if we determine that the reconstitution was made in whole or part to defeat the purpose of the Federal Crop Insurance Program and/or to gain disproportionate advantage under this policy. Errors in reporting such units may be corrected by us when adjusting a loss.

q. "Yield" means the actual yield reported by you to ASCS or the yield established by ASCS or us.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A—Counties Designated for Extra Long Staple (Pima) Cotton Crop Insurance

Under the provisions of 7 CFR 448.1, the following counties are designated for Extra Long Staple Cotton Crop Insurance:

Arizona

Cochise	Pima
Graham	Pinal
La Paz	Yuma
Maricopa	

New Mexico

Eddy	Luna
Donna Ana	

Texas

El Paso	Reeves
Hudspeth	

Approved by the Board of Directors on March 28, 1984.

Diana Moslak,

Acting Secretary, Federal Crop Insurance Corporation.

Dated: August 6, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-21517 Filed 8-13-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 917

Fresh Pears, Plums, and Peaches Grown in California; Proposed Amendment of Certified Farmers Markets Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposal is to revise provisions governing the exemption from regulations for certain varieties of California pears handled at certified farmers markets. Such provisions are designed to prevent such exempt fruit from entering fresh channels for other than the specified purposes and to ensure that the fruit sold at certified farmers markets is of acceptable quality.

DATE: Comments must be received by August 24, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

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 proposed 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.

The proposed rule is issued under the marketing agreement, as amended, and Marketing Order 917, as amended (7 CFR Part 917), regulating the handling of pears, plums, and peaches grown in California. The agreement and order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The Pear Commodity Committee, which operates under Marketing Order 917, recommended the change in the rule covering pears that are sold at certified farmers markets at its annual regulatory meeting on June 27, 1984. The proposed rule is based upon committee recommendations, information submitted by the committee, and other available information. The rule would extend to pears certain requirements recently adopted for peaches, plums, and nectarines shipped to certified farmers markets within the State of California (49 FR 28540). Pears were not covered under the recent rule because the rule change was needed for peaches, plums, and nectarines before the start of the 1984 pear season and the pear committee was not scheduled to meet until after the start of the 1984 season for the other fruits.

Currently, a person who both produces and handles the pears may sell at a certified farmers market up to 200 pounds of such fruit to any one person during any one day. Such fruit must meet minimum quality requirements specified in the California Food and Agricultural Code. These shipments are exempt under § 917.143(b) of the

marketing order. The intent of the exemption provision was to help small growers by permitting them to sell fruit directly to consumers at the premises where the fruit is grown, at a nearby packinghouse or retail stand, or at certified farmers markets.

During past years, commercial packers have been shipping fruit sorted out at the packinghouse to certified farmers markets in increasing quantities. Since such shipments consist of fruit which is not eligible to be sold in commercial outlets, such fruit tends to be of low quality. Shipment of such fruit was not contemplated when the exemption provision was authorized.

There have been instances of fruit shipped from packinghouses to certified farmers markets which has not met minimum quality requirements. Also, there are indications that some fruit has been reported as handled under the certified farmers market exemption but diverted to commercial fresh market outlets. Because such fruit is shipped from packinghouses and is handled with properly graded fruit, it is difficult to ascertain compliance with marketing order regulations. The rule is designed to prevent such exempt fruit from entering fresh channels for other than the specified purposes and to ensure that the fruit sold at certified farmers markets is of acceptable quality.

The proposed rule would restrict the sale of pears sorted out by a handler and sold at certified farmers markets to pears which meet all the quality requirements stated in Pear Regulation 12 (§ 917.461, i.e., the pears must grade at least U.S. Combination) except that they are soft and overripe. To provide additional safeguards, all pears sorted out by a handler (1) would be subject to the inspection and certification, assessment, and reporting requirements of the order and (2) must be packed in containers market clearly that the fruit is for sale only at certified farmers markets. The container marking requirement is intended to assure that the fruit is sold only as specified.

Similar action was recently taken in regard to peaches and plums handled under Marketing Order 917 and nectarines handled under Marketing Order 916. It is highly desirable that the regulations provide equal treatment to all fruits covered under these two marketing orders.

The proposed rule provides a 10-day comment period. A longer comment period would be contrary to the public interest, as any comments on the effect of the proposed rule need to be received with 10 days, so that the final rule, if issued, can be made effective as soon as possible, to ensure the orderly marketing of California pears. All comments received by the deadline will be considered prior to issuance of any final rule.

List of Subjects in 7 CFR Part 917

Marketing agreements and orders, Pears, Plums, Peaches, California.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

The proposed rule would amend § 917.143 (7 CFR Part 917) by revising paragraph (b)(4) to read as follows:

§ 917.143 Exemptions.

* * * * *

(b) * * *

(4) Such pears, plums and peaches are handled by the person who produces them; and the handling takes place (i) on the premises where grown, (ii) at a packinghouse or retail stand nearby which is operated by said handler, or (iii) at a certified farmers market in compliance with section 1392 of the regulations of the California Department of Food and Agriculture: *Provided,* That the exemption for certified farmers markets shall not apply to fruit sorted out by a handler unless such fruit is packed in containers clearly and legibly marked to show that the fruit contained therein is only to be sold at a certified farmers market, and the handler complies with regulations established under §§ 917.37, 917.41(a)(1), 917.45, and 917.50, except that such fruit may be handled to such markets if the fruit fails to meet the applicable grade only on account of being soft and overripe.

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

Dated: August 9, 1984.

Thomas R. Clark,

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

[FR Doc. 84–21536 Filed 8–13–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 993

Dried Prunes Produced in California; Changes in Pack Specifications

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes an additional nomenclature size designation—"Small", "Breakfast", "Petite", or "Economy"—for consumer packages of dried prunes under the marketing order for California dried prunes. Packages of prunes labeled with these size designations would include prunes falling within a range of 85 to 100 pounds, inclusive, per pound. The current nomenclature size designations are "Extra Large," "Large", and "Medium". The proposal is intended to give handlers more flexibility in merchandising small prunes.

DATE: Written comments must be received by August 29, 1984.

ADDRESSES: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial numer of small entities.

Frank M. Grasberger has determined that an emergency situation exists which warrants publication of this proposal with less than a 30-day comment period. The 1984–85 crop year begins August 1, 1984, and handlers will soon be receiving and packing 1984-crop prunes. Therefore, this change should be in effect as soon as possible to enable handlers to use the additional nomenclature size designation and plan their packing operations accordingly. Moreover, this action relieves restrictions on handlers, and they do not need a substantial amount of advance notice to use the additional designation.

This proposal would change paragraphs (b) and (c) of § 993.515 of Subpart—Pack Specification as to Size (7 CFR 993.501–993.518) to prescribe another nomenclature size designation which handlers could use on consumer packages of dried prunes. This designation would be either "Small", "Breakfast", "Petite", or "Economy". The dried prunes in the packages would fall within a size range of 85 to 100 prunes, inclusive, per pound.

The additional nomenclature size designation was recommended by the Prune Marketing Committee, which is

established under the marketing agreement and Order No. 993 both as amended (7 CFR Part 993) regulating the handling of dried prunes produced in California (hereinafter both are referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Committee works with USDA in administering the order.

The pack specifications in § 993.515 prescribe commercially recognized size categories for the packing of prunes in consumer packages, including numerical and nomenclature size designations. The nomenclature size designations currently listed in § 993.515(b) would continue in effect. These are "Extra Large", "Large", and "Medium". The additional nomenclature size designation—"Small", "Breakfast", "Petite", or "Economy"—would be defined in § 993.515(c) in terms of the count of prunes per pound as follows: "Small", "Breakfast", "Petite", or "Economy" means any size count which falls within the range of 85 to 100 prunes, inclusive, per pound.

Handlers have been using this nomenclature size designation in conjunction with the numerical designation of 85 to 100 prunes, inclusive, per pound for the past several years, but have found the appearance of both numerical and nomenclature designations on the label to be counterproductive in merchandising and promoting sales of such prunes. This proposal would no longer require the numerical designation to be included on the label with the "Small", "Breakfast", "Petite", or "Economy" size designation, thus making the label more useful in merchandising and promoting the sale of small prunes. Also, the proposal would give handlers greater latitude and flexibility in utilizing, packing, and marketing the smaller prunes they receive from producers each year.

List of Subjects in 7 CFR Part 993

Marketing agreements and orders, Plums and prunes, California.

PART 993—[AMENDED]

Therefore, the proposal is to amend § 993.515 by revising paragraphs (b) and (c) to read as follows:

Subpart—Pack Specification as to Size

§ 993.515 Size Categories.

* * * * *

(b) *Nomenclature designations.* Each of the following is a nomenclature size category:

(1) Extra Large;

(2) Large;

(3) Medium; and

(4) Small, Breakfast, Petite, or Economy.

(c) *Nomenclature designations defined.* As used in paragraph (b) of this section:

(1) "Extra Large" means any size count which falls within the range of 25 to 40 prunes, inclusive, per pound;

(2) "Large" means any size count which falls within the range of 40 to 60 prunes, inclusive, per pound;

(3) "Medium" means any size count which falls within the range of 60 to 85 prunes, inclusive, per pound; and

(4) "Small", "Breakfast", "Petite", or "Economy" means any size count which falls within the range of 85 to 100 prunes, inclusive, per pound.

* * * * *

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

Dated: August 9, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–21542 Filed 8–13–84; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Limiting the Use of Highly Enriched Uranium in Domestic Research and Test Reactors; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: The Nuclear Regulatory Commission is extending the public comment period on its notice of proposed rulemaking, published on July 6, 1984 (49 FR 27769), for an additional 60-day period. This will provide additional time for interested members of the public to evaluate the issues raised and to develop comments on the proposed rule. The proposed rule generally would require that new non-power nuclear reactors use low enriched uranium (LEU) fuel and that existing reactors replace highly enriched uranium (HEU) fuel with LEU fuel when available. The public comment period was scheduled to expire on September 4, 1984.

DATES: The new comment period expires November 2, 1984. Comments received after that 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 that date.

ADDRESS: Written comments or suggestions for consideration in connection with the proposed rule should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments received may be examined in the Commission's Public Document Room at 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William R. Lahs, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–7874.

Dated at Washington, DC, this 9th day of August 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–21552 Filed 8–13–84; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84–ASW–32]

Proposed Alteration of Transition Area and Control Zone; Temple, TX

Correction

In FR Doc. 84–20533, appearing on page 31077, in the issue of Friday, August 3, 1984, making the following corrections:

1. The heading should read as printed above.

2. In the **"SUMMARY"** paragraph, in the third line "transportation" should read "transition".

3. In the **"FOR FURTHER INFORMATION CONTACT"** paragraph, in the first line "Stephson" should have read "Stephenson".

4. In the third column, in the first paragraph under **"§ 71.171 Temple, TX [Revised]"**, in the fifth line, "radious" should read "radius".

BILLING CODE 1505–01–M

14 CFR Part 71

[Airspace Docket No. 84-ASW-35]

Proposed Alteration and Designation of Control Zones; Lawton, OK, and Fort Sill, OK

Correction

In FR Doc. 84-20522, beginning on page 31076, in the issue of Friday, August 3, 1984, on page 31076, in the third column, in the first paragraph under **"Lawton, OK [Revised]"**, in the second line, "36°34'00 "N.," should read "34° 34'00 "N.,".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 249, 270, and 274

[Release No. 34-21208; IC-14080; S7-28-84]

Semi-Annual Report Form for Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposal of form, rules and rule revisions; proposed withdrawal of forms and rescission of rules.

SUMMARY: The Commission is publishing for comment a proposed semi-annual reporting form under the Investment Company Act of 1940 that registered investment companies would be required to file with the Commission. This one new form with sections to be completed by different types of investment companies would replace five annual reporting forms now used by most registered investment companies. The new form is being proposed as a result of changes that have been made in the Commission's procedures for reviewing disclosure documents filed by investment companies and for performing routine inspections of those companies. The new form also reflects changes that have occurred in the investment company industry since the forms now in use were last amended and the need of the Commission to develop a computerized data base of information on the investment company industry.

DATE: Comments must be received on or before October 1, 1984.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comment letters should refer to File No. S7-28-84. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: With respect to proposed form, Gene A. Gohlke, Chief Financial Analyst or Carolyn Uberman, Senior Financial Analyst, (202) 272-2024, Office of Financial Analysis and Inspections, and with respect to proposed rule amendments, Elizabeth K. Norsworthy, Chief, Office of Regulatory Policy (202) 272-2048 or John Banks-Brooks, Attorney, Office of Disclosure Legal Services (202) 272-7313, Division of Investment Management, Securities and Exchange Commission.

SUPPLEMENTARY INFORMATION: The Commission is today publishing for comment pursuant to section 30(b)(1) of the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a-29(b)(1)] proposed form N-SAR, a semi-annual reporting form to be used by all investment companies registered under the 1940 Act (15 U.S.C. 80a-1 *et seq.*). The proposed new form would take the place of forms N-1R (17 CFR 274.101), N-5R (17 CFR 274.105), N-30A-2 (17 CFR 274.102), N-30A-3 (17 CFR 274.103) and 2-MD (17 CFR 249.402), annual reporting forms now used by most registered investment companies.[1] These forms would be withdrawn at the same time the new form is adopted. Implementation of new form N-SAR also would require a number of corresponding rule changes, including revision of rule 30a-1 (17 CFR 270.30a-1), addition of new rules 30b1-3 and 30b1-4 and recission of rules 30a-2 (17 CFR 270.30a-2) and 30a-3 (17 CFR 270.30a-3). These rule amendments would set forth the requirements for filing the new form and eliminate references to forms that would no longer be used. Appendix A to this release sets forth the text of the proposed form and Appendix B shows which items of the existing annual report forms have been eliminated from the proposed form, carried over to it unchanged, or carried over with modifications.

[1] Form N-1R is the annual report for registered management investment companies except those which are unincorporated management investment companies currently issuing periodic payment plan certificates or small business investment companies licensed under the Small Businsss Investment Act of 1958 (15 U.S.C. 661 *et seq.*). There is a separate form of annual report for incorporated management investment companies currently issuing periodic payment plan certificates (Form N-30A-3) and for small business investment companies (Form N-5R) as well as for unit investment trusts currently issuing securities (Form N-30A-3) and those unit investment trusts not currently issuing securities (Form 2-MD).

I. Background

Form N-1R, the annual report form for management investment companies was last amended in 1978 as part of a project to integrate various registration and report forms for management investment companies.[2] Since then, a number of substantial changes have occurred that lessen the usefulness to the Commission of the data reported on the form. The staff has changed its procedures for reviewing initial registration statements and post-effective amendments to these registration statements under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("1933 Act").[3] Prior to 1978 all of these documents received a full review by the staff. Certain of these disclosure documents are now subject to selective review. To assist in the selective review process, the staff must have a data base of information about the investment company industry that can be used to make determinations relating to selective review. The data received in filings on form N-1R is not useful for this purpose.

The staff of the Commission has also changed its approach for conducting routine compliance inspections of investment companies. Prior to 1984, the focus of an inspection was primarily on the individual investment company. As a result, during routine inspections, most aspects of each investment company's activities were reviewed. Beginning in 1984, the staff refocused its inspections on the investment company complex or family of funds and, in particular, the efficacy of the common systems and procedures used by all funds in a complex. While one of the objectives of amending form N-1R in 1978 was to give the inspection staff useful information about the operations of investment companies, in practice the N-1R has not been of much use in the inspection program. With the change in the focus of inspections, the form does not provide the information needed to monitor the operations of investment companies or to construct necessary compliance information about investment company complexes.

The usefulness to the Commission of form N-1R has also been reduced by changes that have occurred in the investment company industry. During the last five years there has been a growing emphasis on the family of funds

[2] Investment Company Act Release No. 10378 (August 29, 1978) (43 FR 39547 September 5, 1978). Minor technical amendments to the form were also adopted in Investment Company Act Release No. 13529 (Sept. 23, 1983) (48 FR 44467 September 29, 1983).

[3] Investment Company Act Release No. 13768 (February 15, 1984) (49 FR 6708 February 23, 1984).

concept in which many investment company complexes have created a wide spectrum of funds, each with a different investment objective so that a particular fund family can offer investors a complete package of investment media. A recent analysis by the staff revealed that 73% of all investment companies are in a family having at least one other fund and that 32% of all investment companies are in families that have ten or more funds. Form N–1R is not structured to allow the Commission's staff to efficiently bring together and analyze the separate filings of all funds in a complex. This inability to develop an overall view of the activities of a complex lessens the effectiveness of the registration statement review and routine inspection processes which have been specifically designed to recognize the existence of the investment company complex.[4]

In an increasing number of circumstances and for a variety of reasons, investment company families are organizing or reorganizing their individual companies as series or multiple portfolio funds. A series fund is a single registrant under the 1940 Act but for most other purposes each series is treated as a separate entity. In most instances each series of a series fund has a different investment objective. Because form N–1R was developed before series funds became popular, completion of the form for such funds is difficult and funds have adopted different approaches to reporting data for series on the form. As a result, the Commission has no way of readily determining the number of series funds or the number of individual series that exist.

Although the revised form N–1R adopted in 1978 was intended to enable the Commission to computerize and electronically analyze each filing, this goal has not been attained because, among other reasons, registrants frequently must append schedules and supplemental information to their filings to answer fully the information requested in the form. The proposed changes will make these schedules more easily susceptible to optical scanning or direct key entry techniques.[5]

Form N–5R

Form N–5R, the annual report form for small business investment companies ("SBICs") was last amended in 1970.[6] This form was designed to obtain a variety of financial and operating information from these companies with an emphasis on data concerning securities issued by them and the personnel responsible for conducting their affairs. It has been the experience of the staff that much of the information contained in filings on form N–5R is not needed as part of the Commission's ongoing regulatory process. Registration statements filed with the Commission for new issuances of securities by these entities are infrequent and when received are given a full review by the staff. Furthermore, SBICs are also regulated by the Small Businesss Administration ("SBA") which receives a variety of information from these entities in periodic filings.[7] The SBA also performs periodic inspections of each SBIC's operations.[8] Because of these SBA inspections, the Commission's investment company examination staff does not routinely inspect SBICs. However, the Commission's staff does perform cause inspections of SBICs and needs some continuing flow of current information about these entities to be able to make informed judgments concerning their activities.

Form N–5R, unlike form N–1R, is not a preprinted form. Instead, for most questions asked or types of information sought, the instructions suggest the general format the answer should take and permit the registrant to provide the requested data in a form best suited to its circumstances. While this approach allows registrants some latitude in completing the form, it makes it difficult for the staff to compare the information obtained. Entering the data from these filings into a computerized data base to permit electonic screening and analysis would be facilitated by a standardized format.

Forms N–30A–2 and 2–MD

Forms N–30A–2 and 2–MD are the annual report forms used by unit investment trusts ("UITs"). Form N–30A–2, which was last amended in 1968,[9] is prescribed for use by UITs which are currently issuing securities; form 2–MD, which was adopted in 1937 [10] and which has never been substantively amended, is prescribed for use by UITs which are not currently issuing securities. Most UITs are not required to file form N–30A–2 because they are not currently issuing securities. However, those UITs should file form 2–MD annually. Both of these forms are not in a preprinted format and require the registrant to supply detailed information with respect to the UIT, its depositor, the sale, repurchase and redemption of its securities and the assets remaining in its portfolio.

In recent years, the usefulness of these forms has seriously diminished. Since most UITs sell all of their securities within a day or two after their registration statements become effective, relatively few N–30A–2's are filed annually. As of May 31, 1984, there were 503 UITs registered under the 1940 Act, but during fiscal year 1983, the Commission received only 138 N–30A–2's. Although UITs that are not currently issuing securities should continue to file their annual reports on form 2–MD, the Commission has experienced increasing delinquency with respect to these filings. To compound the problem, in an increasing number of instances, unit investment trusts are organized or reorganized as series with different part folios. Either form N–30A–2 or 2–MD should be filed annually with respect to each series. However, this has not been the case. The Commission has no way of knowing at any time how many UITs have existing series, whether those series are currently offering securities, and the value of their assets.

Even if all UITs were complying with existing reporting requirements, because forms N–30A–2 and 2–MD are not preprinted, the content and format of each filing is somewhat different. Further, the information requested by these forms is not very useful to the staff in reviewing registration statements and conducting inspections.

Form N–30A–3

Form N–30A–3 is required to be filed by unincorporated management investment companies issuing periodic payment plan certificates. Like certain other annual reports, this form is not preprinted. Therefore, the specific format of these forms varies among registrants and makes electronic processing difficult. Based upon

[4] In Release No. 33–6510 (February 15, 1984) (49 FR 6708), the Commission adopted procedures under which initial registration statements filed by new investment companies in a complex would not be reviewed in those areas where the disclosure is comparable to that used by other funds in the complex and such disclosure has been reviewed previously by the staff.

[5] These efforts coincide with, but are not part of, the Commission's Pilot electronic disclosure system project, designated "EDGAR" for Electronic Data Gathering, Analysis and Retrieval.

[6] Investment Company Act Release No. 6167 (August 25, 1970) (35 FR 14083 September 4, 1970).

[7] Section 687(b) of the Small Business Investment Act of 1958 as amended (15 USC 687(b)) describes the reporting requirements of small business investment companies. These companies are required to file an annual and semi-annual report on their activities as well as other reports to be prescribed by the SBA.

[8] SBICs are subject to examinations by examiners selected or approved by the SBA. *Id.*

[9] Investment Company Act Release No. 5531 (Nov. 1, 1968) (33 FR 17173).

[10] FR Doc. No 1331 filed May 10, 1937 (2 FR 808).

Commission records, two forms N–30A–3 were filed during fiscal year 1983.

Proposal To Eliminate Form N–1R, Form N–5R, Form N–30A–2, Form N–30A–3 and Form 2–MD

In light of the substantial changes in the registration review procedures adopted by the staff, the significant change in focus of the investment company examination program, and the need for the Commission to construct a comprehensive, useful and computerized data base of information on the investment company industry and to facilitate future electronic filing of investment company reporting forms, the Commission is proposing to eliminate forms N–1R, N–5R, N–30A–2, N–30A–3, and 2–MD. The requirement to file these forms would cease at the same time that the new reporting form proposed in this release becomes effective.

Proposal of New Form N–SAR

Form N–SAR is being proposed as a new semi-annual reporting form for all registered investment companies except face-amount certificate companies. In addition, business development companies, which are not registered investment companies, would not report on form N–SAR. Both of these classes of companies would continue to report on forms prescribed under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("1934 Act").

Zero base approach. The approach used in developing form N–SAR was to begin from a zero base and create an entirely new form rather than merely amend the forms now in use. The new form includes only those items that provide the Commission with information that is useful and relevant to current and projected needs. The structure and organization of the form was developed in ways that capture information about series funds and allow the filings for all funds in a complex to be brought together and analyzed. Also, the form is divided into sections which would be filed by different types of investment companies.

Because the Commission is cognizant of the burden that its filing requirements place on registered investment companies, the staff was particularly concerned about the types of information being requested and the structure of each question in proposed form N–SAR. The staff has reviewed filings being received currently on forms N–1R, N–5R and N–30A–2 and has attempted to identify those questions and requests for information that appear to be particularly burdensome on registrants. Many of the questions that would be eliminated were designed to determine if a reporting company had engaged in a type of activity that is prohibited under the 1940 Act. The staff has found that responses to this type of question have not yielded information that has facilitated the Commission's enforcement efforts. Overwhelmingly, our discovery of violations has come from other sources such as inspections and investor complaints. To the extent that questions are carried over to the new form, those questions have been simplified. In terms of the number of pages alone, the typical form N–1R plus attachments filed with the Commission contains between 60 and 70 pages while form N–SAR has 23 pages that apply to regular open and closed-end investment companies; the typical form N–5R plus attachments filed with the Commission has between 35 and 40 pages while form N–SAR for SBICs covers seven pages, and the typical form N–30A–2 filed by a UIT has 40 pages plus attachments while form N–SAR for UITs covers three pages.

The filing burden on UITs should be reduced even though the N–SAR is to be filed semi-annually because the information requested in form N–SAR for registered UITs is in summary form and only one form N–SAR would have to be filed to summarize certain information for all of the series relating to a single 1940 Act registration number. The Commission believes that the collection of this summary information for all series registered pursuant to each 1940 Act registration number is necessary to keep the information contained in the 1933 Act registration statements filed by these series reasonably current and to permit the staff to carry out its various regulatory activities.

Form N–SAR has been structured so that all information filed by a registrant can be evaluated in comparison to information filed by other registrants that have certain similar characteristics. Because the new form would also require each registrant to identify related registrants, i.e., all funds in a family, the staff will be able to obtain an overall view of each fund family's structure and activities. This latter ability is particularly important in light of the staff's recognition of the fund family or complex in reviewing registration statements and in conducting routine inspections.

Semi-annual filing requirement. Form N–SAR is being proposed as semi-annual filing because of the Commission's need for more current information about the investment company industry. These needs arise for several reasons. The process of reviewing disclosure documents including some initial registration statements is now based on a selective review approach. In order for the staff to make informed judgments concerning when a filing should receive a more complete review, the staff must have available current information about the investment company industry and about registrants individually. Information received four months after the end of an entity's fiscal year has not proven useful.

With the changes that have been made in the Commission's routine inspection program for investment companies, the inspection staff will be focusing more on the effectiveness of operating and control systems used by registrants. In order to provide the Commission some assurance that the activities and operations of individual funds are proceeding within established norms, the staff must have information about these activities on a reasonably current and continuing basis. Through appropriate analysis of such data, the staff hopes to construct an "early warning system" to help identify those registrants whose activities might raise questions in comparison to other funds in similar circumstances. Data that is not available until 4 months after the end of a registrant's fiscal year is of limited utility in such a screening process.

The staff also must have current and complete information on the investment company industry in order to be able to answer the many requests for information that it receives. In particular, almost every rulemaking effort requires a Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) analysis and a Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) analysis. In most cases, these analyses are at least, in part, quantitative in nature. For accurate and reliable analysis, the staff must have current and comprehensive statistics concerning the fund industry. The staff is also asked frequently to make cost-benefit analyses and special studies concerning various aspects of investment company regulation or operations. To perform accurate and meaningful studies, particularly in light of the rapidly growing and changing investment company industry, the staff must have current information available.

For all of the above reasons, the Commission believes that form N–SAR should be filed semi-annually by all registered investment companies. The filing schedule being proposed for the form is based on each registrant's fiscal periods and not on a calendar basis. Thus, a registrant whose fiscal year

ends on August 31, would be required to file form N–SAR within two months after August 31 and February 28 of each year. Such a filing schedule coupled with prompt computerization of the data received would make the statistics received available for analysis in eight months or less after the start of each fiscal semi-annual period.

Unlike form N–1R, the Commission is not proposing any period of time for which a registrant can request an extension of the two-month filing period. No extension period is being proposed because: (1) The information requested by the form should be readily available to registrants and the amount of information requested has been substantially reduced; (2) the data received on the N–SAR would be accumulated in six-month increments for analysis purposes and late filings would hamper the staff's ability to develop a useful data base; and (3) the Commission needs current information to fulfill its regulatory responsibilities and the availability of filing extensions would reduce the timeliness of the data received.

Completion of items. Because form N–SAR is proposed to be filed semi-annually, the way in which the form is to be filled out has been changed from the approach used in the forms it replaces. In each of those forms, all items must be completed unless they are inapplicable. Thus, under the present system, each item has to be answered even though the answer to the item has not changed from the previous filing. Proposed form N–SAR generally would provide that an item need not be answered unless the answer has changed from the previous report filed. This approach would reduce the size of each filing and the time spent by registrants in completing the form.

Financial statistics. Form N–1R does not contain financial statements or financial information. However, the form requires each registrant to obtain an expanded statement from its independent public accountant on its systems of internal control. Independent accountants are also required to review certain items in the form.[11] Form N–5R requires a registrant to attach a copy of its financial report filed with the Small Business Administration.[12] Form N–30A–2 requires that certain financial statements of the registrant and its depositor be filed as attachments to the form.[13] Form 2–MD requires that financial statements of the registrant be included in the filing.[14] Form N–SAR, as proposed, requires that certain financial information be included in the form. While this information may be obtained from a registrant's semi-annual or annual financial statements, the form does not require that the financial information itself be audited or reviewed by independent accountants.[15] Furthermore, the proposed form does not require that any of the other items in it be reviewed by independent accountants.

The report on internal accounting control prepared by each registrant's independent accountants is an important element in the Commission's ongoing regulation of investment companies. This report is required by form N–1R and would be carried over into form N–SAR. While the N–SAR would be filed semi-annually, the report on internal accounting control would be filed only once each year or with every other filing made on the N–SAR.

Various media in which form would be made available to registrants and filed by registrants. The Commission hopes to be able to make form N–SAR available to registrants on floppy disks or computer tape or in hard copy. In addition, the Commission hopes to be able to receive filings on these various media. If a registrant files form N–SAR in hard copy, four copies of the form would be required to be submitted. If the form is filed on some other storage medium, it is contemplated that only one floppy disk or magnetic tape together with a cover page would be required. If the Commission decides that the form should be made available and/or filed on a medium other than paper, the specifics of how this is to be accomplished will be detailed in the adopting release.

Format of Form N–SAR

Form N–SAR is divided into five sections. The first section consists of the facing page. This page must be part of every filing on the form. The purpose of this section is to obtain the full name, address and 811 file number of each 1940 Act registrant (item 1) as well as information concerning which items are being answered in the current filing (item 2). Item 2 is intended to be a built-in checking mechanism for use in the Commission's computerized processing of each filing. Because most items in the form must be completed only if the answer to that item has changed from the previous filing, by the placement of an "x" next to each item being answered, the computer processing the information will know which items to expect an answer for and which items are unanswered. Item 3 identifies registrants that are filing the form for the last time. Items 4 and 5 direct registrants to the portion of the form that is applicable to different classes of registrants.

The second section of the report includes items 6 through 79 and applies only to management investment companies that are not SBICs. The third section of the form including items 80 through 82 applies to only closed-end investment companies that are not SBICs. Items 83 through 97 in the fourth section of the form are to be answered only by UITs. The last section of the form containing items 98 through 114 should be completed only by investment companies registered as SBICs.

As indicated above, certain items in the form need be answered only if the answer has changed from the previous filing with the Commission on form N–SAR. Those items are indicated in the form by a slashed box "☐" immediately following the item number. In the second or any subsequent filing of the form, registrants need not answer any item in which a "☐" appears immediately following the item number and for which the answer has not changed from the previous form N–SAR filed. Other items must be answered each time the form is filed unless an item is inapplicable to the registrant.

Form N–SAR has been structured to enable it to capture fully from management investment companies registered as series or separate portfolio

[11] The instructions to form N–1R require a registrant's independent accountants to review the registrant's answers to certain items in the form.

[12] These financial reports are prepared pursuant to 13 CFR Part 107, App. A under the Small Business Investment Act of 1958.

[13] Instruction 36 to form N–30A–2 itemizes the financial statements to be provided for the trust and depositor.

[14] Instruction 22 of form 2–MD.

[15] The income, expense, asset and net asset information requested in items 77, 78, 79, 113, and 114 are being proposed as part of form N–SAR to enable the Commission to obtain this information in a standard format so that it can be computerized. All registrants that would be subject to these items are already required under section 30(d) of the Act (15 U.S.C. 80a–29(d)) to distribute similar financial information semi-annually to shareholders. A copy of these reports to shareholders must be filed with the Commission. The intent of these items is essentially to have registrants recast the information from these semiannual reports to shareholders into a more standardized format and file it on form N–SAR. The instructions for these items specifically provide that the information should be for each registrant's most recent fiscal six-month reporting period. Registrants are required by rule 30d–1(b) (17 CFR 270.30d–1(b)) to mail their semi-annual reports to shareholders within sixty days of the end of the fiscal period. Because form N–SAR is also required to be filed two months after the end of each registrant's fiscal half, the information requested by these items should be readily available.

companies all data requested without requiring that each item be answered separately for each series where the answer to such items is the same for all or several series. For example, assume that a registrant has six series or portfolios but that all series have the same investment adviser, principal underwriter, transfer agent, independent public accountant and custodian. The information request in items 7 through 13 is the same for each series. The form provides that the registrant can answer these seven items only once for all six series by indicating at the top of the page in the series information block that the answers apply to all series. If, however, one series (*e.g.*, series 4) had a different investment adviser than the other five series, a separate page 3 with appropriate answers to items 7 through 13 would have to be filed for that series.

The arrangement of items in the form was based in part on the staff's evaluation of the likelihood that the items on each page would be the same for all series of a series company. Furthermore, the form directs that the answers to several items such as 18, 19, 20, 21 and 24 be completed only in total for all series of a series company. Thus, the staff believes that, generally, the answers to the items on pages 1 through 6 would be the same for all series; that the answers to items on pages 8, 12, 13, and 14 could be the same for all series and that the answers to the items on the remaining pages would be different for all series.

The Commission's current numbering system for investment companies gives only one separate "811" file number to each registrant. Therefore, individual series are not given 1940 Act file numbers. To enable the staff to account for all series in a company on a continuing and consistent basis, each series company is required in item 6C to list the name of each series or portfolio and ascribe a number to each series. These ascribed numbers should be consecutive and should start with the number 1. Because any such number assigned in the initial filing on form N–SAR by a registrant will be used by the computer to process subsequent filings by that series, registrants should exercise extreme care to make sure that the numbers initially assigned to each series are used consistently in all subsequent filings.

Items 17, 87 and 101 of form N–SAR elicit information on whether a registrant is part of a family or complex of investment companies. There are a number of factors that should be considered in deciding if a registrant is a member of a fund family including the existence of a common investment adviser or sponsor, common directors, officers and other employees, common operating and control systems and the way in which the family is held out to the investing public. If a registrant is part of a family of investment companies, items 17A, 87A or 101A, as appropriate, should be answered "yes." In items 17B, and 101B, the number of entities in the family should be stated. In calculating this number, all investment companies in the family except UITs should be counted. If one or more of these registrants are series funds, each series should be counted as a separate entity. Finally in items 17C, 87B and 101C, the family should be indentified by using 10 letters. Each family should decide on the ten letters that will be used to designate the family and then use these same ten letters to identify all entities in the family on filings on all forms N–SAR. It is important to the Commission that all entities in a family be identified consistently so that the filings of these entities can be brought together and reviewed. Also, if two or more fund families should inadvertently choose to be identified by the same ten letters, the staff will contact these entities and work out suitable changes so that each family can be identified by a unique set of letters.

Filing Fee

The fee charged registrants to file forms N–1R, N–5R, N–30A–2, N–30A–3 and 2–MD is currently $250. If form N–SAR is adopted as proposed, the semi-annual filing fee would be $125. This fee would be levied only on each registrant under the 1940 Act so that a registrant with ten underlying series would pay only $125 every six months. The Commission may review the manner in which this filing fee is calculated for series companies to determine if it fairly reflects the costs incurred by the Commission in processing series filings.

New or Substantially Revised Items

Several of the items in form N–SAR apart from those already discussed concerning family of funds and series funds information are either entirely new or modified substantially from the previous item in form N–1R. Several of the more significant of these items are discussed below.

Items 22 and 23—investments in securities of broker/dealers. Rule 12d3–1 (17 CFR 270.12d3–1) which was recently adopted by the Commission[16] gives investment companies a greatly increased ability to invest in the securities of broker/dealers. Along with this greater flexibility, the Commission imposed certain reporting requirements on any investment company that purchases such securities. Item 22 asks if the registrant owns the securities of any of its regular broker/dealers or the parents of such broker/dealers if such parents derived more than 15% of their gross revenues from securities related activities. If the answer to this question is "yes," then the registrant must provide additional information concerning the extent of its holdings of the securities of such issuers in item 23. For more information concerning the completion of item 23, see the instructions to form N–SAR.

Item 32—front end loads on sales of registrant's shares. This item requests each registrant or series to give the total net asset value of shares sold at the various percentage sales load rates it has established. This item replaces an item in the N–1R which requested data on sales load breakpoints. This information is already in registration statements. Also, the data on breakpoints alone is not as useful to the Commission as the information now contained in item 32.

Items 33 through 37—deferred or contingent sales loads and redemption fees. These five items request information as to whether a registrant imposes one or more of the types of charges identified and, if so, the amounts collected from investors during the current period. This item reflects recent movement in the investment company industry toward imposition of deferred sales loads or redemption fees.

Item 39 through 44—Information about 12b–1 plans. These six items request certain information about distribution plans that registrants have adopted pursuant to rule 12b–1 (17 CFR 270.12b–1).[17] Since rule 12b–1 was adopted in 1980,[18] between 200 and 300 funds have adopted such plans. While the staff has periodically conducted reviews of certain registrants that have such plans and regularly reviews the operation of 12b–1 plans during routine inspections, the Commission believes it needs a consistent and continuing source of information about the operation of plans that have been adopted.

[16] *See* Investment Company Act Release No. 14036 (July 13, 1984) (49 FR 29362 July 20, 1984).

[17] Under that rule, a registered open-end investment company may finance the distribution of its shares provided, *inter alia*, that the company's directors and shareholders have approved a distribution plan.

[18] Investment Company Act Release No. 11414 (October 28, 1980) (45 FR 73898 November 7, 1980).

Item 64—portfolio manager name. This item requests the name(s) of the registrant's portfolio manager at the end of the period. Even though investment decision-making at some registrants may be highly structured and involve a number of persons, typically there is one person who is primarily responsible for the day-to-day task of managing the investment portfolio. It is the name of this person that should be shown in item 64.

Item 69—the percentage of assets in various debt securities. This item requests each registrant or series that invests regularly only in debt securities or certain related securities to indicate as of the end of the period the percentage of its assets invested in the various securities listed. The lists are divided into short-term and intermediate and long-term securities. The Commission needs this information to classify funds into various groupings for purposes of further analysis of the information obtained in filings on the form.

Items 71 through 74—classification of all other funds. The intent of these items is to have each fund investing primarily in equity securities and certain related securities to classify itself based upon the criteria specified in the instructions for these items.

Item 76—portfolio turnover rate. The approach to calculating turnover rate has been changed from the methods used in form N–1R. The proposed approach is also different than that customarily used in investment company registration statements. The intent of the proposed new method is to calculate a rate which will provide a good indication of the total turnover or flow of securities through the portfolio of each registrant. The Commission realizes that the turnover rates calculated by the proposed new method will vary greatly depending on the type of securities in which a registrant invests. However, these greatly varying rates can be put into perspective because of other information the form contains about each registrant.

Under the proposal, both purchases of securities and the monthly average value of the portfolio shall include all securities purchased by the registrant, including U.S. Government securities, options and futures, regardless of the period to maturity or expiration date. This is in contrast to the form N–1R approach which excludes from purchases and the monthly average value of the portfolio U.S. Government securities and all other securities including options whose maturities or expiration dates at the time of acquisition were one year or less. Also, form N–SAR would require only a total portfolio turnover number, unlike form N–1R which requires registrants to calculate both a total turnover rate and a turnover rate for equity securities.

Items 77, 78, 79—financial information. As mentioned above, proposed form N–SAR would require registrants to report certain data from their semi-annual operating statements and balance sheets. The specific elements enumerated are common income, expense, asset and liability items shown in investment company financial statements. While every investment company may not identify each of these items in its semi-annual financial statements, it should be able readily to obtain the requested information from its books and records. The proposed form does not require these amounts to be audited or reviewed by a registrant's independent accountants.

Items 89 through 93—certain information about series of UITs. These five items are being proposed to give the Commission a better understanding of the level of activity that is occurring in the issuance and liquidation of series of UITs. The information requested is summary in nature for all series of a UIT. Based upon the information supplied, the Commission will be able to determine the total number of series of all UITs that existed during a six-month period, the number of new series created and the number of series that were liquidated. Based upon the data collected in item 91 together with other data in item 96, the Commission will also be able to monitor the total value of UIT units outstanding and the volume of new issuances during a six-month period. Currently, the Commission does not have such information available. Finally, from data supplied in item 93, the Commission will be able to determine the dollar value of units of prior series that were placed in the portfolios of subsequent series. This information is needed because of the significant increase in the activity of UITs.

Items 94 and 95—sales load information. These two items will allow the Commission to accumulate and monitor the amount of sales loads being collected on primary and secondary sales of units of UITs. Similar information is being collected currently for open-end management investment companies and form N–SAR proposes to continue to obtain such information.

Item 96—portfolio breakdown, asset value and dividend information. This proposed item requires each UIT to show the number of its series that invest in various types of securities, the total assets of the series invested in each type of security and the total dividends declared by all series investing in each type of security. This data is being requested to enable the Commission to develop additional information about the investment activities of UITs and their potential impact on the securities markets.

Items 98 through 114—small business investment companies. The proposed information being requested from SBICs is similar to but substantially less than that being requested from other management investment companies. The specific items contained in the form are those which the Commission believes it needs to perform its regulatory responsibilities over these entities, while recognizing that the SBA is also involved in regulating the activities of SBICs.

Auditors' report on internal control. Form N–1R requires independent public accountants to report on, among other things, whether internal accounting control is "* * * sufficient to provide reasonable assurance that any material inadequacy existing at the date of the examination would be disclosed" (emphasis added). Because the Commission believes the report on internal accounting control is essential to its responsibilities to regulate the activities of management investment companies, the Commission is proposing to carry forward the requirement that management investment companies obtain and file such a report. As is presently the case, SBICs would be exempted from such a requirement.

The requirement for auditor reporting on internal accounting control of management investment companies was first imposed in 1971 to provide information about potential back office problems.[19] Pursuant to this requirement, auditors must report on the existence of any "material inadequacy" in internal accounting control primarily because such a requirement was already called for in the broker/dealer industry.[20] Subsequent to that time, auditing procedures have evolved to where auditing standards are now in place for auditor reporting on internal accounting control. Those standards, primarily set forth in Statement of Auditing Standards ("SAS") No. 30, call for varying types of auditor reporting of material weaknesses in internal accounting control.

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[19] Exchange Act Release 9250 dated July 13, 1971 (36 FR 158).

[20] The term "material inadequacy" with reference to the brokerage industry is defined in rule 17a–5(g)(3) of the 1934 Act (17 CFR 240.17a–5(g)(3)).

As defined in SAS 30, a weakness in internal accounting control is a condition in which the specific control procedures, or the degree of compliance with them, are not sufficient to achieve a specific control objective—that is, errors or irregularities may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. A weakness is material if the condition results in more than a relatively low risk of such errors or irregularities in amounts that would be material in relation to the financial statements.

The Commission is now proposing to clarify its requirements for auditor reporting on internal accounting control to conform with the present standards. Accordingly, proposed form N-SAR would call for auditor reporting on material weaknesses in internal accounting control that may have existed during registrant's fiscal year. This action is intended to codify current practice under which many auditors already report on the material weaknesses of internal accounting control systems found to exist during the registrant's fiscal year.

When a registrant files its form N-SAR at the end of its fiscal year, *i.e.*, when the registrant answers "yes" to item 77 of the proposed form, the N-SAR would include the independent accountants' report on internal accounting control as an attachment.

Rule Amendments

Implementation of new form N-SAR would require several corresponding rule changes, principally to set forth the requirements for filing the new form and to eliminate references to forms that would no longer be used. Section 30(a) of the 1940 Act requires every registered investment company to file annually with the Commission such information, documents and reports as investment companies having securities registered on a national securities exchange are required to file annually pursuant to section 13(a) of the 1934 Act (15 U.S.C. 77m(a)) and the rules and regulations thereunder. Rule 30a-1 currently requires every registered investment company to file an annual report on the appropriate form prescribed by the Commission not more than 120 days after the close of each of the company's fiscal years ending on or after the date the company files its 1940 Act registration statement. That rule also prescribes a $250 filing fee and a procedure whereby registrants may request a 3-month extension of time to file. Rule 30a-2 prescribes the annual report forms which should be used by various types of registered investment companies. Rule 30a-3 permits a wholly owned subsidiary of a management investment company to file a summary statement in lieu of a complete form N-1R. Since all annual report forms unique to investment companies would be replaced by one semi-annual report, form N-SAR, rule 30a-1 would be revised to provide that the filing of the new semi-annual report satisfies the annual reporting requirement of section 30(a) and rules 30a-2 and 30a-3 would be rescinded.

Section 30(b)(1) of the 1940 Act requires every registered investment company to file with the Commission "such information and documents (other than financial statements) as the Commission may require, on a semi-annual or quarterly basis, to keep reasonably current the information and documents contained in the registration statement[s] of such (registrants)". Two new rules are being proposed under this section: proposed rules 30b1-3 and 30b1-4. Rule 30b1-3 would designate form N-SAR as the semi-annual report form for all registered investment companies, specifying that each company should file the report within 60 days after the close of its semi-annual accounting periods ending on or after the date the company files its 1940 Act registration statement. The rule also prescribes a $125 filing fee but, as discussed above, does not permit a registrant to file an application for extension of time to file. Rule 30b1-4 would permit a wholly-owned subsidiary of a registered investment company to file a summary statement in lieu of form N-SAR.

Comment Period

The comment period for this proposal is sixty days. Because the Commission wants to put the new form in place as quickly as possible, registrants are being asked to meet the comment deadline. If the comments do not indicate a need for major changes in the structure of the form, the Commission hopes to have the form in place so that it can be used for all fiscal semi-annual periods ending in 1985 with the first filings on the new form due in March 1985.

List of Subjects in 17 CFR Parts 249, 270, and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Forms and Rule Amendments

It is proposed to amend Parts 249, 270 and 274 of Chapter II, Title 17 of the Code of Federal Regulations as set forth below:

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. By revising § 249.330 to read as follows:

§ 249.330 Form N-SAR, semi-annual report of registered investment companies.

This form shall be used by registered investment companies for semi-annual reports to be filed pursuant to rule 30b1-3 (17 CFR 270.30b1-3) in satisfaction of the requirement of section 30(a) of the Investment Company Act of 1940 that every registered investment company must file annually with the Commission such information, documents and reports as investment companies having securities registered on national securities exchange are required to file annually pursuant to section 13(a) of the Securities Exchange Act of 1934 and the rules and regulations thereunder (same as § 274.101 of this chapter).

§ 249.332 [Removed]

2. By removing § 249.332.

§ 249.402 [Removed]

3. By removing § 249.402.

§ 249.442 [Removed]

4. By removing § 249.442.

§ 249.443 [Removed]

5. By removing § 249.443.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

6. By revising § 270.30a-1 to read as follows:

§ 270.30a-1 Annual report.

A registered investment company required to file an annual report pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 and section 30(a) of the Investment Company Act of 1940 shall be deemed to have satisfied its requirement to file an annual report by the filing of semi-annual reports on form N-SAR in accordance with the rules and procedures specified therefor.

§ 270.30a-2 [Removed]

7. By removing § 270.30a-2.

§ 270.30a-3 [Removed]

8. By removing § 270.30a-3.

9. By adding § 270.30b1-3 to read as follows:

§ 270.30b1-3 Semi-annual report.

Every registered investment company, other than a face-amount certificate company required to file annual reports on form 10-K, shall file a semi-annual report on form N-SAR, not more than

two months after the close of each fiscal year and fiscal second quarter ending on or after the date upon which such company files its registration statement pursuant to section 8(b). At the time of filing such semi-annual report on form N-SAR, the registered investment company shall pay to the Commission a fee of $125, no part of which shall be refunded.

10. By adding § 270.30b1-4 to read as follows:

§ 270.30b1-4 Semi-annual report for totally-held registered investment company subsidiary of registered investment company.

(a) Notwithstanding the provisions of rule 30b1-3, a registered investment company which is a totally-held subsidiary of a registered investment company may file a statement in the form prescribed by paragraph (b) of this section in lieu of a semi-annual report on form N-SAR, if the following conditions are met:

(1) The fiscal year of the subsidiary ends as of the same date as the fiscal year of the parent;

(2) The information required by form N-SAR with respect to the subsidiary are included in the corresponding semi-annual report of the parent;

(3) Financial information for the subsidiary for the period required by form N-SAR are included in the corresponding semi-annual report of the parent, either on a consolidated or separate basis; and

(4) It is indicated on the facing page of the parent's report on form N-SAR that such report is filed on behalf of itself and the subsidiary, naming the subsidiary.

(b) A totally-held registered investment company subsidiary which avails itself of the privilege accorded by this rule shall file with the Commission in quadruplicate, within the time prescribed by rule 30b1-3 for filing semi-annual reports, a statement in the following form:

PURSUANT TO RULE 30b1-3———————, A TOTALLY-HELD SUBSIDIARY OF ———————, A REGISTERED MANAGEMENT INVESTMENT COMPANY, HEREBY INCORPORATES BY REFERENCE AS ITS SEMI-ANNUAL REPORT, PURSUANT TO SECTION 30(b)(1) OF THE INVESTMENT COMPANY ACT OF 1940, ALL INFORMATION AND DOCUMENTS CONTAINED IN THE SEMI-ANNUAL REPORT ON FORM N-SAR (INCLUDING ANY AMENDMENT THERETO FILED BY THE LATTER COMPANY FOR THE SIX MONTHS ENDED ———————.

(c) The statement required by paragraph (b) of this section shall be filed under cover of the facing sheet of form N-SAR. At least one copy of the statement shall be signed in the manner prescribed by form N-SAR.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

11. By revising § 274.101 to read as follows:

§ 274.101 Form N-SAR, semi-annual report of registered investment companies.

Form N-SAR, semi-annual report of registered investment companies. This form shall be used by registered investment companies for semi-annual reports to be filed pursuant to rule 30b1-3 (§ 270.30b1-3) in satsifaction of the requirement to file annual reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 and section 30(a) of the Investment Company Act of 1940.

§ 274.102 [Removed]

12. By removing § 274.102.

§ 274.103 [Removed]

13. By removing § 274.103.

§ 274.105 [Removed]

14. By removing § 274.105.

Statutory Basis

Form N-SAR, rules 30b1-3 and 30b1-4 would be adopted, forms N-1R, N-5R, N-30A-2, N-30A-3 and 2-MD withdrawn, rule 30a-1 revised and rules 30a-2 and 30a-3 rescinded pursuant to the authority granted the Commission in sections 13, 15(d) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d), and 78w(a)) and sections 8, 30 and 38 of the Investment Company Act of 1940 (15 U.S.C. 80a-8, 80a-29 and 80a-37).

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding proposed form N-SAR. The Analysis states that adoption of the proposed form should have a significant benefical economic impact on small investment companies by reducing reporting requirements without adding any new recordkeeping or other compliance requirements. A copy of the Analysis may be obtained by contacting Carolyn A. Uberman, Office of Financial Analysis and Inspections, Securities and Exchange Commission, Room 5060, 450 Fifth Street, N.W., Washington, D.C. 20549.

Dated: August 6, 1984.

By the Commission.

George A. Fitzsimmons,

Secretary.

Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix A— Form N-SAR Semi-Annual Report for Registered Investment Companies

Form N-SAR—Table of Contents

Item Description

General Information:
- Name of registrant
- Summary of filing
- Series fund information
- Investment advisers
- Principal underwriters
- Shareholder servicing agent
- Independent public accountant
- Affiliated broker/dealers
- Custodians
- Family of investment companies information

Portfolio Transactions:
- List of 10 Broker/dealers receiving largest amounts of commissions
- List of 10 entities acting as principals receiving largest amounts of registrant's business
- Transactions in securities of broker/dealers

Sales and Repurchases of Registrants' Securities:
- Monthly sales and repurchases of registrant's shares
- Sales load information
- Rule 12b-1 information

Contracts and Bonding
Miscellaneous Information
Classification of Registrants
Investment Activities and Portfolio Turnover
Financial Information
Closed-end Investment Company Information
Unit Investment Trust Information
Small Business Investment Company Information
Signature Page

BILLING CODE 8010-01-M

FORM N-SAR
SEMI-ANNUAL REPORT
FOR REGISTERED INVESTMENT COMPANIES
FOR THE SIX MONTH PERIOD ENDING _____

For period ending _____
File number 811- _____

GENERAL INFORMATION

Those items or sub-items with a box "|Z|" in the left margin should be completed only if the answer has changed from the previous filing on this form.

1. REGISTRANT NAME: _____

File #: 8 1 1 - _____ Telephone #: ____ - ____ - _____

|Z| Address: _____
Number and P.O. Box if any

|Z| _____ _____ _____
City State Zip Code

2. SUMMARY OF THIS FILING:

[Place an "x" next to each item being answered in whole or in part in this filing]

1X	11	21	31	41	51	61	71	81	91	101	111
2X	12	22	32	42	52	62	72	82	92	102	112
3	13	23	33	43	53	63	73	83	93	103	113
4	14	24	34	44	54	64	74	84	94	104	114
5	15	25	35	45	55	65	75	85	95	105	
6	16	26	36	46	56	66	76	86	96	106	
7	17	27	37	47	57	67	77	87	97	107	
8	18	28	38	48	58	68	78	88	98	108	
9	19	29	39	49	59	69	79	89	99	109	
10	20	30	40	50	60	70	80	90	100	110	

3. Is this the last filing on Form N-SAR that Registant will make? |_| Yes |_| No

4. Is Registrant a unit investment trust? ..... |_| Yes |_| No

[If answer is "No," go to question 5. If answer is "Yes," complete only questions 83 through 97.]

5. Is Registrant a small business investment company (SBIC or MESBIC) ..... |_| Yes |_| No

[If answer is "No," go to question 6. If answer is "Yes," complete only questions 98 through 114.]

6. A. Is Registrant a series or multiple portfolio company? ..... |_| Yes |_| No

[If answer is "No," go to question 7. If answer is "Yes," answer parts B and C of this question.]

B. How many separate series or portfolios did Registrant have at the end of the period? ..... _____

|Z| C. List the name of each series or portfolio and give a consecutive number to each series or portfolio starting with the number 1. USE THIS SAME NUMERICAL DESIGNATION FOR EACH SERIES OR PORTFOLIO IN ALL SUBSEQUENT FILINGS ON THIS FORM AND IN THE SERIES INFORMATION BLOCK IN THE TOP RIGHT CORNER OF THE PAGES SUBMITTED IN THIS FILING.

Series Number Series Name

NOTE: See item D-10 of the general instructions to the form for information about how to complete the form for series companies.

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... |_|
Series _____
If filing more than one
Page 3, "X" box ..... |_|

7. |Z| INVESTMENT ADVISER NAME: _____

|Z| File #: 8 0 1 - _____ _____ (City) _____ (State) _____ (Zip Code)

8. |Z| SUB-ADVISER NAME (IF ANY): _____

|Z| File #: 8 0 1 - _____ _____ (City) _____ (State) _____ (Zip Code)

9. |Z| PRINCIPAL UNDERWRITER NAME (IF ANY): _____

|Z| File #: 8 - _____

10. |Z| SHAREHOLDER SERVICING AGENT NAME: _____

|Z| File #: ___ - _____ _____ (City) _____ (State) _____ (Zip Code)

11. |Z| INDEPENDENT PUBLIC ACCOUNTANT NAME: _____

_____ Zip Code _____

12. |Z| AFFILIATED BROKER/DEALERS (IF ANY):

|Z| File #: 8 - _____ NAME: _____

|Z| File #: 8 - _____ NAME: _____

13. |Z| CUSTODIAN NAME:* _____

|Z| _____ (City) _____ (State) _____ (Zip Code) _____ (Country if other than U.S.)

Type of Custody ("X" as appropriate)

Bank Sec.17(f)(1)	Member Nat'l Sec. Exchg. Rule 17f-1	Self Rule 17f-2	Foreign Bank Rule 17f-5
_____	_____	_____	_____
|Z| –	–	–	–

* If Registrant is custodian, give name and location of its depository.

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... |_|
Series _____
If filing more than one
Page 4, "X" box ..... |_|

14. |Z| SECOND CUSTODIAN : _____

|Z| _____ (City) _____ (State) _____ (Zip Code) _____ (Country if other than U.S.)

Type of Custody ("X" as appropriate)

Bank Sec.17(f)(1)	Member Nat'l Sec. Exchg. Rule 17f-1	Self Rule 17f-2	Foreign Bank Rule 17f-5
_____	_____	_____	_____
|Z| –	–	–	–

15. |Z| SUB-CUSTODIAN NAME (IF ANY): _____

|Z| _____ (City) _____ (State) _____ (Zip Code) _____ (Country if other than U.S.)

Type of Custody ("X" as appropriate)

Bank Sec.17(f)(1)	Member Nat'l Sec. Exchg. Rule 17f-1	Self Rule 17f-2	Foreign Bank Rule 17f-5
_____	_____	_____	_____
|Z| –	–	–	–

16. |Z| Does the Registrant's custodian and/or subcustodian maintain some or all of Registrant's securities in a central depository or book entry system pursuant to Rule 17f-4? ..... |_| Yes |_| No

17. Family of investment companies information:

A. Is Registrant part of a family of investment companies? |_| Yes |_| No

B. If "yes", state the number of management investment companies in the family ..... _____
[note: count as a separate company each series of a series company and each portfolio of a multiple portfolio company; exclude all series of unit investment trusts from this number.]

C. Identify the family using 10 letters ..... _____
[note: use a consistent identification for all investment companies in the family including any unit investment trusts in filing this form. This designation is for purposes of this form only.]

PAGE 5

For period ending _____
File number 811- _____

PORTFOLIO TRANSACTIONS

18. Brokerage commissions paid on portfolio transactions of Registrant:

List below the ten broker-dealers which received the greatest amount of brokerage commissions (excluding dealer concessions in underwritings) by virtue of direct or indirect participation in Registrant's portfolio transactions, set forth in order of size of gross commissions during the current reporting period:

[FOR A SERIES COMPANY ITEMS 18 AND 19 ARE TO BE ANSWERED ONLY IN TOTAL FOR ALL SERIES]

Name of Broker-Dealer	IRS NUMBER	Gross Commissions Received from Registrant ($000's Omitted)

19. Aggregate brokerage commissions paid by Registrant during current reporting period (000's Omitted).....: $_____

PAGE 6

For period ending _____
File number 811- _____

20. Registrant's portfolio transactions with entities acting as principals:

List the ten broker-dealers or other entities acting as principals with whom Registrant did the greatest amount of portfolio transactions (including U.S. Government and tax-free securities) in both the secondary market and in underwritten offerings, set forth in order of size based upon total value of principal transactions during the current reporting period.

[FOR A SERIES COMPANY ITEMS 20 AND 21 ARE TO BE ANSWERED ONLY IN TOTAL FOR ALL SERIES]

Name of Entity	IRS Number	Purchases by Registrant ($000,000's Omitted)	Sales by Registrant (exclude maturing securities) ($000,000's Omitted)

21. Aggregate principal transactions of the Registrant during the current reporting period (000,000 Omitted) ..... $_____ $_____

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 7, "X" box ..... ☐

22. Does the Registrant/Series own any securities of any of its regular broker/dealers or the parents of such broker/dealers that derive more than 15% of gross revenues from securities related activities? ..... ☐ Yes ☐ No

[If the answer to item 22 is "No", go to item 24. If the answer is "Yes", go to item 23.]

23. List below the information requested about Registrant's/Series' holdings of the securities of its regular broker/dealers or their parents that derive more than 15% of gross revenues from securities related activities:

A. Name of regular Broker/dealer or Parent(issuer)	B. IRS Number	C. Type of Security Owned D = debt E = equity	D. Value of any Securities owned By Registrant/ Series at end of The current period ($000's Omitted)	E. Percentage of issuers Outstanding debt or Equity represented by Registrant's/Series' Holdings at the end of The current period a/

a/ Show percentages separately for debt and equity securities held.

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 8, "X" box ..... ☐

24. ☒ Considerations which affected the participation of broker-dealers or other entities in commissions or other compensation paid on portfolio transactions of Registrant: [FOR SERIES COMPANIES THIS ITEM IS TO BE ANSWERED ONLY IN TOTAL FOR ALL SERIES.] Place "X's" on the appropriate lines.

	YES
A. Sales of Registrant's/Series's shares	–
B. Receipt of investment research and statistical information which is commercially available	–
C. Receipt of quotations for portfolio valuations	–
D. Ability to execute portfolio transactions efficiently and at best prices	–
E. Receipt of telephone line and wire services which are commercially available	–
F. Affiliated relationship of broker-dealer	–
G. Arrangement to return or credit part or all of commissions or profits thereon:	
i. To investment adviser, principal underwriter, or an affiliated person of either of them ...	–
ii. To Registrant	–
H. Other	–

SALES AND REPURCHASES OF REGISTRANT'S SHARES

25. ☒ Is Registrant/Series an open-end investment company? .. ☐ Yes ☐ No
[If the answer to the question is "NO", go to item 45, if answer is "YES" go to item 26.]

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For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 9, "X" box ..... ☐

26. Monthly sales and repurchases of Registrant's/Series' shares:

Month of Current Period	A. Total NAV of Shares Sold: New Sales (Excl. Exchanges) (000's Omitted)	B. Total NAV of Shares Sold: Reinvestments of Income (000's Omitted)	C. Total NAV of Shares Sold: Exchanges (000's Omitted)	D. Total NAV of Shares Redeemed and Repurchased (000's Omitted)
First	$ _____	$ _____	$ _____	$ _____
Second	_____	_____	_____	_____
Third	_____	_____	_____	_____
Fourth	_____	_____	_____	_____
Fifth	_____	_____	_____	_____
Sixth	_____	_____	_____	_____
Total	$ _____	$ _____	$ _____	$ _____

27. ☒ Does Registrant/Series impose a initial (front end) sales load? ..... ☐ Yes ☐ No

[If answer is "NO," go to question 33, if answer is "YES," go to question 28.]

28. Total initial sales loads collected by principal underwriter or by any affiliated underwriter thereof from sales including exchanges of Registrant's/ Series's shares during the current period (000's Omitted) ..... $_____

29. Net amount retained by Registrant's/ Series principal underwriter or by any affiliated principal underwriter thereof from initial sales loads collected from sales of Registrant's/Series' shares during the current period (000's Omitted) ..... $_____

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For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 10, "X" box ..... ☐

30. Net amount Registrant's principal underwriter and any affiliated underwriters paid from initial sales loads to to dealers for selling Registrant's/Series' shares during current period (000's Omitted) ..... $_____

31. Net amount paid to retail sales force of Registrant's/Series principal underwriter or of any affiliated principal underwriter thereof from initial sales loads for selling Registrant's shares during current period (000's Omitted) $_____

32. Front end loads on sales of Registrant's shares:

Percent sales Load of public Offering price	Total NAV of shares Sold at each sales Load Percent (000's omitted)
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
_____%	$ _____
at NAV	$ _____

33. ☒ Does Registrant/Series impose a deferred or contingent sales load? ..... ☐ Yes ☐ No

[If answer to question is "NO," go to question 36, if answer is "YES," go to question 34.]

34. Total deferred or contingent sales loads collected during current period from redemptions and repurchases of Registrant's/Series's shares (000's Omitted) ..... $_____

35. A. ☒ Does Registrant/Series retain all or some of the monies collected from the deferred or contingent sales load? ☐ Yes ☐ No

B. ☒ If answer is "Yes," state amount Registrant/Series received ..... $_____

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series .... ☐
Series _____
If filing more than one
Page 11, "X" box ..... ☐

36. ☒ Does Registrant/Series impose a redemption fee other than a deferred sales load? ..... ☐ Yes ☐ No

[If answer to question is "NO", go to question 39, if answer is "YES" go to question 37.]

37. Total amount of fees collected from redemptions and repurchases of Registrant's/ Series's shares during the current period (000's Omitted) ..... $_____

38. ☒ Does Registrant/Series impose any account maintenance fees directly on shareholders? ..... ☐ Yes ☐ No

39. ☒ Does the Registrant/Series have a plan pursuant to Rule 12b-1? ..... ☐ Yes ☐ No

[If answer to question is "NO," go to question 45 if answer is "YES," go to question 40.]

40. ☒ Does Registrant/Series use its assets directly to make payments under the 12b-1 plan? ..... ☐ Yes ☐ No

41. ☒ For the current period, indicate the percentage of total dollars paid by the Registrant/Series under the 12b-1 plan for each of the following:

	%
Advertising	___
Direct or indirect compensation of natural persons selling shares	___
Compensation of entities distributing shares	___
Payments for administrative expenses incurred by entities doing sub-accounting and other related tasks	___
Other uses	___

42. Total amount paid by Registrant/Series during the current period pursuant to its 12b-1 plan (000's Omitted) .. $_____

43. Total amount paid to broker/dealers by Registrant/ Series during the current period pursuant to its 12b-1 plan (000's Omitted) ..... $_____

44. If an affiliated person of Registrant/Series made payments pursuant to Registrant's/Series' 12b-1 plan in addition to those shown in Item 42, state the total amount of such payments (000's Omitted) ..... $_____

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 12, "X" box ..... ☐

CONTRACTS

45. ☒ If Registrant/Series does not have an advisory contract, place an "X" in the box and go to question 55. ..... ☐

46. ☒ Does Registrant/Series pay directly for investment advice to more than one investment adviser? ..... ☐ Yes ☐ No
[If the answer to question 46 is "Yes', answer questions 47 and 48 for the adviser that received the greatest advisory fee during the current period]

47. ☒ Indicate the date on which the advisory contract was last ratified by the board of directors or approved by shareholders. ___ / ___ / 19___ (Month / Day)

48. ☒ Is Registrant's/Series's advisory fee based solely on a percentage of only its assets? ..... ☐ Yes ☐ No

☒ If answer is "yes", fill in the following table based upon the terms in the advisory contract:

STEP:	ASSET VALUE (000,000's Omitted)	ANNUAL FEE RATE
1. first	$_____	___%
2. of next -	_____	___
3. of next -	_____	___
4. of next -	_____	___
5. of next -	_____	___
6. of next -	_____	___
7. of next -	_____	___

49. ☒ Is Registrant's/Series' advisory fee based solely on a percentage of its income? ..... ☐ Yes ☐ No

50. ☒ Is Registrant's/Series' advisory fee based on some combined percentage of income and assets? ..... ☐ Yes ☐ No

51. ☒ Does Registrant/ Series have a performance based advisory fee? ☐ Yes ☐ No

52. ☒ Is the advisory fee of Registant/Series based solely upon its own assets, income or performance rather than on some measure that includes the assets, income or performance of other registrants? ..... ☐ Yes ☐ No

PAGE 13

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one Page 13, "X" box ..... ☐

53. ☒ Are the expenses of the Registrant/Series limited by some agreement and/or understanding? ..... ☐ Yes ☐ No

If "Yes," state the most restrictive percentage limitation as of the end of the current period ..... _____%

54. ☒ Services which were supplied or paid for wholly or in substantial part by the investment adviser in connection with the advisory contract and not reimbursed by the Registrant to the adviser: [place an "x" on the appropriate lines]

		Yes
A.	Occupancy and office rental	–
B.	Clerical and bookkeeping	–
C.	Accounting services	–
D.	Services of independent auditors	–
E.	Services of outside counsel	–
F.	Registration and filing fees	–
G.	Stationery, supplies and printing	–
H.	Salaries and compensation of Registant's interested directors	–
I.	Salaries and compensation of Registrant's non-interested directors	–
J.	Salaries and compensation of Registrant's officers who are not directors	–
K.	Reports to current shareholders	–
L.	Determination of offering and redemption prices ..	–
M.	Trading department	–
N.	Prospectus preparation and printing for current shareholders	–
O.	Other (do not specify)	–

FIDELITY BONDING

55. Fidelity bond:

A. ☒ Name of insurer(s): _____

B. ☒ Minimum amount of coverage: $_____

C. ☒ Maximum amount of coverage: $_____

D. ☒ Expiration date: ___ / ___ / 19__
Month Day

PAGE 14

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one Page 14, "X" box ..... ☐

56. Is the bond part of a joint fidelity bond shared with other investment companies..... ☐ yes ☐ no

If "yes", how many other investment companies are covered by the bond? [Count each series of a series company as a separate investment company.] _____

57. Does the fidelity bond have a deductible?..... ☐ yes ☐ no

If "yes", what is the amount that has been placed in an escrow account? ..... $_____

58. Were any claims filed under the bond during the period? ..... ☐ yes ☐ no

If "yes", what was the total amount of the claim(s)? ... $_____

59. Were there any losses incurred that could have been but were not filed as a claim under the fidelity bond? ..... ☐ yes ☐ no

If "yes", what was the total amount of such loss(s)? ... $_____

60. A. ☒ Are Registrant's/Series's officers and directors covered as officers and directors of Registrant/Series under an errors and omissions insurance policy? ... . ☐ Yes ☐ No

B. ☒ Were any claims filed under the policy during the period? ☐ Yes ☐ No

MISCELLANEOUS INFORMATION

61. Did Registrant/Series have any of the following types of senior securities outstanding at any time during the current period: [place an "X" after the appropriate descriptions]

Indebtedness:	Yes
Overdrafts	–
Bank loans	–
Notes or bonds	–
Uncovered options positions	–
Margin loans	–
Other	–
Stock	–

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 15, "X" box ..... ☐

62. A. ☐ State the number of advisory persons (as defined in Rule 17j-1 of the Act) employed by all funds in the family of funds including any unit investment trusts and by all advisers to such funds ..... _____

B. ☐ Does the adviser(s) have advisory clients other than investment companies? ..... ☐ Yes ☐ No

63. ☐ During the current reporting period has the Registrant/Series adjusted the number of its shares outstanding by means of a stock split or stock dividend? ..... ☐ Yes ☐ No

64. ☐ List below the name(s) of Registrant/Series' portfolio manager(s) at the end of the current period:

A. _____ (Last) _____ (First) _____ (MI)
B. _____ (Last) _____ (First) _____ (MI)
C. _____ (Last) _____ (First) _____ (MI)

65. ☐ Is Registrant a separate account of an insurance company? ..... ☐ Yes ☐ No

If "yes", does Registrant offer:

A. Variable annuity contracts? ..... ☐ Yes ☐ No

B. Scheduled premium variable life contracts? ..... ☐ Yes ☐ No

C. Flexible premium variable life contracts? ..... ☐ Yes ☐ No

D. Other types of investment contracts? ..... ☐ Yes ☐ No

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 16, "X" box ..... ☐

CLASSIFICATION

66. ☐ Is the Registrant/Series a management company? ..... ☐ Yes ☐ No

67. ☐ Is the Registrant/Series a diversified investment company? ☐ Yes ☐ No

68. ☐ What is Registrant's/Series' lowest minimum required initial investment from an investor that is not an employee or otherwise affiliated with the Registrant/Series, its adviser, principal underwriter or other affiliated entity ..... $_____

69. ☐ For each Registrant/Series that invests regularly only in debt securities, options and futures on debt securities and/or indices of debt securities, state the percentage of the portfolio in each type of security at the end of the current period:

Short term maturities
U.S. Treasury securities ..... _____
U.S. Government Agency ..... _____
Repurchase agreements ..... _____
State and municipal tax-free ..... _____
Bank certificates of deposit - domestic ..... _____
Bank certificates of deposit - Eurodollar ..... _____
Bankers acceptances ..... _____
Commercial paper ..... _____
Time deposits ..... _____
Options and futures ..... _____
All other ..... _____

Intermediate and long term maturities
U.S. Treasury securities ..... _____
U.S. Government Agency ..... _____
State and municipal tax-free ..... _____
Corporate ..... _____
Options and futures ..... _____
All other ..... _____

70. ☐ For each registrant answering item 69, state the average dollar weighted average portfolio maturity during the period covered by this report in days or if longer than 365 days in years and days ..... _____ years _____ days

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 17, "X" box ..... ☐

71. ☒ If the Registrant/Series is a fund that invests primarily except for defensive purposes in equity securities, options and futures on equity securities and/or indicies of equity securities and/or securities convertible into equity securities, "X" the one line below that describes best its primary investment objective:

Aggressive capital appreciation	___
Capital appreciation	___
Growth	___
Growth and income	___
Income	___
Total return	___

72. ☒ Does the Registrant/Series invest primarily and regularly in a balanced portfolio of debt and equity securities (otherwise known as a balanced fund)? ..... ☐ Yes ☐ No

73. Does the Registrant/Series have more than 50% of its assets at the end of the current period invested in:

A. ☒ The securities of issurers engaged primarily in the production or distribution of precious metals? ..... ☐ Yes ☐ No

B. ☒ The securities of issurers located primarily in countries other than the United States? ..... ☐ Yes ☐ No

74. ☒ Is the Registrant/Series an index fund? ..... ☐ Yes ☐ No

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one
Page 18, "X" box ..... ☐

75. ☒ Investment practices:

"X" the appropriate columns and lines in the table below:

ACTIVITY	PERMITTED BY INVESTMENT POLICIES Yes	ENGAGED IN THIS ACTIVITY DURING THE REPORTING PERIOD Yes
A. Investments in repurchase agreements	_	_
B. Loaning portfolio securities	_	_
C. Investments in options on equities	_	_
D. Investments in options on debt securities	_	_
E. Investments in interest rate futures	_	_
F. Investments in stock index futures	_	_
G. Investments in options on futures	_	_
H. Investments in commodity futures	_	_
I. Currency exchange transactions	_	_
J. Investments in shares of other investment companies	_	_
K. Borrowing of money	_	_
L. Rule 17a-7 transactions ...	_	_
M. Margin purchases	_	_
N. Short selling	_	_
O. Investments in restricted securities	_	_

76. Portfolio turnover rate for the current reporting period:

1) Purchases (000,000's Omitted)	$_____
2) Sales [including all maturities] (000,000's Omitted)	$_____
3) Monthly average value of portfolio (000,000's Omitted)	$_____
4) Percent turnover (Use the lesser of item 1 or 2 and divide result by item 3)	_____ %

[The number shown should be a whole number. For example, if the percentage calculated is 210.45 it should be shown as 210%]

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one Page 19, "X" box ..... ☐

FINANCIAL INFORMATION

77. Are the dollar amounts being reported in this item for the end of the Registrant's/Series' fiscal year? ..... ☐ Yes ☐ No

			For the six month period covered by this form (000's omitted)
	Income		
A.	Gross interest income	:	$ _____
B.	Gross dividend income	:	$ _____
C.	Account maintenance fees	:	$ _____
D.	Redemption fees	:	$ _____
E.	Gross other income	:	$ _____
	Expenses		
F.	Gross advisory fees	:	$ _____
G.	Shareholder servicing agent fees	:	$ _____
H.	Custodian fees	:	$ _____
I.	Postage	:	$ _____
J.	Printing expenses	:	$ _____
K.	Directors' fees	:	$ _____
L.	Registration fees	:	$ _____
M.	Taxes	:	$ _____
N.	Interest	:	$ _____
O.	Bookkeeping	:	$ _____
P.	Auditing	:	$ _____
Q.	Legal	:	$ _____

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one Page 20, "X" box ..... ☐

			For the six month period covered by this form (000's omitted)
R.	Marketing/distribution including Rule 12b-1 payments	:	$ _____
S.	Other expenses	:	$ _____
T	Total expenses	:	$ _____
U.	Expense reimbursements	:	$ _____
V	Net investment income	:	$ _____
W.	Realized capital gains	:	$ _____
X.	Realized capital losses	:	$ _____
Y.	Change in net unrealized appreciation or (depreciation)	:	$ _____
Z.	Total dividends declared	:	$ _____
AA.	Total distributions declared	:	$ _____

78. Payments per share outstanding during the entire current period:

A.	Dividends from net investment income	$ _____
B.	Distributions	$ _____

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one Page 21, "X" box ..... ☐

79. Assets/net assets:	As of the end of current reporting period (000's Omitted Except for per share amounts)
A. Cash	$
B. Repurchase agreements	$
C. Short term debt securities other than repurchase agreements	$
D. Long term debt securities	$
E. Common and preferred stock other than adjustable rate preferred stock	$
F. Adjustable rate preferred stock	$
G. Options on equities	$
H. Stock index futures	$
I. Interest rate futures	$
J. Options on futures	$
K. Commodity futures	$
L. Other investments	$
M. Receivables	$
N. Other assets	$
O. Total assets	$
P. Unsettled securities transactions	$
Q. Amounts owed to affiliated persons	$
R. All other liabilities	$
S. Net assets	$

For period ending _____
File number 811- _____

Series Information Block
This page is being filed for:
All Series ..... ☐
Series _____
If filing more than one Page 22, "X" box ..... ☐

	As of the end of current reporting period (000's Omitted Except for per share amounts)
T. Number of shares outstanding	
U. Net asset value per share	$
V. Mark-to-market net asset value per share (for money market funds only)	$
W. Daily or monthly average net assets during current reporting period	$
X. Total number of shareholder accounts	

For period ending _____
File number 811- _____

CLOSED-END INVESTMENT COMPANIES

80. |Z| Sales, repurchases, and redemptions of Registrant's securities

Class	Number of Shares or Principal Amount of Debt (000's Omitted)	Net Consideration Received or Paid (000's Omitted)
Common Stock:		
A. Sales		$
B. Repurchases		
Preferred Stock:		
C. Sales		
D. Repurchases and redemptions		
Debt Securities:		
E. Sales		
F. Repurchases and redemptions		

81. Market discount or premium from net asset value:

	End of Current Reporting Period
A. Net asset value per share	$
B. Market price (average of bid and asked)	$
C. Market (discount) or premium	$
D. Market (discount) or premium as a percentage of net asset value	%

82. |Z| Securities of Registrant registered on a National Securities Exchange or listed on NASDAQ:

Title of each class of securities	CUSIP or NASDAQ No.	Ticker Symbol
A		
B		
C		

For period ending _____
File number 811- _____

UNIT INVESTMENT TRUSTS

83. |Z| DEPOSITOR NAME _____
SEC File # _____ City _____ State _____ Zip Code _____

84. |Z| TRUSTEE NAME _____
City _____ State _____ Zip Code _____

85. |Z| PRINCIPAL UNDERWRITER NAME _____
File # _____

86. |Z| INDEPENDENT PUBLIC ACCOUNTANT NAME _____
Zip Code _____

87. Family of investment companies information

A. Is Registrant part of a family of investment companies? |_| Yes |_| No

B. Identify the family in 10 letters _____
[Note: use a consistent identification for all investment companies in the family in filing this form. This designation is for purposes of this form only.]

88. |Z| Is the Registrant a separate account of an insurance company? |_| Yes |_| No

If "Yes," does Registrant offer:

A. Variable annuity contracts? |_| Yes |_| No

B. Scheduled premium variable life contracts? |_| Yes |_| No

C. Flexible premium variable life contracts? |_| Yes |_| No

D. Other types of investment contracts? |_| Yes |_| No

89. How many series in total existed at the end of the period? _____

90. How many new series were registered during the period? _____

91 What was the total NAV on the date of deposit of new series offered to the public during the period ($000,000's Omitted)? _____

92. For how many series was a current prospectus being maintained at the end of the period? _____

For period ending _____
File number 811- _____

93. State the total dollar value of units of prior series that were placed in the portfolios of subsequent series during the current period (the value of these units is to be measured on the date they were placed in the subsequent series.) (000's Omitted) ..... $_____

94. State the total dollar amount of sales loads collected by Registrant's principal underwriter and all affiliated underwriters thereof (before reallowances to other broker/dealers) during the current period solely from the sale of this Trust's units. (000's Omitted) ..... $_____

95 Of the amount shown in item 94, state the total dollar amount of sales loads collected from secondary market operations in Registrant's units (include the sales loads, if any, collected on units of prior series placed in the portfolios of subsequent series.) (000's Omitted) .... $ _____

96. List opposite the appropriate description below the number of series whose portfolios are invested primarily (based upon a percentage of NAV) in each type of security shown, the total assets at market value as of a date at or near the end of the current period, and the total dividends declared by these series during the current period (excluding distributions of realized gains, if any):

	Number of Series Investing	Total Assets ($000,000)	Total Dividends Declared ($000's Omitted)
U.S. Treasury direct issue	_____	_____	_____
U.S.Government agency	_____	_____	_____
State and municipal tax-free	_____	_____	_____
Public utility debt	_____	_____	_____
Broker/dealer and/or B/D parent debt	_____	_____	_____
All other corporate inter. & long term debt	_____	_____	_____
All other corporate short term debt	_____	_____	_____
Equity securities of broker/dealers or parents	_____	_____	_____
Equity securities other than investment company and broker/dealer equity securities	_____	_____	_____
Investment company equity securities	_____	_____	_____
Other securities	_____	_____	_____
Total assets of all series of Registrant		_____	

97. Total expenses incurred by all series of Registrant during the current reporting period ..... _____

For period ending _____
File number 811- _____

SMALL BUSINESS INVESTMENT COMPANIES

98. ☐ INVESTMENT ADVISER NAME _____
SEC File # 801- _____ _____ (City) _____ (State) _____ (Zip Code)

99. ☐ INDEPENDENT PUBLIC ACCOUNTANT NAME _____
_____ Zip Code _____

100. ☐ CUSTODIAN NAME:* _____
_____ (City) _____ (State) _____ (Zip Code) _____ (Country if other than U.S.)

Type of Custody ("X" as appropriate)

Bank Sec.17(f)(1)	Member Nat'l Sec. Exchg. Rule 17f-1	Self Rule 17f-2	Foreign Bank Rule 17f-5
_____	_____	_____	_____

* If Registrant is custodian, give name and location of its depository.

101. Family of investment companies information:

A. Is Registrant part of a family of investment companies? ☐ Yes ☐ No

B. If "yes", state the number of management investment companies in the family ..... _____
[note: count as a separate company each series of a series company and each portfolio of a multiple portfolio company; exclude all series of unit investment trusts from this number.]

C. Identify the family using 10 letters ..... _____
[note: use a consistent identification for all investment companies in the family including any unit investment trusts in filing this form. This designation is for purposes of this form only.]

102. Fidelity bond:

A. ☐ Name of insurer(s): _____

B. ☐ Minimum amount of coverage: $_____

C. ☐ Maximum amount of coverage: $_____

D. ☐ Expiration date: ___ / ___ / 19__
Month Day

For period ending _____
File number 811- _____

103. Is the bond part of a joint fidelity bond shared with other investment companies..... ☐ yes ☐ no

If "yes", how many other funds are covered by the bond? _____

104. Does the fidelity bond have a deductible?..... ☐ yes ☐ no

If "yes", what is the amount that has been placed in an escrow account? ..... $_____

105. Were any claims filed under the bond during the period? ..... ☐ yes ☐ no

If "yes," what was the total amount of the claim(s)?.... $_____

106. Were there any losses incurred that could have been but were not filed as a claim under the fidelity bond? ..... ☐ yes ☐ no

If "yes", what was the total amount of such loss(s)? ..... $_____

107. ☒ Are Registrant's officers and directors covered as officers and directors of Registrant under an errors and omissions insurance policy? ..... ☐ Yes ☐ No

108. If the answer to item 107 is "Yes," were there any claims filed under the policy during the period? ☐ Yes ☐ No

109. State the number of advisory persons (as defined in Rule 17j-1 of the Act) employed by all funds in the family of funds including any unit investment trusts and by all advisers to Registrant ..... _____

110. Does the adviser(s) have advisory clients other than investment companies? ☐ yes ☐ no

111. ☒ Securities of Registrant registered on a National Securities Exchange or listed on NASDAQ:

Title of each class of securities	CUSIP or NASDAQ No.	Ticker Symbol
A _____	_____	_____
B _____	_____	_____
C _____	_____	_____

For period ending _____
File number 811- _____

112. ☒ Sales, repurchases, and redemptions of Registrant's securities

Class	Number of Shares or Principal Amount of Debt (000's Omitted)	Net Consideration Received or Paid (000's Omitted)
Common Stock:		
A. Sales	_____	$_____
B. Repurchases	_____	_____
Preferred Stock:		
C. Sales	_____	_____
D. Repurchases and redemptions	_____	_____
Debt Securities:		
E. Sales	_____	_____
F. Repurchases and redemptions	_____	_____

FINANCIAL INFORMATION

113. Are the dollar amounts being reported in this item for the end of Registrant's fiscal year? ..... ☐ yes ☐ no

Investment Income	For the six month period covered by this form (000's omitted)
A. Gross interest income :	$_____
B. Gross dividend income :	$_____
C. Gross other income :	$_____
Expenses	
D. Gross advisory fee :	$_____
E. Shareholder servicing agent fee :	$_____
F. Custodian fee :	$_____

For period ending _____
File number 811- _____

		For the six month period covered by this form (000's omitted)
G.	Postage	$ _____
H.	Printing expenses	$ _____
I.	Directors' fees	$ _____
J.	Registration fees	$ _____
K.	Taxes	$ _____
L.	Interest	$ _____
M.	Bookkeeping	$ _____
N.	Auditing	$ _____
O.	Legal	$ _____
P.	Marketing/distribution expenses	$ _____
Q.	Other expenses	$ _____
R	Total expenses	$ _____
S.	Expense reimbursements	$ _____
T	Net investment income	$ _____
U.	Realized capital gains	$ _____
V.	Realized capital losses	$ _____
W.	Change in gross unrealized appreciation	$ _____
X	Change in gross unrealized depreciation	$ _____
Y.	Total dividends declared from net investment income	$ _____
Z.	Total distributions declared	$ _____

For period ending _____
File number 811- _____

114. Assets/net assets

		As of the end of current reporting period (000's Omitted Except for per share amounts)
A.	Cash	$ _____
B.	Repurchase agreements	$ _____
C.	Short term securities other than repurchase agreements	$ _____
D.	Long term debt securities	$ _____
E.	Common and preferred stock other than adjustable rate preferred	$ _____
F.	Adjustable rate preferred	$ _____
G.	Options on equities	$ _____
H.	Stock index futures	$ _____
I.	Interest rate futures	$ _____
J.	Options on futures	$ _____
K.	Commodity futures	$ _____
L.	Other investments	$ _____
M.	Total receivables	$ _____
N.	Other assets	$ _____
O.	Total assets	$ _____
P.	Unsettled securities transactions	$ _____
Q.	Amounts owed to affiliated persons	$ _____
R.	All other liabilities	$ _____
S.	Net assets	$ _____

For period ending _____
File number 811-_____

		As of the end of current reporting period (000's Omitted Except for per share amounts)
T.	Number of shares outstanding	_____
U.	Net asset value per share	$ _____
V.	Monthly average net assets during current reporting period	$ _____
W.	Total number of share holder accounts	_____

Signature Page

The following form of signature shall follow Items 79, 82, 97 or 114 as appropriate.

Pursuant to the requirements of the Investment Company Act of 1940 (and the Securities and Exchange Act of 1934, if applicable), the undersigned registrant (or depositor or trustee) has caused this report to be signed on its behalf in the City of _____ and State of _____ on ____ day of _____ 19__.

_____
(Name of registrant, depositor, or trustee)

Witness _____ By: _____
(Name and Title (Name and title of person signing on behalf of registrant, depositor or trustee)

BILLING CODE 8010-01-C

General Instructions

A. Rule as to Use of Form N-SAR

Form N-SAR shall be used for semi-annual reports pursuant to Section 30 of the Investment Company Act of 1940 ("Act") and Section 13 or 15(d) of the Securities Exchange Act of 1934 by all registered investment companies.

Under Section 30(b) of the Act and the rules and regulations thereunder, the Commission is authorized to solicit the information required by Form N-SAR from investment companies registered under the Act. Disclosure of the information specified on Form N-SAR is mandatory. Information supplied on Form N-SAR will be included routinely in the public files of the Commission and will be available for inspection by any interested persons.

B. Application of General Rules and Regulations

(1) The General Rules and Regulations under the Act contain certain general requirements that are applicable to reporting on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on Form N-SAR, except that any provision in Form N-SAR or in these instructions covering the same subject matter as any requirement in the rules and regulations under the Act shall be controlling.

(2) The original and three complete copies of Form N-SAR shall be filed with the Commission (unless the Commission provides facilities for filing electronically or on a magnetic medium and the registrant chooses to use those facilities). At least one additional copy shall be filed with each exchange, if any, on which a security of the registrant is registered. At least one of copies filed with the Commission and one filed with each such exchange shall be manually signed. Unsigned copies shall be conformed.

C. Filing the Report

Rule 30b1-1 under the Act requires a $125 fee to be paid to the Commission at the time of filing each semi-annual report.

The semi-annual report shall consist of the facing sheet, the information required by the items of the form, and the required signature. The initial filing by a registrant of Form N-SAR shall include answers to all items that are applicable to a registrant. On subsequent filings of Form N-SAR, a registrant must answer all applicable items or sub-items of items that do not have a slashed box "☐" immediately following the item number or sub-item letter. Those items and sub-items that have a slashed box "☐" immediately following the item number or sub-item letter must be answered on subsequent filing of the form only if the answers have changed from the previous filing. If all of the items and sub-items on a page are designated with a slashed box and the answers to none of these items or sub-items has changed since the previous filing of the form, then none of the items need to be answered and the page on which these items are located need not be included in the semi-annual filing. For example, all of the items on page 3 are designated with a slashed box. If a registrant's answers to all of these items has not changed from the previous filing of the form, Page 3 need not be included with the current filing. In total, there are seven pages, 3, 8, 12, 13, 15, 16, and 17 on which all items have slashed boxes, and which, depending on the circumstances, may not have to be filed on other than the initial filing of Form N-SAR. Other pages have a mixture of items that have slashed boxes and those that are not. For such pages, answers should be provided for all applicable items that do not have a slashed box and for slashed box items where the answer has changed from the previous filing. If an item or sub-item on such a page has not changed from the previous filing, the place for the answer to the item should be left blank.

Every unit investment trust ("UIT") and small business investment company ("SBIC") must also use this form to report to the Commission on a semi-annual basis. The filing for a UIT would include the facing page and pages 24 and 25. The filing for an SBIC would include the facing page and pages 26 through 31.

Item 2 on the facing page serves as a summary and cross check for each N-SAR filed and must be completed each time the form is filed. Registrants are required, opposite the number for each item, to place an "X" if the item is being answered in the current filing. If an item is not being answered in the current filing because it is inapplicable of because it is designated with a slashed box and the answer has not changed from the previous filing on this form, the line next to the item number should be left blank. Items 1 and 2 have an "X" next to them because they must be answered each time Form N-SAR is filed.

D. Preparation of Form N-SAR

(1) Form N-SAR is to be used as a blank form to be filled in by the registrant. Exact copies may be duplicated by the registrant for this purpose, or copies will be furnished by the Commission upon request. The Commission will also furnish, for a fee, a word processing diskette on which the form is contained. Copies duplicated shall be on good quality unglazed white paper, 8½ x 11 inches in size, with approximately a ⅝ inch left-hand margin.

(2) Except as otherwise stated, the information required by any item shall be given as of the end of Registrant's most recent fiscal half-year. The information required by Items 77, 78, 79, 113, 114 shall be given as of the date of financial statements included in the most recent report sent to shareholders as required by rules promulgated under Section 30(d) of the Act.

(3) The report shall be filed with the Commission no later than the sixtieth day after the end of the fiscal half year for which the report is being prepared. There is no provision for obtaining extensions of time.

(4) No item of the form shall be answered by incorporating any information by reference.

(5) Answer every item in the space provided on the form. No exhibits or supplemental information are required or permitted, except the report of independent public accountants. For those items requiring a list, such as item 6C, if the list does not fit into the space provided on one page, attach a copy of the page with the listing continued on this second page.

(6) Dollar amounts, except per share amounts, shall be rounded to the nearest hundreds, thousands, or millions, as specified in the item requesting the data. Wherever an item says "000's Omitted", round to the nearest thousand and drop the last 3 zeros (e.g. 143,902 should be reported as 144). Whenever an item says "000,000's Omitted", round to the nearest million and drop the last six zeroes (e.g., 232,675,432 should be reported as 233). Number of shares or other units of securities shall be stated to the nearest full share or other unit. Calculated percentages shall be carried to two decimal places unless the item specifies otherwise.

(7) Wherever a date is required, use six numbers, not letters, to fill in the space (e.g. January 2, 1984 would be reported as 01/02/84). Either slash marks or hyphens can be used to separate month, day and year.

(8) One or more items in this form may not apply to a registrant. If this is the case, *do not* use "not applicable", "NA" or any other indication that it does not apply. Instead, leave such items completely unanswered. Also, some items, such as the sub-items of item 24, have only "Yes" answers; if the answer for this type of item is "No", *do not* make any mark to indicate a negative answer.

(9) Each page of the Form that is filed must contain the date of the end of the period and the Registrant's "811" number. This information is necessary in order to accurately process and file the form. The date should be entered as explained in Instruction D(7).

(10) The form has been designed to obtain information from companies registered as series or multiple portfolio companies without requiring each series or portfolio to file a separate form. The form recognizes that some information about the separate series or portfolios of a series company may be the same for all series while other information may be different for each series. To obtain the information about series that is different while eliminating the need to answer each item for each series where the answers are the same, the "Series Information Block" in the top right-hand corner of the pages was developed.

Each "Series Information Block" requests three pieces of information. This information should be given only by series or multiple portfolio funds (those fund that have answered "Yes" to item 6A.) If the answers to all items on the page are the same for all series, an "X" should be placed in the box of the Series Information Block after the phrase "All Series." The other two items in the Series Information Block should be left blank. For example, if a registrant is a series fund and the answers to all items on page 3 are the same for all series or portfolios, then all applicable items on page 3 should be answered and an "X" place only in the box after the phrase "All Series."

If, however, the answers to all items on a page are not the same for all series, the following steps should be followed:

(a) Determine if the answers to the questions on a page are the same for some of the series.

(b) If the answers are the same for some but not all series,

(i) complete the items on the page for those series for which the answers are the same and indicate in the Series Information Block on the line after the word "Series" the numbers given in item 6C to those series having the same answers. (Separate the series numbers with commas.) Also place an "X" in the box after the phrase "If filing more than one page——, 'X' box. . . ."

(ii) complete the items on the page for those other series that have different answers and indicate in the Series Information Block on the line after the word "Series" the number(s) given in item 6C to these series. Also place an "X" in the box after the phrase "If filing more than one page ——,'X' box. . . ."

(c) If the answers to the items on a page are different for all series, a separate page must be submitted for each series. In the "Series Information Block" on each such page, indicate on the line after the work "Series" the number given in item 6C to this series and place on "X" in the box after the phrase "If filing more than one page ——, 'X' box. . . ."

An example may help to illustrate the use of the Series Information Block. Assume there are five series in a fund and all five have the same answers to the questions on page 3 except that series 5 also has a sub-adviser. To complete Page 3 on the initial filing of the form, items 7, 9, 10, 11, 12, and 13 would be completed for Series 1 through 4. The Series Information Block would be completed as follows:

Series Information Block	
This page is being filed for All Series	[ ]
Series 1, 2, 3, 4	
If filing more than one Page 3, "X" box	[X]

A second Page 3 would be completed for series 5. All items must be completed including both the additional information about the sub-adviser and the items previously completed for the other four series. The Series Information Block on this second Page 3 would be completed as follows:

Series Information Block	
This page is being filed for All Series	[ ]
Series 5	
If filing more than one Page 3, "X" box	[X]

For certain items, such as 18, 19, 20, 21, 24 and 26, the form requests information in the aggregate for all series or portfolios of a series fund even though the information for each series may be different.

E. Definitions

Unless the context clearly indicates the contrary, terms used in Form N-SAR have meanings as defined in the Investment Company Act of 1940 (the "Act") and the rules and regulations issued thereunder. Unless otherwise indicated, all references in the form or its instructions to statutory sections or to rules refer to sections of the Act and the rules and regulations thereunder.

In addition, the following definitions apply:

Act: The term "Act" means the Investment Company Act of 1940.

Family of Investment Companies: The term "family of investment companies" means any two or more registered investment companies who retain the same investment adviser and/or principal underwriter (or an affiliated person thereof) and/or who hold themselves out to investors as related companies for purposes of investment and investor services. A single registrant that is a series fund would not be considered to be a family of funds simply by reason of having multiple series. A series fund is part of a family only if there are other entities in the family that are separately registered under the 1940 Act.

Fiscal Year: The term "fiscal year" means the fiscal year of the registrant.

Investment Adviser: The term "investment adviser," as used herein, shall be defined as in Section 2(a)(2) of the Act and the applicable rules and regulations thereunder, except that, for the purposes of answering the items of the form, the term shall also be deemed to include a corporate trustee rendering any services to the registrant of an investment advisory nature.

Money Market Fund: The term "money market fund," for purposes of this form, means any open-end management investment company that maintains a stable price per share.

Officer: The term "officer" means a president, vice-president, treasurer, secretary, controller, or any other person who performs for an organization, whether incorporated or unincorporated, functions of a policy-making nature corresponding to those typically performed by an officer.

Registrant: The term "registrant" means the investment company filing this report or on whose behalf the report is filed.

Series or multiple portfolio company is defined as an open-end investment company that has outstanding more than one class or series of shares, each of which meets the requirements of Section 18(f)(2) of the Act; a unit investment trust that has issued securities, each of which represents an undivided interest in a unit of one of two or more specified portfolios of securities; or any other registrant that has outstanding more than one class, account, series, fund, or portfolio each of which, in essence, should be considered to be a separate reporting entity for purposes of certain items in this form. [See "series companies" in Regulation S-X, Rule 6-03(j)].

Value: The term "value" as used in the form is defined in Section 2(a)(41) of the Act. Registrants should note Rules 2a-1, 2a-2, 2a-4 and 2a-7 under the Act, which also deal with valuation procedures.

Instructions to Specific Items

ITEM 3: Final filing of Form N-SAR

This item is to be answered "Yes" only if the Registrant knows that the current filing of the form will be its last because it has deregistered as an investment company.

ITEM 4: Unit investment trust

A unit investment trust is defined in Section 4(2) of the Act.

ITEM 5: Small business investment company

A small business investment company is a company licensed under the Small Business Investment Act of 1958.

ITEM 6: Series or multiple portfolio company

See Part E of the General Instructions for a definition of a series company. The intent of item 6 is to have each registrant identify itself as a series company if it meets the definition. It is important that item 6A be answered correctly because answering much of the remainder of the form depends upon whether a fund has series or separate portfolios.

Sub-item 6B asks registrants that are series funds to indicate the number of separate series or portfolios that existed at the end of the period.

Sub-item 6C asks registrants to give a number to each series or portfolio starting with the number 1 and to state the name of each series or portfolio. It is very important that once a number has been given to a particular series, the same number be used for that series in all subsequent filings on the form. If the name of a series should change, continue to use the number originally given to it and indicate the new name in the next filing on the form after the name was changed. If additional series are created after the registrant's initial filing on the form, the numbers assigned to these new series, as well as their names, should be shown in Item 6C in the next filing of the form. It is not necessary to list all series again at that time; rather, only the additional series need be listed. If a series is liquidated or merged or otherwise ceases to exist this does not have be noted in Item 6C (although the number of series shown in 6B would decrease as a result.) The number assigned to such terminated series should not be used for any additional series that might be formed in the future. Such terminated series should not be considered in preparing any filings on Form N-SAR after the period in which such series was liquidated or merged.

ITEM 7: Investment Adviser

"Investment Adviser" is defined in Section 2(a)(20) of the Act.

ITEM 9: Principal underwriter

"Principal underwriter" is defined in Section 2(a)(29) of the Act.

ITEM 10: Shareholder servicing agent

"Shareholder servicing agents" may also be known as transfer agents. If the Registrant uses the services of more than one such agent, provide the information requested by this item for the Registrant's principal or primary agent.

ITEM 12: Affiliated broker-dealer

The term "affiliated broker-dealer" means any broker-dealer of which a director, member of any advisory board or advisory committee, any person who owns of record or

is known by registrant to own beneficially 5% or more of the outstanding voting securities, or any partner, of registrant or of its investment advisor or principal underwriter, was an affiliated person.

ITEM 17: Family of investment companies

"Family of investment companies" is defined in Part E of the General Instructions.

Identification of a family of funds in ten consecutive letters (omitting spaces) is only for purposes of automating this form. Choose, for example, the first ten letters of the name of the adviser, principal underwriter, sponsor, or a combination of these names. The letters used may also be selected randomly. If the identification is not unique, the Commission staff will contact the registrant to work out a suitable change.

ITEM 18 19, 20 and 21: Brokerage commissions and principal transactions

Items 18 and 19 request information about the amount of brokerage commissions paid directly or indirectly by a registrant to the ten entities who received the greatest amount of brokerage commissions and the total amount of brokerage commission paid during the period. Items 20 and 21 request information about the value of principal transactions done with the ten entities with whom registrant did the greatest amount of principal transactions (purchases and sales combined) and the total value of principal transactions during the period. Because portfolio securities can be acquired in a variety of transactions it may not be possible to always clearly identify when a transactions resulted in the payment of a brokerage commission or was on a principal basis and should be reported in items 20 and 21. To help registrants distinguish between agency and principal transactions and, thus between what transactions should be included in items 18 and 19 or 20 and 21, the following criteria are proposed:

a. If a security is purchased or sold in a transaction for which the confirmation specifies the amount of the commission to be paid by the registrant, the transaction is on an agency basis and should be included in determining the answers to items 18 and 19. In this type of transaction, the amount to be paid by the registrant if a purchase or received by the registrant if a sale is more or less respectively than market price of the security at the time the transaction occurred.

b. If a security is purchased or sold in a transaction for which the confirmation specifies only the net amount to be paid or received by the registrant and such net amount is equal to the market value of the security at the time of the transaction, the transaction was on a principal basis and should be included in determining the amounts in items 20 and 21.

c. If a security is purchased by a registrant in an underwritten offering, the acquisition should be considered a principal transaction and included in answering items 20 and 21 even though the registrant has knowledge of the amount the underwriters are receiving from the issuer upon the sale.

d. If a security is sold by a registrant in a tender offer, the sale should be considered a principal transaction and included in answering items 20 and 21 even though the registrant has knowledge of the amount the offeror is paying to soliciting broker/dealers.

e. If a security is purchased directly from the issuer (such as a bank CD) the purchase should be considered a principal transaction and included in answering items 20 and 21.

f. The value of maturing securities should not be counted as either an agency or principal transaction and should not be included in determining the amounts shown in items 18 through 21.

g. The purchase or sale of securities in transactions not described in points "a" through "f" should be evaluated by registrants based upon the guidelines in points "a" through "f" and classified accordingly. The agency considered in items 18 and 19 may be persons or companies not registered with the Securities and Exchange Commission as a securities broker. The persons or companies from whom the investment company purchased or to whom it sold portfolio instruments on a principal basis may be persons or entities not registered with the Securities and Exchange Commission as securities dealers. The IRS employer number of these entities is being requested to permit this information to be processed more efficiently. The NASD directory of broker/dealers contains these IRS numbers. Registrants should make a reasonable effort to obtain these numbers when completing the form.

ITEMS 22 and 23: Investment in securities of broker/dealers

These two items are included in the form to obtain information required to be provided by registrants/series that invest, pursuant to Rule 12d3–1, in the securities of their regular broker/dealers or the parents of such broker/dealers if these parents derive more than 15% of their gross revenues from securities related activities. For definitions and explanations see Rule 12d3–1 and the accompanying release. The term regular broker/dealer is defined in proposed Rule 10b–1 under the Act (see Investment Company Act release No. 13920 dated May 2, 1984 [49 FR 19519]).

In column A of item 23 registrants/series should list the name of any of its regular broker/dealers or the parents of such broker/dealers (if such parents derived more than 15% of its gross revenues from securities related activities during the issuer's most recent fiscal year) whose securities the registrant owned at the end of the current period.

In column B the IRS employer identification number should be listed for the issuer of the securities reported in column A. Registrants/series should make a reasonable effort to obtain these numbers.

In column C indicate by using a D for debt and an E for equity the type of security of each issuer which the registrant/series owned at the end of the current period.

In column D registrants/series should list the value at the end of the current period of any securities of issuers listed in column A.

In column E registrants/series should show separately for each type of security held of each issuer at the end of the current period the percentage of such issuer's outstanding debt or equity that is represented by the registrant's/series holdings at the end of the current period. The method to be used in computing these percentages should be the same as specified in Rule 12d3–1 and as used by registrants in monitoring its compliance with the conditions of that Rule.

ITEM 24:

Under sub-item F, an "affiliated relationship" is one with registrant, its investment adviser or principal underwriter, or an affiliated person or any of them.

ITEMS 26: Monthly sales and repurchases of Registrant's/Series's shares

If this filing covers an incomplete fiscal half, fill in information only for those months during which the registrant was a registered investment company. For example, if the registrant's fiscal half runs from January 1 to June 30, but the registrant's registration statement did not become effective until April 10, fill in only the lines for the fourth, fifth, and sixth months.

Shares sold shall include shares sold by the registrant to a registered unit investment trust which is the issuer of plan certificates the net proceeds of which are invested in such shares.

Include as shares sold in new sales any transaction in which the registrant acquired the assets of another investment company or of a personal holding company in exchange for its own shares. The amounts to be reported under this item should be after any front-end sales load has been deducted and before any deferred or contingent rear-end sales load or charge is deducted.

Exchanges are defined as the redemption or repurchase of shares of one fund or series and the investment of all or part of the proceeds in shares of another fund or series at net asset value or at a sales load lower than the investor would otherwise pay, with or without a nominal transaction charge.

The number of shares should be adjusted to reflect any stock split or stock dividend during the period.

ITEM 27: Registrant/Series imposing an initial or front-end sales load

The term "sales load" is defined in Section 2(a)(35) of the Act. An initial sales load is defined herein as a sales load deducted before investment of the proceeds of a sale of the registrant's securities.

ITEM 28: Total sales load collected by principal underwriter

Include only gross initial sales loads and other underwriting discounts or commissions collected by the registrant's principal underwriter or any affiliated underwriter in its capacity as underwriter of registrant's shares.

ITEM 29: Net sales loads retained by principal underwriter

Include only underwriting discounts or commissions, and exclude dealer discounts retained by the principal underwriter or any affiliated underwriter.

ITEM 30: Net amount paid to dealers

Exclude any dealer discounts retained by the principal underwriter or any affiliated underwriter.

ITEM 31: Net amount paid to retail sale force

Include only amounts paid to the underwriter's own sales force.

ITEM 33: Deferred or contingent sales loads

A deferred, or contingent sales load is any sales load deducted from the proceeds of the redemption or repurchase of registrant's securities.

ITEM 36: Redemption fees

Include as redemption fees any fees a registrant imposes on shareholders for an exchange or switch among funds in the family.

ITEM 40: Registrant/Series using its assets directly to make payments under a 12b–1 plan

In answering this question, direct payments by the registrant under a 12b–1 plan would not include situations where a registrant has a so called prophylactic plan to cover payments its advisers makes to pay for distribution activities. The question should be answered "yes" if the registrant makes direct payments for distribution activities.

ITEM 48: Registrant's/Series's advisory fee based on a percentage of only its assets

If registrant has more than one investment adviser, set forth in the table the fee rate paid to the adviser receiving the largest fee from registrant during the period.

ITEM 51: Registrant/Series having a performance based advisory fee

"Investment performance" is defined in Rule 205–1 under the Investment Advisers Act of 1940.

ITEM 57: Fidelity bond deductible

Rule 17g–1 under the Act requires minimum fidelity bonding. The staff of the Commission has taken the position that any deductibles from the minimums specified in that rule would not give rise to a recommendation for action by the Commission for violation of Section 17(g) of the Act and Rule 17g–1 thereunder in the following conditions:

(1) The Registrant's adviser agrees to indemnify the Registrant for the amount of the deductible;

(2) The adviser deposits and at all times maintains, in escrow, cash or short term liquid, cash-equivalent securities having a minimum value equal to the amount of the deductible;

(3) The adviser notifies independent directors and auditors of the Registrant any time there is a defalcation or loss that would have been covered by the fidelity bond but for the deductible clause;

(4) The Registrant maintains, in accordance with the general recordkeeping requirements of Rule 31a–2(a) under the Act, a copy of any notification sent to independent directors of a loss or defalcation that would have been covered by the fidelity bond but for the deductible clause.

ITEM 61: Senior securities

In this item a registrant is to state if it had senior securities outstanding at anytime during the current period. In addition to the usual type of senior security such as a bank loan, bond or preferred stock, certain transactions a registrant may engage in could create a senior security. Examples of such transactions include short sales, uncovered options, purchases of securities on margin and the entering into of firm commitments to purchase securities at a future date. The staff has taken the position that investment companies may engage in these other transactions and not create a senior security if a segregated account has been established and appropriately funded. For a discussion of these situations see the guidelines for preparation of Form N–1A. In answering item 62, a registrant should give a "Yes" answer only if it actually had a senior security and not if the position was covered adequately by a segregated account or other means.

ITEM 64: Portfolio Manager

Supply the full name of the one person primarily responsible for making day-to-day decisions concerning the registrant's portfolio. If decisions are made by a group, name up to three of the persons having the most responsibility for portfolio transactions.

ITEM 65: Registrant a separate account of an insurance company

"Variable annuity contract" is defined in Rule 0–1(e) under the Act. "Scheduled premium variable life contract" is defined in Rule 6e–2 under the Act.

"Flexible premium variable life contract" is defined in Rule 6e–3 under the Act.

ITEM 66: Registrant/Series a management company

"Management company" is defined in Section 4(3) of the Act.

ITEM 67: Registrant/Series a diversified investment company

"Diversified company" is defined in Section 5(b)(1) of the Act.

ITEM 69: Percentage of portfolio in various debt securities

Short-term maturities are defined for purposes of this form as securities with maturities of 13 months or less. Securities having variable or floating interest rates or subject to a demand feature can be considered short-term if the interest rate adjustment period or the demand period is 13 months or less. Intermediate and long-term maturities include all other debt securities.

ITEM 71: Classification of funds investing in equity securities

A registrant with a primary investment objective of aggressive capital appreciation seeks short-term appreciation through high-risk investment, with little or no consideration to receipt of income.

Show as a U.S. Government Agency security investments in any securities guaranteed by an agency of the U.S. Government.

A registrant with a capital appreciation objective is defined here as one that primarily and regularly invests for an intermediate-term return by investing in moderate to high risk securities, with little or no consideration to receipt of income.

A growth objective involves seeking to increase the value of investment over the long-term, with a moderate degree of risk. Production of income may be considered to some degree in selecting investments.

A registrant should "X" the growth and income category if it primarily and regularly makes low-risk investments for the purpose of growth of capital and the production of income is also an objective.

A registrant should "X" the income objective if the receipt of income is the primary reason for selecting portfolio securities.

A total return fund tries to achieve the highest possible total investment return from the aggregate of capital appreciation and income by investing in a varying mix of equity, debt and convertible securities and short-term money market instruments.

ITEM 72: Registrant/Series investing primarily and regularly in a balanced portfolio of debt and equity securities

A balanced fund is defined as having the multiple objectives of providing income, stability of capital, and possible increases in capital. The staff has taken the position that at least 25% of the value of the assets of a registrant calling itself a balanced fund must be invested in either debt securities, preferred stock, or both. If convertible senior securities are included in the required 25%, only that portion of their value attributable to their fixed income characteristics may be used in calculating the 25% figure.

ITEM 74: Registrant/Series as an index fund

An index fund seeks to provide investment results corresponding to the movements of a specified stock index.

ITEM 76: Portfolio turnover rate

The portfolio turnover rate shall be calculated by dividing (A) the lesser of purchases or sales of portfolio securities for the fiscal year by (B) the monthly average of the value of the portfolio securities owned by the registrant during the fiscal year. Such monthly average shall be calculated by totaling the values of the portfolio securities as of the beginning and end of the first month of the fiscal year and as of the end of each of the succeeding eleven months, and dividing the sum by 13, except that the average value of securities for which market quotations are not available may be based upon the value of such securities as of the end of the investment company's preceding fiscal quarter.

There shall be included in both the numerator and the denominator all U.S. Government securities (short-term and long-term) and all other securities, including options, whose maturities or expiration dates at the time of acquisition were one year or less. Purchases shall include any cash paid upon the conversion of one portfolio security into another. Purchases shall also include the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants. Sales shall also include the net proceeds of portfolio securities which

have been called, or for which payment has been made through redemption or maturity.

ITEMS 77, 78 and 89: Financial information

The amounts to be shown in item 77 should be based upon the semi-annual or annual financial statements as of the same date contained in reports to shareholders. If the financial statements for a fiscal year do not contain numbers for the fiscal second half, the numbers to be shown in Form N-SAR can be computed by subtracting from the amounts shown in the statement of operations for the fiscal year the amounts that were shown on the preceding semi-annual report to shareholders. If an income, expense, gain, loss asset or liability line item in the Form is not contained in the corresponding report to shareholders, a reasonable effort should be made to obtain an amount for the line item.

ITEM 80: Sales, repurchases, and redemptions of securities

This item does not apply to short-term paper or ordinary sinking fund operations, similar periodic decreases made pursuant to the terms of governing instruments, or payment of indebtedness at maturity.

The number of shares should be adjusted to reflect any stock dividend or stock split during the period covered by the report.

For purposes of line E, the extension of the maturity date of indebtedness shall be deemed the issuance of new indebtedness.

"Redemption," as used in lines D and F, means redemption at the option of the issuer.

ITEM 87: Family of investment companies

See instructions to Item 17.

ITEM 88: The registrant a separate account of an insurance company

For instructions, see instructions to Item 67.

ITEM 92: Series for which a current prospectus is maintained at the end of the period

"Prospectus" has the meaning given in Section 2(10) of the Securities Act of 1933. A current prospectus is one meeting the requirements of Section 10 of that Act.

ITEM 96: Classification of series and assets

Other corporate short-term debt securities are securities with maturities of 13 months or less.

For explanations of broker/dealer and/or parent debt and equity securities of broker/dealers or parents see instructions for Items 22 and 23.

ITEM 104: Deductible on Bond

For instructions, see instructions to Item 57.

ITEM 112: Sales, repurchases, and redemptions of securities

For instructions, see instructions to Item 80.

ITEMS 113 and 114: Financial information

See instructions to items 77, 78 and 79.

Signature Page

The following form of signature shall follow Items 79, 82, 97 or 114 as appropriate.

Pursuant to the requirements of the Investment Company Act of 1940 (and the Securities and Exchange Act of 1934, if applicable), the undersigned registrant (or depositor or trustee) has caused this report to be signed on its behalf in the City of ——— and State of ——— on —— day of ——— 19——.

———

(Name of registrant, depositor, or trustee)

Witness ———

(Name and Title)

By: ———

(Name and title of person signing on behalf of registrant, depositor, or trustee)

Report of Independent Public Accountant

Except as provided below, a management investment company shall furnish a report of its independent public accountants on the company's system of internal accounting controls. The accountant's report shall be based on a review of the accounting systems, internal accounting control, and procedures for safeguarding securities which is sufficient in scope to provide reasonable assurance that any material weakness existing during the period would be disclosed. The reporting period is generally the twelve month period since the last report date; however, it may be for a shorter period if a company's initial report on Form N-SAR is involved. Disclosure of a material weakness existing during the period should include an indication of any corrective action taken or proposed.

The accountant's report shall be furnished as an exhibit to the Form N-SAR filed with respect to the second half of the company's fiscal year and shall (1) be addressed to the security holders and board of directors of the company, (2) be dated, (3) be signed manually and (4) indicate the city and state where issued.

These provisions do not apply to small business investment companies or to management investment companies not required by either the Investment Company Act, any other Federal or state law or rule or regulation thereunder, to have an audit of their financial statements.

Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix B—Analysis of Items Eliminated or Carried Over From Existing Forms to New Form N-SAR

Analysis of Items Eliminated or Carried Over From Existing Forms to New Form N-SAR

Current form item No.	Description of items in current forms	Disposition of items			Item number in N-SAR	Brief description of modifications
		Item eliminated	Item carried over unchanged	Item carried over modified		
	Form N-1R					
FP	Name and address of registrant			X	1	Telephone No. added.
FP	Name of registrant's adviser		X		7-8	SEC file No. added.
FP	Name of principal underwriter		X		9	B/D file No. added.
FP	Name of independent accountant		X		11	Address added.
1	Classification		X		67-74	Expanded to include a classification for all funds based upon kinds of assets held. Data about open-end closed-end, etc in other items.
2	Diversification of assets			X	68	All details related to diversification was dropped.
3	Attendance at directors' meetings	X				
4	Information about directors, officers and members of advisory boards.	X				
5	Information about board vacancies	X				
6	Indemnification payments to officers and directors	X				
7	Indebtedness of officers and certain directors to registrant's adviser or principal underwriter.	X				
8	Business or professional relationships of officers and certain non-interested directors with certain persons.	X				
9	Transactions between officers or certain non-interested directors and certain other persons.	X				
10	Compensation received by registrant's directors, officers and advisory board members.	X				
11	Compensation of certain affiliated persons acting as agent in property transactions or as broker in securities transactions.	X				
12	Transactions between registrant or a controlled company and affiliated or certain other persons.	X				
13	Joint enterprises involving registrant or a controlled company and an affiliated person.	X				

Analysis of Items Eliminated or Carried Over From Existing Forms to New Form N–SAR—Continued

Current form item No.	Description of items in current forms	Disposition of items: Item eliminated	Disposition of items: Item carried over unchanged	Disposition of items: Item carried over modified	Item number in N-SAR	Brief description of modifications
14	Transactions between registrant and certain affiliated persons of directors or officers' of registrant's adviser or principal underwriter.	X				
15	Direct or indirect ownership interest which certain affiliated persons of the registrant had during the period in registrant's adviser, underwriter and other broker/dealers.	X				
16	Family relationships of certain affiliated persons of registrant	X				
17	Fidelity bonds			X	55–59	Additional questions added concerning deductibles and losses incurred that could have been claimed under the bond.
18	Custody of securities		X		13–16	
19	Deposit of funds in banks other than custodian banks	X				
20	Advisory contract and fees and expense limitations			X	45–53	Certain data about expense limitations revised and question about compliance with § 205 of the Advisers Act dropped.
21	Entry into or renewal of advisory contract			X	47	Date of last renewal retained all other subitems dropped.
22	Personnel of adviser			X	63	Question reformatted to make it easier to answer.
23	Services supplied by adviser		X		54	
24	Direct or indirect ownership interest which certain affiliated persons of registrant's adviser had during the period in registrant's adviser, underwriter and certain B/D's.	X				
25	Management related services paid for by registrant other than under an advisory contract.	X				
26	Portfolio turnover rate			X	76	Calculation method changed. Turnover rate calculation for equity securities dropped.
27	Portfolio trading practices			X	75	Expanded to reflect current range of transactions funds engage in.
28	Portfolio transactions not settled by specified settlement date	X				
29	Restricted securities	X				
30	Portfolio transactions by registrant with B/D's acting as principal.			X	20–21	Modified definition of principal transactions.
31	Brokerage commissions paid on portfolio transactions of registrant.			X	18–19	Agency transactions defined.
32	Considerations which affected the participation of B/D's in commissions paid on portfolio transactions of registrant.		X		24	
33	Participation of certain affiliated B/D's in brokerage commissions on registrant's portfolio transactions and on portfolio transactions of any associated registered invest. company.			X	12	New item for names of affiliated B/D's.
34	Selection of B/D's in return for benefits or other considerations provided to other persons.	X				
35	Tax status of registrant	X				
36	Underwriting commitments of registrant	X				
37	Monthly sales of registrant's shares; dividends, capital gains and other distributions.			X	26	Reformatted and consolidated the data requested.
38	Solicitation of proxies	X				
39	Confirmations, share balance statements and other communications.	X				
40	Dividends or distributions requiring a written statement to shareholders of registrant.	X				
41	Purchase of securities of or other interest in an investment company adviser, B/D, underwriter or insurance company.			X	22–23	Except for an insurance company, the new items are concerned with the requirements of rule 12d3–1.
42	Procedures with respect to stated policies	X				
43	Purchase of securities during underwriting by affiliated principal underwriter.	X				
44	Selection and ratification of accountants and auditors; preparation of financial statements filed with the Commission.	X				
45	Cross-ownership and circular ownership	X				
46	Periodic calculation of current net asset value per share of registrant's outstanding capital stock.	X				
47	Employees of registrant			X	63	Made part of another item.
48	Policy with respect to trading in securities by certain affiliated persons of registrant or of its adviser.	X				
49	Senior securities of registrant and applicable asset coverage			X	61	Reformatted and expanded to pick-up other types of senior securities.
50	Issuance of securities other than for cash or securities	X				
51	Registration of securities	X				
52	Sales, repurchase and redemptions of securities by closed-end funds.		X		80	
53	Distribution and repurchase of securities by closed-end funds	X				
54	Market discount or premium from net asset value for closed-end funds.		X		81	
55	Securities of registrant listed on a national securities exchange or on NASDAQ.		X		82	
56	Sales, redemptions and repurchases of securities			X	26	Data requested were simplified and reformatted.
57	Sales of securities to other investment companies	X				
58	Time lapse between sale of shares of, and receipt of proceeds by registrant; loss on cancellation of orders.	X				
59	Suspension of right of redemption; delay in payment upon repurchase.	X				
60	Pricing of registrant's shares for distribution, redemption and repurchase.	X				
61	Exchange offers made to shareholders of registrant or of any other open-end company.	X				
62	Variations in sales loads	X				
63	Sales load and distribution information			X	27–32	Some subitems were dropped; data on sales load breakpoints was restated to ask for amount of sales at each load breakpoint.
64	Entry into or renewal of principal underwriting contract	X				
65	Other payments by registrant to underwriters or dealers	X				

Analysis of Items Eliminated or Carried Over From Existing Forms to New Form N-SAR—Continued

Current form item No.	Description of items in current forms	Disposition of items			Item number in N-SAR	Brief description of modifications
		Item eliminated	Item carried over unchanged	Item carried over modified		
66	Ten dealers selling largest dollar amounts of registrant's shares (confidential item).	X				
67	Direct or indirect ownership interest which certain affiliated persons of registrant's principal underwriter had during the period in: registrant's adviser, principal underwriter, certain B/D's.	X				
68	Sales of shares of registrant pursuant to periodic payment plans of the installment type issued by unit investment trusts.	X				
69	Correspondence relating to shareholder accounts	X				
FP	Registrant's name, address and state of incorporation			X	1	State of incorporation was dropped.
1	Securities registered on an exchange		X		111	
2	Ownership of voting and convertible securities of other issuers	X				
3	Tax status of registrant		X		108	
4	Issuance and redemption of securities		X		112	
5	Persons in a control relationship with registrant	X				
6	Persons owning equity securities of registrant	X				
7	Number of holders of equity securities DX		114			
8	Directors and executive officers	X				
9	Members of advisory board	X				
10	Remuneration of directors, officers and members of advisory board.	X				
11	Indemnification of directors and officers			X	107	New form inquires about errors and omissions insurance registrant has.
12	Employees of registrant			X	109-110	Item simplified.
13	Custody of securities and similar investments		X		100	
14	Fidelity bond for directors, officers and employees			X	102-106	Information requested has been expanded.
15	Investment advisers			X	98	Requirement to list names of affiliated persons of the registrant has been dropped.
16	Business and other connections of advisers and their managements.	X				
17	Personnel of adviser			X	109-110	Simplified and combined with another item.
18	Interest of affiliated persons in certain transactions	X				
19	Exhibits to be filed include copies of all amendments and changes to all documents to be filed as exhibits to original registration statement filed under the 1940 Act and financial statements.			X	113-114	Requirement to file certain documents as exhibits dropped and requirement to report certain financial information added.
	Form N-30A-2					
FP	Name of registrant		X		1	
FP	Name and address of depositor		X		63	
FP	Name of trustee		X		94	
FP	Issuing or not issuing periodic payment plan certificates	X				
1	Title of securities	X				
2	Modifications or changes in trust agreement	X				
3	Material litigation	X				
4	Loads, fees, charges, expenses			X	94-95	Data is requested as to amount of fees and loads received.
5	Relationship of annual charges and expenses to income			X	96-97	These relationships can be calculated from the data requested in the new form.
6	Receipt of payments for securities	X				
7	Receipt, custody and disposition of income	X				
8	Distributions to security holders	X				
9	Loans to security holders	X				
10	Insurance of holders of securities	X				
11	Sales of securities			X	91	Total value of units sold during period is requested.
12	Computation of offering price of securities	X				
13	Redemption of securities	X				
14	Computation of redemption price	X				
15	Suspension of sales of securities	X				
16	Revocation and denial of right to sell securities to the trust	X				
17	Suspension of redemption of securities of the trust	X				
18	Officials and affiliated persons of depositor	X				
19	Companies owning securities of depositor	X				
20	Controlling persons of depositor	X				
21	Remuneration of depositor	X				
22	Remuneration of officers of depositor	X				
23	Remuneration of directors of depositor	X				
24	Remuneration of employees of depositor	X				
25	Remuneration of other persons	X				
26	Relationship of depositor to other investment companies	X				
27	Information required for each depositor	X				
28	Ownership of securities of the trust by principal underwriter and others.	X				
29	Remuneration of principal underwriter			X	94-95	New form requests data as to sales loads received by principal underwriter.
30	Relationship of principal underwriter to other investment companies.	X				
31	Brokerage commissions received by principal underwriter	X				
32	Fees of trustee	X				
33	Elimination and substitution of portfolio securities	X				
34	Regulated investment company under section 851 of the internal revenue code.	X				
35	Statistical information regarding periodic payment plan certificates.	X				
36	Financial statements	X				
	Form N-30A-3					
FP	Name of registrant		X		1	
FP	Name and address of depositor	X				
FP	Name and address of trustee	X				
1	Title of securities	X				

Analysis of Items Eliminated or Carried Over From Existing Forms to New Form N-SAR—Continued

Current form item No.	Description of items in current forms	Disposition of items			Item number in N-SAR	Brief description of modifications
		Item eliminated	Item carried over unchanged	Item carried over modified		
2	Modifications or changes in indenture or other agreements	X				
3	Material litigation	X				
4	Loads, fees, charges, expenses		X		27-38	Data is requested as to amount of fees and loads received.
5	Relationship of annual charges and expenses to income			X	77-79	These relationships can be calculated from the data requested in the new form.
6	Receipt pf payments for securities	X				
7	Receipt, custody and dispostion of income	X				
8	Distributions to security holders			X	79	During period requested.
9	Loans to security holders	X				
10	Insurance of holders of securities	X				
11	Computation of valuation of underlying securities	X				
12	Computation of redemption price	X				
13	Suspension of sales of securities	X				
14	Revocation and denial of right to sell securities of the registrant.	X				
15	Suspension of redemption of securites of the registrant	X				
16	Official and affiliated persons of depositor	X				
17	Companies owning securities of depositor	X				
18	Controlling persons of depositor	X				
19	Remuneration of depositor	X				
20	Remuneration of officers of depositor	X				
21	Remuneration of directors of depositor	X				
22	Remuneration of employees of depositor	X				
23	Remuneration of other persons	X				
24	Relationship of depositor to other investment companies	X				
25	Information required for each depositor	X				
26	Ownership of securities of the trust by principal underwriter and others.	X				
27	Remuneration of principal underwriter	X		X	28-31	New form requests data as to sales loads received by principal underwriters.
28	Relationship of principal underwriter to other investment companies.	X				
29	Brokerage commissions received by principal underwriter	X				
30	Fees of trustee	X				
31	Remuneration of adviser		X		113	
32	Provisions of governing instruments regulating investments	X				
33	Investments in particular types of securities			X	114	Rather than describing changes in investments the new form asks for the types of investments held at end of period.
34	Investments for purpose of exercising control	X				
35	Borrowing money			X	61	New form requires statement if any borrowings during period.
36	Underwriting securities issued by persons other than registrant	X				
37	Concentration of investments in particular industries	X				
38	Purchase and sale of real estate	X				
39	Purchase and sale of commodities and commodity contracts			X	114	New form requires statement of amount invested in commodities at end at period.
40	Loans to other persons	X				
41	Portfolio turnover			X	76	Change in method of calculation.
42	Other fundamental policies	X				
43	Regulated investment company			X	62	Company must state if qualified for subchapter M.
44	Status of registrant as a diversified or non-diversified investment company.			X	68	Registrant must state if diversified.
45	Statistical information regarding certificates	X				
46	Financial statements			X	77-79	Registrant must provide summary financial data.
	Form 2-MD					
FP	Name of registrant		X		1	
FP	Name and address of depositor		X		83	
FP	Name and address of sponsor	X				
FP	Name and address of trustee		X		84	
1	Information about trust property	X				
2	Information about trust agreement	X				
3	Information about contracts	X				
4	Income, charges and distributions			X	96-97	
5	Date and source of distributions	X				
6	Date and source of special distributions	X				
7	Repurchase of trust shares	X				
8	Total amount of trust shares sold during the period		X		91	
9	Describe changes in method of calculating selling price of trust shares.	X				
10	Information about sales of trust shares			X	91	
11	Information about reacquired shares	X				
12	Remuneration and payments to depositor, sponsor, trustee and affiliates of these entities.	X				
13	Amount paid to certain persons by the depositor and sponsor	X				
14	Remuneration paid by depositor and sponsor to certain persons in excess of $20,000 during the period.	X				

FP-facing page.

[FR Doc. 84-21247 Filed 8-13-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 84N-0148]

Medical Devices; Hearing Aids; Technical Data Amendments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed rule to amend the technical data sections of the agency's regulations on hearing aid devices' professional and patient labeling to incorporate by reference an updated standard.

DATE: Written comments by October 15, 1984.

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

FOR FURTHER INFORMATION CONTACT: David A. Segerson, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 15, 1977 (42 FR 9286), FDA published final regulations: (1) Establishing requirements for professional and patient labeling of hearing aid devices (21 CFR 801.420); and (2) governing conditions for the sale of hearing aid devices (21 CFR 801.421) (approved by the Office of Management and Budget under control number 0910-0171). The regulations became effective on August 15, 1977.

Section 801.421(b)(1) of the regulations provides that before the sale of a hearing aid to a prospective user, a hearing aid dispenser is to provide the prospective user with a copy of the User Instructional Brochure. Section 801.420(c)(4) requires that technical data useful in selecting, fitting, and checking the performance of a hearing aid be provided in the User Instructional Brochure or in separate labeling that accompanies the device. The regulation further requires that the technical data values provided in the brochure or other labeling be determined according to the test procedures established by the Acoustical Society of America in the "American National Standard for Specification of Hearing Aid Characteristics," ANSI S3.22-1976 (ASA 7-1976), which is incorporated by reference into the regulation.

The purpose of ANSI S3.22-1976 (ASA 7-1976) was to establish measurement methods and specifications for several definitive hearing aid characteristics, and to provide a method of ascertaining whether a hearing aid, after being manufactured and shipped, met the specifications and design parameters stated by the manufacturer for a particular model, within the tolerance stated in the standard. The 1976 standard provided valuable guidance to manufacturers, dispensers, and prospective users of hearing aids.

Recently, the Acoustical Society of America revised its 1976 standard to introduce significant technical clarifications. The revised standard was approved by the American National Standards Institute's (ANSI) standards committee on November 2, 1982, and adopted as ANSI S3.22-1982 (ASA 7-1982), "American National Standards Specification of Hearing Aid Characteristics."

FDA now is proposing to update § 801.420(c)(4) by incorporating by reference into the regulation, ANSI S3.22-1982 (ASA 7-1982) and thereby require that as a minimum, the User Instructional Brochure or other such hearing aid labeling include the appropriate values or information for the technical data elements specified in § 801.420(c)(4)(i) through (xii) as those elements are defined or used in ANSI S3.22-1982 (ASA 7-1982). The proposed amendment would not affect any other provisions of § 801.420 or § 801.421.

FDA advises that it intends to provide a period of 180 days after the publication of any final rule based on this proposal during which the use of either standard will be permitted.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and has determined that the proposed rule, if promulgated in final form, will not be a major rule as defined by the Order. Although minor changes in testing will be necessary, manufacturers and distributors will not need to purchase new equipment. New testing equipment would make the testing slightly faster, but all required measurements can be made with existing equipment. Even if all the approximately 20 major and 30 minor manufacturers purchase new equipment their total cost will be $50,000 ($1,000 each). It is highly unlikely that any of the approximately 1,000 distributors will purchase new equipment. Therefore the worst case total cost estimate is slightly over $1 million if all manufacturers and distributors purchase new testing equipment. The 180 day phase-in period for the revised User Instructional Brochure should allow a virtually cost free transition. Therefore, a regulatory impact analysis is not required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities, including small businesses, and has determined that the maximum cost of meeting the revised regulation for a manufacturer or distributor is $1,000. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

List of Subjects in 21 CFR Part 801

Labeling, Medical devices, Over-the-counter devices, Prescription devices, Requirements for specific devices.

PART 801—LABELING

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201 (h), (k), (m), (n), 502, 519, 520(e), 701(a), 704, 52 Stat. 1041 as amended, 1050-1051 as amended, 1055, 67 Stat. 477 as amended, 90 Stat. 564-565, 567, 575 (21 U.S.C. 321 (h), (k), (m), (n), 352, 360i, 360j(e), 371(a), 374)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 801 be amended in § 801.420 in paragraph (c)(4) by revising the second and third sentences to read as follows:

§ 801.420 Hearing aid devices; professional and patient labeling

* * * * *

(c) * * *

(4) * * * The determination of technical data values for the hearing aid labeling shall be conducted in accordance with the test procedures of the American National Standard Specification of Hearing Aid Characteristics, ANSI S3.22-1982 (Revision of S3.22-1976) (ASA 7-1982), which is incorporated by reference. Copies are available from the American National Standards Institute, 1430 Broadway, New York, NY 10018, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

Interested persons may, on or before October 15, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that

individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 6, 1984.

William L. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-21437 Filed 8-13-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modification to the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

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 requesting a public hearing on the substantive adequacy of a program amendment submitted by Ohio to satisfy a condition of the Secretary of the Interior's approval of the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment submitted consists of proposed changes to the Ohio statute intended to satisfy condition (m) concerning public participation in bond release.

This notice sets forth the times and locations that the Ohio program and proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m., September 13, 1984, will not necessarily be considered in the decision on whether the proposed amendment should be approved and incorporated into the Ohio regulatory program. A public hearing on the proposed amendment has been scheduled for September 6, 1984. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by August 30, 1984. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting scheduled in the Administrative Record.

ADDRESSES: The public hearing is scheduled for 1:00 p.m. in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5124, 1100 "L" Street, NW., Washington, D.C.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions—(a), (b), (c), (d), (e), (f)(1)–(f)(10), (g), (h)(1)–(h)(3), (i)(1)–(i)(3), (j) and (k)(1)–(k)(5). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.** In accepting the Secretary's conditional approval, Ohio agreed to correct deficiencies (a), (b), (c), (h)(1) and (k)(1) by August 8, 1983; deficiency (e) by September 16, 1982; and the remaining deficiencies by February 8, 1983.

On January 6, 1983, Ohio submitted materials to OSM intended to, among other things, satisfy conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k)(1) and (k)(2). On May 24, 1983, OSM published a final rule in the **Federal Register** announcing removal of conditions (b), (d), (f)(1) through (f)(6), (f)(8) through (f)(10), (g), (h)(2), (h)(3), (i), (j), (k)(1) and (k)(2); establishment of an August 8, 1983 deadline for Ohio to satisfy conditions (a), (c), (f)(7), (h)(1), (k)(3), (k)(4), and (k)(5); and imposition of two new conditions (l) and (m) which also carried a deadline of August 8, 1983.

On July 26, 1983, the Chief of the Ohio Division of Reclamation wrote to OSM requesting that Ohio be granted an extension of time to meet conditions (c), (f)(7), (h)(1), (k)(3), (k)(4), (k)(5) and (m). On October 11, 1983, after providing public notice and an opportunity to comment, OSM announced the Secretary's decision to extend the deadline for Ohio to satisfy these conditions. The Secretary extended the deadline for conditions (f)(7), (h)(1), (k)(3), (k)(4) and (k)(5) until February 8, 1984, and the deadline for conditions (c) and (m) until August 8, 1984.

Conditions (f)(7), (k)(3), (k)(4) and (k)(5) were removed on May 1, 1984, and on July 5, 1984, the deadline for satisfying condition (h)(1) was extended to April 30, 1985. Ohio recently submitted an amendment intended to satisfy condition (c) which is the subject of a separate rulemaking action. (49 FR 29805, July 24, 1984).

Condition (m) stipulates that Ohio must amend its program to require that all bond reductions must meet the same public participation requirements as bond releases, consistent with section 519 of SMCRA. The Secretary imposed condition (m) on May 24, 1983, based upon review of a proposed amendment to Ohio Revised Code (ORC) § 1513.16(F) (48 FR 23185). The amendment distinguished between bond reductions and bond releases. Section 1513.16(F) was amended to provide that at the completion of the phase I and II liability periods, a bond would be "reduced", and at the end of the phase III liability period the bond would be "released." The Secretary found that the result of the amendment was to eliminate public participation requirements for bond reductions, which is inconsistent with section 519 of SMCRA. Section 519 requires that

request for release of all or part of a performance bond must be accompanied by public and comment provisions.

II. Submission of Revisions

By letter dated July 23, 1984, Ohio submitted a proposed program amendment consisting of Substitute House Bill No. 164 (HB 164) intended to satisfy condition (m) due August 8, 1984.

Specifically, Ohio has proposed changes to paragraph (F) of ORC § 1513.16 to remove all references to bond "reductions" and instead require the same public participation procedures for all bond releases, whether in whole or in part.

The full text of the proposed program amendment submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSM's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendment. The Director now seeks public comment on whether the proposed amendment is no less effective than the Federal regulations and whether the amendment satisfies the condition of approval. If approved, the amendment will become part of the Ohio program and condition (m) will be removed.

III. Procedural Matters

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 would 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 would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would 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 935

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

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

Dated: August 8, 1984.

J. Lisle Reed,

Acting Director, Office of Surface Mining.

[FR Doc. 84-21512 Filed 8-13-84; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modification to the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

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 requesting a public hearing on the substantive adequacy of a program amendment submitted by Ohio as an amendment to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment submitted consists of proposed changes to the Ohio regulations concerning inspection frequency and compliance reviews.

This notice sets forth the times and locations that the Ohio program and proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m., September 13, 1984, will not necessarily be considered in the decision on whether the proposed amendment should be approved and incorporated into the Ohio regulatory program. A public hearing on the proposed amendment has been scheduled for September 6, 1984. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by August 30, 1984. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing is scheduled for 1:00 p.m. in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227;

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio, 43227; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5124, 1100 "L" Street, NW., Washington, D.C.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43337; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 Federal Register (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions—(a), (b), (c), (d), (e), (f)(1)-(f)(10), (g), (h)(1)-(h)(3), (i)(1)-(i)(3), (j) and (k)(1)-(k)(5). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 Federal Register.

On June 5, 1984, OSM approved an amendment submitted by Ohio on December 28, 1983, to revise rule 1501:13-14-01 on inspection frequency and compliance reviews (49 FR 23178). The rule was in proposed form at that time and the notice stated that the

approval of the amendment would not be effective until promulgation of the rule. Ohio has not promulgated that rule and instead has submitted to OSM a rule which is similar to the rule OSM approved June 5, 1984, but which has been revised to include some additional provisions. The specific provisions of the revised rule are described below.

By letter dated July 23, 1984, Ohio submitted proposed regulations to revise the inspection frequency requirement and to revise the provision concerning compliance reviews.

Specifically the proposed amendment includes the following revisions to Ohio rule 1501:13–14–01 *Inspection:*

(1) Paragraph (A) is revised to include definitions for "inactive coal mining and reclamation operation," "active coal mining and reclamation operation", and "compliance review technician;"

(2) Paragraph (C) concerning partial inspections is revised to require such partial inspections of inactive operations as are necessary to ensure effective enforcement and to allow aerial inspections;

(3) Paragraph (D) concerning complete inspections is revised to require an average of at least one complete inspection per calendar quarter of each active and inactive operation; and

(4) Paragraph (K) concerning compliance reviews is revised to conform to the Federal rule at 30 CFR 840.16.

The full text of the proposed program amendment submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSM's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendment. The Director now seeks public comment on whether the proposed amendment is consistent with the Federal regulations. If approved, the amendment will become part of the Ohio program.

Procedural Matters

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 would 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 would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would 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 935

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

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

Dated: August 8, 1984.

J. Lisle Reed,

Acting Director, Office of Surface Mining.

[FR Doc. 84–21513 Filed 8–13–84; 8:45 am]

BILLING CODE 4310–05–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 82–122; FCC 84–380]

Interconnection Arrangements Between and Among the Domestic and International Record Carriers

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: On March 7, 1984, the United States Court of Appeals for the D.C. Circuit rendered a decision concerning a challenge to the Commission's Interim Order in this docket which implemented the Record Carrier Competition Act of 1981 (RCCA). This Further Notice treats the issues of originating/terminating carrier, pro rata distribution of revenues for international inbound calls and transiting arrangements for outbound calls in order to comply with the court's decision. The holdings of the court regarding these issues are cited in sections of the RCCA which sunset on December 29, 1984. This decision reversed and remanded to the Commission for further proceedings the aspects of its Interim Order relating to its designation of the originating/terminating carrier and the pro rata distribution formula. In view of its reversal of its pro rata formula, the court stated that the Commission may want to modify its transiting formula. In this Further Notice, the Commission reaches tentative conclusions on the aforementioned issues and requests comments on these tentatives conclusions.

DATES: Comments are due August 21, 1984. Reply Comments are due August 28, 1984.

FOR FURTHER INFORMATION PLEASE CONTACT: Margot F. Bester, International Policy Division, Common Carrier Bureau, Federal Communications Commission, Washington D.C. 20554, (202) 632–4047.

SUPPLEMENTARY INFORMATION:

Further Notice of Proposed Rulemaking

In the matter of interconnection arrangements between and among the domestic and international record carriers; CC Docket No. 82–122.

Adopted: July 31, 1984.
Released: August 6, 1984.

By the Commission.

I. Background

1. On March 7, 1984, the United States Court of Appeals for the District of Columbia Circuit rendered a decision [1] concerning a challenge of our implementation of the Record Carrier Competition Act of 1981 (RCCA or section 222).[2] The court reversed and remanded for further proceedings two aspects of our Interim Order.[3] Below we discuss the statute, our Interim Order and the court's decision. We then reach certain tentative conclusions as to appropriate future action.

2. *The Statute:* The RCCA, many provisions of which "sunset" pursuant to section 222(e) on December 29, 1984, lifted the statutory bar on the Western Union Telegraph Company's provision of international services and permitted its re-entry into the international market.[4] It also facilitated the expansion of the international carriers into the domestic market.[5] In addition to

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[1] Western Union Telegraph Company v. Federal Communications Commission *et. al.*, No. 82–1502 (D.C. Cir. March 7, 1984).

[2] 47 U.S.C. 222 (1981). Section 22 of the Act was rewritten by the RCCA.

[3] Interconnection Arrangements Between and Among the Domestic and International Record Carriers, 89 FCC 2d 928 (1982) (hereinafter "Interim Order.")

[4] Section 222(d).

[5] Id. Prior to passage of the RCCA, the record communications market was bifurcated. Western Union Telegraph Company dominated the domestic

Continued

encouraging the development of competition in the record communications market, the Act directs the Commission, in section 222(c)(1)(A)(i), to "require each record carrier to make available to any other record carrier, upon reasonable request, full interconnection with any facility operated by such record carrier, and used primarily to provide record communications service. Such facility shall be made available, through written agreement, upon terms and conditions which are just, fair, and reasonable, and which are otherwise consistent with purpose of this section." The RCCA also requires the pro rata allocation of international inbound record service transmissions,[6] interconnection between a carrier's domestic and international segments which is equal in type and quality and available at the same rates and upon the same terms and conditions as that furnished to an interconnecting carrier,[7] the establishment of a nondiscriminatory formula for the equitable allocation of revenues derived from interconnected transmissions,[8] and the establishment by each carrier of the total price charged to the public for any service originated by that carrier.[9] To implement these requirements, section 222(c)(3)(A) required the Commission to convene, monitor and preside over interconnection negotiations between and among the domestic and international record carriers.[10] The RCCA also required the Commission to prescribe interconnection arrangements if the Carrier negotiations failed to produce an agreement.[11]

3. *The Interim Order:* The carriers were not able to reach an agreement on the terms and conditions for interconnection within the forty-five and ninety day limits provided by the RCCA. Accordingly, the Commission, pursuant to the RCCA's mandate, conducted a rulemaking proceeding on an expedited basis and issued an Interim Order establishing the necessary technical and financial arrangements. In our Interim Order we prescribed interconnection arrangements for record communication services between and among domestic and international carriers. Thus, arrangements were prescribed for purely domestic transmissions as well as for interconnected international inbound and outbound calls. We also prescribed in a number of further orders in this docket specific tariff language and resolved particular technical issues.[12]

4. The following four aspects of our Interim Order were at issue in the case before the Court: (a) Whether the Commission erred in prescribing a 15% interim discount from a terminating carrier's publicly tariffed intra-network rate for an interconnected transmission; (b) whether the domestic or international record carrier should be deemed the originating carrier in charge of tariffing, billing and collecting; (c) whether the formula prescribed by the Commission for allocating revenues received for international outbound calls (transiting arrangements) is reasonable; and (d) whether the Commission had the authority to require that revenues received for international inbound calls, rather than the traffic, be distributed pursuant to a pro rata formula between interconnecting carriers.

5. *Court Decision:* On review, the D.C. circuit held that our decision to prescribe on an interim basis a 15% discount for interconnected transmissions from a terminating carrier's publicly tariffed intra-network rate was not reviewable.[13] And, the court affirmed our revenue allocation formula for the outbound transmissions of one carrier employing the facilities of another carrier on a transiting basis. However, the court reversed and remanded that part of our Interim Order designating the international carrier as the originating carrier on calls outbound from the United States and requiring the pro rata distribution of revenues received for a portion of inbound calls.

6. As to the originating carrier for outbound calls, the court stated in its holding that both the language and the legislative history of the statute indicated that the domestic carrier that initiates an outbound call is the originating carrier and is responsible for tariffing, collecting and billing the entire call. As to pro rata, the court stated that Congress' intent in enacting that provision was to require carriers to physically distribute a portion of international inbound *traffic*. The court saw nothing in the statute giving us authority to transform this traffic (service) distribution requirement into a revenue distribution scheme. The court concluded that if Congress' prescribed scheme to distribute traffic pro rata was unworkable, as we had determined, then the Commission must return to Congress and seek appropriate legislation.[14]

II. Discussion

7. We are issuing this Further Notice of Proposed Rulemaking to treat the issues of originating/terminating carrier,[15] pro rata distribution of revenues for international inbound calls, and transiting arrangements for international outbound calls. Our tentative conclusions and the basis for each are discussed below.

8. *Pro Rata Distribution of Inbound Traffic:* In our Interim Order, we did not interpret the pro rata return flow provision of section 222(c)(1)(A)(ii) as necessitating the actual physical distribution of inbound traffic.[16] We believed such a physical distribution of traffic to carriers without operating agreements to be technically unworkable since international inbound traffic is only theoretically switched from the foreign administrations to American carriers at mid-ocean (or in a satellite). No actual switch exists at mid-ocean and there is no other existing switch that could reallocate traffic as contemplated in the statute. In order to physically distribute the traffic, extensive switching and transmission

market but was prohibited under the old section 222 from engaging in the direct provision of international services. The international carriers were authorized to provide international record communications services through a limited number of gateway cities.

[6] Section 222(c)(1)(A)(ii).

[7] Section 222(c)(1)(B). This section does not "sunset" under section 222(e).

[8] Section 222(c)(2).

[9] Id.

[10] The Western Union Telegraph Company (WU) and Graphnet, Inc. (Graphnet) participated in the interconnection negotiations as domestic record carriers. ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), Western Union International, Inc. (WUI), FTC Communications, Inc. (FTC), TRT Telecommunications Corporation (TRT) and International Relay, Inc. (IRI) participated as primary existing international record carriers.

[11] Section 222(c)(3)(B).

[12] *See* e.g., Rejection Order, FCC 82-264, released June 11, 1982. Memorandum Opinion, Order, and Request for Further Comments, FCC No. 83-84 (released April 11, 1983). Memorandum Opinion and Interim Order, FCC No. 83-84 (released March 14, 1983).

[13] *See* The Western Union Telegraph Co., 67 FCC 2d 924 (1978).

[14] In view of its reversal of our pro rata distribution formula for inbound calls, the court stated that we *may* want to modify our transiting formula.

[15] It must be emphasized that the pro rata, transiting, and originating/terminating holdings of the court interpreted sections of the RCCA which sunset on December 29, 1984.

[16] Section 222(c)(1)(A)(ii) provides as follows:

(I) Subject to the provisions of subclause (II), if a request for interconnection under clause (i) is for the purpose of providing international record communications service, then the agreement entered into under clause (i) shall require that the allocation of record communications service between points outside the United States and points of entry in the United States shall be based upon a pro rata share of record communications service between points of exit out of the United States and points outside the United States provided by the carrier making such request for interconnection.

(II) The requirement established in subclause (I) shall not apply in any case in which the customer requesting any record communications service between a point outside the United States and a point of entry in the United States has the option to specify the international record carrier which will provide such record communications service.

modifications would be required. Because we believed that switching modifications would not serve the public interest, we attempted to accomplish what we perceived as the intent of this provision by interpreting the clause as permitting a pro rata division of revenues.

9. The court disagreed with our interpretation of the statute and stated that the statutory language empowered us to order only a pro rata distribution of inbound services, not revenues. The court also stated that the legislative history plainly indicated that the pro rata requirement was intended to govern the physical distribution of traffic. The court held that the Commission lacked the authority to require a pro rata distribution of revenues for inbound services when it proved technically infeasible to physically redistribute traffic in the manner dictated by Congress. It stated that if the scheme prescribed by Congress was unworkable, then "the FCC must return to Congress and seek appropriate legislation" . . . but could not "attempt to write a new statute out of whole cloth.".

10. We believe for the reasons discussed in our earlier order that the pro rata scheme prescribed by Congress, as interpreted by the court, is technically unworkable at this time. We welcome a legislative solution to guide us in resolving this impasse, but are aware that because the section sunsets at year's end, it may not be forthcoming in time to be of assistance. Under our Communications Act authority to address any public interest concerns, competitive or otherwise, we tentatively conclude that a pro rata distribution of traffic as found in section 222(c)(1)(A)(ii) cannot be implemented during the period remaining prior to this section's sunset date of December 29, 1984.

11. *Transiting Arrangements:* In order to compensate for the unwillingness of foreign administrations to grant operating agreements, international carriers without operating agreements have historically entered into transiting agreements with other international carriers which possessed the necessary operating authority to deliver traffic to a particular foreign administration. The financial aspects of these interconnection agreements have reflected the superior negotiating position of carriers with operating agreements. Therefore, we prescribed in our Interim Order that new transiting tariffs be filed which resulted in increased economic benefit flowing to the carrier without the operating agreement. We prescribed that where carriers interconnect to handle outbound telex traffic on a transiting basis, the originating outbound international carrier will first pay the transiting international carrier an amount equal to the payout to the foreign administration. We also required that the originating outbound international carrier will pay the transiting international carrier an additional sum for the use of its facilities. The formula prescribing this additional sum is as follows: The transiting international carrier will receive one half of the initiating carriers domestic rate plus one half of its own international rate after subtracting out the amount already received for the foreign administration.[17]

12. The court affirmed our transiting formula and stated that we acted reasonably in prescribing that revenues be split between the originating international carrier and the transiting international carrier after the foreign payout is accounted for. However, in its decision, the court remanded to us this aspect of our Interim Order so that we *might* choose to modify this formula in light of its reversal of the pro rata distribution of revenues from inbound calls.

13. We believe that the transiting arrangement prescribed in the Interim Order is fair and equitable and is not affected by the Court's action on pro rata adjustments. We do not choose to modify the revenue allocation formula prior to its sunset. We tentatively conclude that the transiting arrangements should remain intact.

14. *Originating/Terminating Determination:* In our Interim Order, we determined that for purposes of interconnection for handling international outbound calls, the international carrier would be considered the originating carrier and tariff through rates. In this role, the international carrier would bill the customer for the entire through rate, collect that amount from its customer and compensate the domestic carrier for its costs. This compensation would be 85% of the domestic carrier's intra-network rate, as the 15% carrier-to-carrier discount for interconnected calls would apply.

15. We believed that classifying carriers as "originating" or "terminating" was logical for interconnected domestic transmissions but made little sense when describing the roles assumed by U.S. carriers for interconnected international calls, since both carriers could perform originating and terminating functions and the functions performed by foreign administrations best resembled terminating carrier activities. Furthermore, since these terms were not found in the RCCA itself, but only in the Committee Report, we concluded that we had the discretion to designate either the international or domestic carrier to act as the originating carrier for interconnected international outbound service. We viewed the statute as merely permitting each carrier to tariff a rate (its total price) and to be compensated at that level.

16. The court disagreed with our interpretation of the Act and held that our decision to have the tariff, billing and collection functions performed by the international carrier could not be reconciled with the RCCA's language. The court found that section 222(c)(2)[18] clearly dictates that the carrier on whose network a service starts is responsible for setting the total price for the service and charging the public. The court interpreted the language and history of the statute to specify that the Commission must designate the domestic carrier as the originating carrier for international record traffic.[19]

17. To implement the court's interpretation of the RCCA, all record carriers will be required to make operational, billing and tariff changes to long-established practices. To begin this process, we directed Western Union and all other originating carriers to submit information and an interconnection plan to demonstrate their technical ability to perform these functions. These comments were filed May 21, 1984. Public meetings were held on May 31, June 11, and June 18, 1984 to discuss these proposals and establish a tariffing, billing and collection arrangement consistent with the court's decision. Further comments were filed by the negotiating parties on June 21, 1984.[20]

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[17] 89 FCC 2d at 960-963.

[18] Section 222(c)(2) provides that a carrier "shall have the right to establish the total price charged by such party to the public for any such service which is originated by such party."

[19] We view the court's decision as applying to real time transmissions only for reasons given in our *MOSO*, 93 FCC 2d 159 (1983).

[20] The carriers may 21, 1984 filings and all subsequent filings, if any, will be included in the record of this proceeding. The following international carriers participated in the negotiations: Western Union Telegraph Company (WUT); MCI/WUI; FTC Communications Inc. (FTCC); TRT Telecommunications Corporation (TRT); RCA Global Communications Inc. (RCA); ITT World Communications Inc. (ITT); and Puerto Rican Communications Authority (PRCA); and International Relay, Inc. (IRI).

16. The carriers reached agreement on some aspects of a tariffing, billing and collection arrangement and were unable to reach agreement on others. We will reach tentative conclusions as to all the issues regarding these operational arrangements so that this provision, as interpreted by the court, may be implemented as expeditiously as possible. Our tentative conclusions will generally reflect the positions of the participants to the negotiations on those issues where an agreement has been reached.[21]

19. Each originating carrier is entitled to waive its right to bill tariff and collect for traffic originating on its network and carried over the international facilities of another carrier. (In a waiver situation, the international carrier would continue to bill and tariff as it does today.) It appears that all the carriers represented at the negotiations except Western Union are prepared to waive their right to bill for such traffic. Western Union agreed to bill and collect for traffic originating on the networks of other cariers which utilized Western Union's international facilities. As a result, only Western Union will receive billing information from other carriers.

20. *The Negotiations.* The following ten issues were discussed during the course of the negotiations: (1) Format of the domestic carrier's bill; (2) treatment of bad debts; (3) continuation of the international carriers Early Payment Credit (EPC) programs; (4) protection of proprietary data against improper disclosure and use by competitors; (5) format of the magnetic tape to be provided to the domestic carrier by the international carrier; (6) treatment of non-billable calls; (7) date of settlements; (8) disavowed calls; (9) date of implementation; and (10) the carrier to bear the expenses incurred in altering current billing arrangements.

21. *Format of the domestic carrier's bill.* The parties agreed to accept the bill format developed by Western Union. The bill format specifies the date and time of call, the expense number, the number of minutes, the destination, the rate, the amount charged and the international carrier selected by the customer. As noted above it appears that only Western Union intends to bill as a domestic carrier for interconnected international calls. Therefore, we tentatively conclude that the bill format developed by Western Union and distributed to the parties at the June 18 meeting is acceptable.

22. *Treatments of bad debts.* The parties agreed that all costs associated with bad debts (completed calls, not disavowed by the customer but uncollectable by the billing carrier) should be absorbed by the billing domestic carrier. We therefore tentatively conclude that the billing domestic carrier shall absorb the cost of bad debts.

23. *Continuation of the international carrier's Early Payment Credit (EPC) programs.* The EPC is a tariff provision which provides that a customer which pays its bill within 10 days is entitled to a credit of 5% of such bill to be applied against the next month's traffic. It is currently offered by the international carriers to their own subscribers and subcribers of other carriers using a particular international carrier's services. Western Union does not have an EPC program. Currently, the terminating carrier applies this credit on the through service. Since the originating carrier would now bill the through service, it would be the carrier responsible for offering this credit. We tentatively conclude that the EPC is related to the billing function governed by each carrier's tariff provisions. The billing carrier may apply such a credit on its bill for its own customers and for those customers of other interconnected carriers in a manner consistent with the "fair and equal" provision of the RCCA.[22]

24. *Protection of proprietary data against improper disclosure and use by competitors.* The international carriers were concerned that proprietary information would be disclosed with the furnishing of billing tapes to the originating carrier. The parties agreed to execute a non-disclosure statement and requested that such a statement or protective order would be incorporated into any subsequent Commission interconnection order. We tentatively concluded that such a protective order is in the public interest and will be incorporated into any subsequent Commission interconnection order.

25. *Format of the magnetic tape to be provided to the domestic carrier by the international carrier.* With the exception of ITT, the carriers agreed to furnish billing information to Western Union on a monthly basis. The parties agreed generally that the billing data should be exchanged in machine-readable magnetic tape form of the most efficient use by the billing carrier. The parties also agreed on the format for the magnetic tape. We tentatively conclude that all international carriers shall furnish billing information to Western Union on a monthly basis. The format of the tape shall be as agreed to by the parties, a copy of which is attached as Appendix A.

26. *Treatment of Non-Billable Calls.* These are calls that cannot be billed for a variety of reasons, such as the inability to match answerbacks to customer identification. The parties agreed that the domestic (billing) carriers will absorb all lost revenues associated with this problem and will pay the international carrier its normal tariffed international component. We tentatively conclude that the domestic carrier shall absorb the losses for non-billable calls and pay the international carrier its normal tariffed international component.

27. *Date of Settlements.* Currently, settlements between carriers as set forth in their respective tariffs. Western Union's existing tariff contains a provision requiring payment to be received within 30 days after rendition of its bill, with an interest charge of 18% per year applicable to unpaid balances due and owing from the international carriers. The international carriers want the same terms to apply to them now that they are no longer the billing carriers. Western Union suggested that the settlement period for both inbound and outbound traffic should be 60 days after rendition of a bill with a late payment charge of 12% per year. The carriers could not agree as to settlement terms. Unless the parties can reach some accord, we must prescribe arrangements for settlement. We tentatively conclude that payment must occur within 60 days for both inbound and outbound traffic after rendition of a bill with an interest rate of 15% per year applicable to unpaid balances due. We believe that this solution will give the domestic carriers a reasonable time in which to settle with its international carriers.

28. *Disavowed calls.* These are calls that the customer legitimately believes should not be paid for either because the customer did not make them, or the calls were disconnected in transmission or were garbled. Currently, the billing international carrier absorbs the entire cost associated with disavowed calls. Western Union believes that it should not have to absorb these costs because unlike the international carrier, it does not have the opportunity to deduct from its overseas payment amounts related to such disavowed calls. We believe that the costs associated with disavowed calls should be borne by the billing

[21] In this connection it is important to note that although ITT attended and participated in the negotiating sessions, it did not agree to provide Western Union with billing data at this time. Therefore, any consensus agreement on issues which we indicate was reached by the parties does not include ITT.

[22] See section 222 (c)(1)(A)(i). This section of the RCCA does not sunset on December 29, 1984.

carrier since the billing domestic carrier deals direclty with the customer complaint and therefore has the incentive to investigate the situation carefully. Accordingly, we tentatively conclude that the entire cost associated with disavowed calls should be borne by the billing carrier.

29. *Date of Implementation.* The parties could not agree to a date for the implementation of these technical and billing arrangements. We tentatively conclude that the carriers must file new tariffs by October 1, 1984, and that October 15, 1984 will be the effective date for implementation of the new arrangements barring any difficulties in implementing the new arrangements.

30. *The carrier to bear the expenses incurred in altering billing arrangements.* The carriers were unable to reach agreement on this issue. The international carriers believed that Western Union should bear the whole cost for the new billing arrangements. Western Union believes that each carrier should bear its own costs for conforming to the Commission's interconnection requirements. Western Union's position is consistent with the one we took in governing previous interconnection arrangements under the RCCA.[23] Accordingly, we tentatively conclude that each carrier should bear its own costs in converting to this system of billing.

III. Procedures

31.We recognize that important business and technical issues confront the parties. Nevertheless, we urge the negotiating parties to reach a negotiated settlement regarding the originating/terminating carrier issue which would become part of the record in this rulemaking and be subject to Commission review. We intend to carefully analyze all the pleadings submitted in response to this Further Notice of Proposed Rulemaking and to prescribe, if necessary, interconnection arrangements as required by the RCCA. We invite all interested entities to submit comprehensive filings on the transiting, pro rata and originating/terminating issues identified above. Our analysis pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, is that this statute does not apply to the matters under consideration here.

32. It is further ordered, that for purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

33. Accordingly, It is ordered that, pursuant to sections 4(i), 4(j), 201, 202, 205, 222 and 403 of the Communications Act of 1934, as amended and section 553(b) of the Administrative Procedure Act, the rulemaking in this matter is continued.

34. It is further ordered that, interested entities shall file comments regarding the issues discussed in this Notice August 21, 1984. Replies shall be filed August 28, 1984. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

35. It is further ordered that, in accordance with the provisions of §1.419 of the Commission's Rules and Regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street, NW., Washington, D.C.

36. It is further ordered that the Commission's Secretary shall mail a copy of this Further Notice of Proposed Rulemaking to the Chief for Advocacy of the Samll Business Administration and have a copy of this Further Notice of Proposed Rulemaking published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—MAG TAPE FROM IRCs

File Description

Code: EBCDIC (9-Track)/ASCII (8 Track)
Labels: No labels
Record Length: 150
Block Length: 3900
Density: 1600/6250 BPI

Record Description

Field No.	Position	Number characters	Definition	Comment
Header record:				
H1	1–2	2	Carrier ID	Alpha.*
H2	3–8	6	Date tape created	MMDDYY (based on Eastern time).
H3	9–12	4	Identification	HDR space.
H4	13–150	138	Filler	Spaces.
Data Record:				
D1	1–2	2	Carrier ID	Alpha.*
D2	3–8	6	Connect date	MMDDYY (Based on Eastern time).
D3	9–12	4	Connect time	HHMM–2400 time.
D4	13–17	5	Rounded international billable time	Minutes-MMMM.M right justified with lead zeros.
D5	18–37	20	Originators answerback	Alpha numeric and special characters, left justified space filled.
D6	38	1	Originator type	Numeric 0 = TLX Numeric 1 = TWX.
D7	39–41	3	Destination country code	IRC country code.
D8	42–54	13	Destination dial No.	Left justified, space filled.
D9	55–63	9	International component billable amount	Dollars and cents NNNNNNN.NN right justified with lead zeros.
D10	64–70	7	International rate per minute	Dollars and cents NN.NNNNN right justified with lead zeros.
D11	71–77	7	Reference No.	Numeric, right justified with lead zeros.
D12	78–98	21	Departmental code	Alpha-numeric and special characters, left justified, space filled.

[23] *See* Interim Order at p. 955.

Field No.	Position	Number characters	Definition	Comment
D13	99–100	2	Segment code	Number of segments, right justified with lead zeros (00 if none, otherwise 02 thru 99).
D14	101–102	2	Iteration	Segment, number right justified with lead zeros, starting with 01 (00 if segment code=00).
D15	103–150	48	Filler	Spaces.
Trailer record:				
T1	1–2	2	Carrier ID	Alpha.*
T2	3–8	6	Record count	Numeric, right justified with lead zeros.
T3	9–12	4	Identification	TRLR.
T	13–150	138	Filler	Spaces.

*Carrier ID's are:
UB—GRAPHNET
UD—WUTCO
UF—FTCC
UI—ITT
UR—RCA
UT—TRT
UW—WUI
Note.—Spaces=HEX 40

WUTCO Definition of IRC Magnetic Tape Billing Data

The following is Western Union Telegraph Company's version of the field definitions for the proposed Magnetic Tape to be used for IRC's billing of International traffic sent by their subscribers via a different IRC.

Each carrier can select the code (EBCDIC or ASCII) to be used on the magnetic tape to exchange with the other carriers as well as the density (1600 or 6250 bits-per-inch). The record length will be 150 characters with a block length of 3900 characters (blocking factor of 26)—

The following is a further elaboration on the comments column for field numbers shown on the attached Magnetic Tape Description Chart, to further define WUTCO's understanding of its functionality.

Field No.	Description
D2	This 6 character field is used to contain the month (01 to 12), the day (01 to 31) and year (84, 85, etc.) of the connected call, that will be printed on the bill. It can be either the date of initial connection or of disconnect and is based on local Eastern time.
D3	This is the time of initial connection between the calling and called terminals base on 2400 time (0001 to 2400). This is always expressed in local eastern time.
D4	This is the elapse rounded International billable time as calculated by the delivering carrier. The time is expressed in whole minutes and tenths of minutes (e.g. 100.1, 9999.0, 1.0). This is the time used to derive the domestic usage time in order to calculate domestic usage charges.
D5	This is the originator answer-back as captured by the delivering carriers switch to be used to bill the call to the calling terminal. The rules for character conversion (e.g., plus sign to space, pound sign to NBR etc.) will be provided by all carriers so that proper identification of the calling terminal can be accomplished.
D9	The amount of money in U.S. dollars and cents to be billed for the international portion of the call as calculated by the delivering IRC based on its tariffs.
D10	International rate per minute of usage for this call as contained in the delivering carriers tariffs (e.g., 01.42718).
D11	Reference number as provided by delivering carrier and printed at calling terminal for reference purposes.
D12	21 character department code which can be any alpha (A to Z) or numeric (0 to 9) character plus any of the following special characters: !"$%&'()*:—=,/?;+@.
D13	The segment code is used to indicate that a single message has been sent to one destination containing multiple department codes. If this code is numeric "00" there can only be one segment for the message, with or without a department code. If this field contains a numeric value from 02 to 99, it then represents the number of segments (each with its own department code) into which the message has been divided. Each segment will have a data record with its department code and other applicable fields. All data records for a single segmented message will appear sequential, with no intervening data records, on the magnetic tape file. The elapsed rounded International billable time (Field D4) for each segment data record will be added together and used to calculate the domestic component charges for the message. The total domestic charge will then be distributed on a pro rata basis to each segment of the message.
D14	Iteration number of each segment of a single message. Each segment is numbered sequentially in ascending order from 01 to 99 and each data record has the same reference number for each segment.

[FR Doc. 84–21454 Filed 8–13–84; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 84–758; RM–4733]

TV Broadcast Station in Crystal River, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF television, Channel 39 to Crystal River, Florida, as that community's first local television broadcast service, in response to a petition filed by William F. Parrish.

DATES: Comments must be filed on or before October 1, 1984, and reply comments must be filed on or before October 16, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Stanley Schmulewitz, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations, (Crystal River, Florida); MM Docket No. 84–758, RM–4733.

Adopted: July 30, 1984
Released: August 10, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by William F. Parrish ("petitioner"), requesting the assignment of UHF television Channel 49 to Crystal River, Florida, as that community's first local television broadcast service. Petitioner states that he will apply for any channel the Commission may assign in response to his requests.

2. Crystal River (population 2,778),[1] in Citrus County (population 54,703), is location on the west coast of Florida, approximately 120 kilometers (75 miles) northwest of Orlando.

3. A staff engineering study reveals that UHF television Channel 49 at Crystal River would be short-spaced to Channel 49 in Bainbridge, Georgia, since the two communities are approximately 183 miles apart, whereas 205 miles is required between co-channel assignments. However, Channel 39 can be assigned to Crystal River consistent with the minimum distance separation requirements of § 73.610 and 73.698 of the Commission's Rules. Therefore, we shall propose to assign Channel 39 to Crystal River in lieu of Channel 49.

4. Interested parties may file comments on or before October 1, 1984, and reply comments on or before October 16, 1984, and are advised to read the Appendix for the proper procedures. Normally, such interested parties are required to serve copies of their comments on the petitioner. However, here the Commission has no official documentation indicating the petitioner's address. According to the provisions of § 1.52 of the Commission's Rules, the petitioner, in this instance, is required to state his address, which is then used by the Commission in serving comments or directing correspondence thereto. If the petitioner herein fails to comply with the foregoing requirements,

[1] Population figures were extracted from the 1980 U.S. Census.

it will ultimately lead to a denial of his request.

5. In view of the fact that the proposal could provide a first local television service to Crystal River, we believe it warrants consideration. Therefore, we shall propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Crystal River, Florida	—	39

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requiremens are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR. 11549, pubished February 9, 1981.

8. For further information concerning this proceedings, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until that matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner consitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1062, 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-21494 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 504

[GSAR Notice No. 5–60]

Administrative Matters

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) Chapter 5, concerning Part 504, Administrative Matters. The proposed change will permanently incorporate the contents of Acquisition Circular AC–84–1 on contract distribution into the regulation and will make miscellaneous other changes in GSA's uniform procurement instrument identification system. The intended effect is to improve the acquisition regulation system.

DATE: Comments are due in writing not later than September 13, 1984.

ADDRESS: Requests for a copy of the proposal or your comments should be addressed to Ms. Carol A. Farrell, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, 18th & F Sts., NW., Room 4027, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, (202) 523–4754.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that 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.) therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection

requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 504

Government procurement.

Dated: August 7, 1984.

Ida Ustad,

Acting Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 84-21473 Filed 8-13-84; 8:45 am]

BILLING CODE 6820-61-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[No. 38793 (Sub-1)]

Petition for Rulemaking; Standards for Determining Appropriate Rates for Intrastate Rail Transportation; The Public Service Company of Indiana, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of denial of petition to institute rulemaking.

SUMMARY: The Public Service Company of Indiana, Inc., has petitioned for the institution of a rulemaking proceeding to consider certain issues that have arisen under 49 U.S.C. 11501(c), pursuant to which the Interstate Commerce Commisson reviews actions taken by State regulatory agencies affecting intrastate railroad rates. Petitioner asks that such a proceeding explore: (1) The relationship between the "appropriate rate" to be "authorized" under section 11501(c), on the one hand, and, on the other, "reasonable rates" and "rate prescriptions" as these terms are used elsewhere in title 49; (2) what decisional standards are applicable in maximum rate reasonableness proceedings arising under section 11501(c); and (3) whether the Commission may or must refer a proceeding back to the appropriate State regulatory agency where further development of the record is necessary to make an informed decision. These are questions that can adequately be determined on a case-by-case basis as individual proceedings presenting them come before the Commission. Institution of the action requested is not necessary, and failure to institute a rulemaking proceeding as requested will not result in the continuation of any practices that are inconsistent with the public interest or that do not conform to the Interstate Commerce Act.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's full decision in No. 38793 (Sub-No. 1), *Petition for Rulemaking—Standards for Determining Appropriate Rates for Intrastate Rail Transportation* [not printed], served August 10, 1984. To purchase a copy of this decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

This action will not significantly affect the quality of the human environment, energy conservation, or a substantial number of small entities.

Authority: 5 U.S.C. 559; 49 U.S.C. 10321 and 10326.

Decided: August 7, 1984.

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

James H. Bayne,

Secretary.

[FR Doc. 84-21484 Filed 8-13-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking filed by the New York State Trial Lawyers Association (NYSTLA), asking this agency to include high speed performance and endurance testing in its standard for retreaded passenger car tires. NYSTLA stated in its petition that retreaded passenger car tires pose "a life-threatening hazard to the driving public", and that further performance testing was needed for these tires. This agency had no data which showed that the performance of retreaded passenger car tires posed significant hazards to the driving public, and asked NYSTLA to forward the data which formed the basis for their opinion that those tires do pose such hazards. NYSTLA never responded to that request. Since NHTSA has no data corroborating the NYSTLA assertions about the performance of retreaded passenger car tires, and NYSTLA has furnished no such data, the petition must be denied.

FOR FURTHER INFORMATION CONTACT: Mr. Arturo Casanova, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION: NYSTLA filed a petition with this agency on August 6, 1982, asking for amendments to Standard No. 117, *Retreaded pneumatic tires—passenger cars* (49 CFR 571.117). Standard No. 117 currently sets forth requirements for the carcasses to be retreaded, and dimensional, strength, resistance to bead unseating, and labeling requirements for the finished retread. However, NYSTLA asserted that in spite of these requirements, retreaded passenger car tires experienced a high number of failures while in service on the public roads, and that these failures posed a significant hazard to the motoring public. Accordingly, NYSTLA asked this agency to amend Standard No. 117 to include some high speed performance and endurance requirements.

The agency had no data which could form a basis for the requested amendment to Standard No. 117, and no data showing that those retreaded tires experience a disproportionately high number of failures. Accordingly, the agency sent a letter dated September 8, 1982 to NYSTLA asking them for the information and data which formed the basis for their assertion that retreaded passenger car tires posed a safety problem on the public roads. NHTSA received no response to that letter. A letter dated May 14, 1984 was sent by the agency to NYSTLA informing them that we had not received any information and data in support of their petition, and that if NHTSA did not receive such information and data by May 31, 1984, the NYSTLA petition would be denied. Again no reply was received from NYSTLA. Hence, the petition is hereby denied, because this agency has no data showing the existence of any safety problem associated with retreaded passenger car tire failures.

The denial of the NYSTLA petition is based on a consideration of the data currently available to the agency. Should some further data become avialable indicating that Standard No. 117 is inadequate, the agency will take appropriate actions.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 8, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-21550 Filed 8-13-84; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

Standard No. 209, Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking, submitted by Mr. Michael A. Dilich, to change the performance requirements of Safety Standard No. 209, *Seat Belt Assemblies*, for emergency locking retractors used on seat belts. Mr. Dilich proposed changes in the locking requirements of the standard and suggested the need for changes in the design of some types of retractors. Based on a review of the information submitted by the petitioner, the agency has concluded that there is no evidence to indicate that the current locking requirements of the standard pose a safety problem. The agency will, however, seek additional information from the petitioner to determine whether the locking mechanism in certain retractors may pose a risk to motor vehicle safety.

FOR FURTHER INFORMATION CONTACT: Mr. William Smith, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2242).

SUPPLEMENTARY INFORMATION: In October 1983, Mr. Michael A. Dilich filed a petition with the agency concerning Standard No. 209, *Seat Belt Assemblies*. Mr. Dilich's petition raised two issues. The first concerns the performance requirements set by the standard for when emergency locking retractors must lock. Mr. Dilich noted that section 4.3 of the standard currently allows a manufacturer to use a retractor that will lock at any level of acceleration between 0.27 g and 0.7 g. He stated that during moderate braking a relaxed occupant could move forward before the retractor locks up. If a collision were to occur, Mr. Dilich said that the occupant would be closer to the windshield and instrument panel and the probability of a contact and possible injury would be increased.

Mr. Dilich has correctly summarized the performance requirements of the standard for emergency locking retractors. Section 4.3 of standard No. 209 requires a retractor to lock when it is subject to an acceleration of 0.7 g. It also requires that, in the case of a webbing sensitive retractor, a retractor not lock when subjected to an acceleration of 0.3 g or less, or, in the case of a vehicle sensitive retractor, not lock up when the vehicle is at any angle of 15 degrees or less. The purpose of the requirements is to ensure that a retractor will lock up during a crash, yet not lock up during normal driving and braking maneuvers. The agency is not, however, aware of any accident data indicating that the current requirements pose an actual risk to occupant safety.

The agency is also concerned that changing the acceleration requirement may pose additional design problems. In the case of a webbing sensitive retractor, if the retractor is required to lock up at a lower acceleration level, it could lock up during normal movement of the webbing as the occupant dons a safety belt. In the case of a vehicle sensitive retractor, lower lock-up levels could cause the retractor to lock when the vehicle is parked on hills or is otherwise on an incline, thus preventing the entering occupant from donning the belt until the vehicle is on a more level surface. Such a result could reduce the convenience of current safety belts and lower belt usage.

The second issue raised by the Dilich petition concerns the design of certain emergency locking retractors which use a simple pawl/ratchet locking mechanism. Mr. Dilich said that such a design permits contact between the edge of the lockng pawl (the device which actually locks the retractor and prevents further movement of the webbing) and the tips of the ratchet found on the spool that contains the webbing of the safety belt. He argued that the locking pawl can hang up on the ratchet wheel tooth and prevent full engagement of the locking pawl. The pawl could then slip off or shear off the ratchet tooth as a safety belt is loaded during a crash. If that happens, the pawl might not engage at all, permitting the webbing of the safety belt to spool out during the crash. The occupant would thus be only partially restrained by the safety belt.

At present, Standard No. 209 does not have a specific performance requirement to ensure that a locking pawl fully engages a ratchet tooth during lockup. The standard does, however, have a test which requires the retractor to be actuated a specific number of times during a webbing extension test.

The agency does not have any accident data to indicate that there is a locking pawl/ratchet problem in current retractors and therefore does not intend too propose any change to the retractor locking requirements at this time. The agency is, however, seeking additional information from Mr. Dilich about the specific retractor designs he has tested.

Issued on August 8, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-21549 Filed 8-13-84; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold public hearings to allow for input on Amendment 5 to the Fishery Management Plan for the Surf Clam and Ocean Quahog Fisheries (FMP).

DATES: Written comments will be accepted until August 30, 1984. The hearings are scheduled to begin at 7:00 p.m. on August 27 in Salisbury, Maryland, and on August 28 in Cape May, New Jersey. All hearings will be tape recorded with the tapes filed as the official transcript of the hearing.

ADDRESSES: Send comments to John C. Bryson, Executive Director, Mid-Atlantic Fishery Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware 19901.

The public hearings are scheduled to begin at 7:00 p.m. and will be held at the following locations:

August 27, 1984—

Sheraton Salisbury Inn, 300 S. Salisbury Boulevard, Salisbury, Maryland

Government Center, Tower Hill Road, Wakefield, Rhode Island

August 28, 1984—

Cape May County Extension Office, Dennisville Road, Cape May Court House, New Jersey

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware 19901, 302-674-2331.

SUPPLEMENTARY INFORMATION: The FMP currently states: "No person shall

harvest or possess surf clams smaller than 5.5" length." Amendment 5 would change that provision to read:

There is a surf minimum size limit. After consultation with the Council and opportunity for public comment, the Regional Director shall adjust, by increments no less than 0.25", as necessary so that discards on the average do not exceed 30 percent of the trip catch. In no event shall the size limit be less than 4.75". When data indicate the clams have grown sufficiently, the limit would be increased, ultimately reaching the 5.5" limit. There is a tolerance of 240 undersized clams per cage but no more than 50 clams per cage under 4.75". If any cage is in violation of the size limit, the entire load is in violation. In adjusting the size limit the Regional Director shall consider current stock assessments, catch reports, and other relevant information concerning the size distribution of the surf clam resource. No person shall harvest or possess surf clams smaller than the minimum size limit.

The amendment also adds the requirement that all surf clam cages must be tagged before leaving the vessel and that tags may not be removed until cages are emptied at the processing plant.

Also, the amendment adds the provision that all surf clams landed on a fishing day authorized for the fishery conservation zone (FCZ) are assumed to have been caught in the FCZ and are subject to the Federal size limit.

Dated: August 9, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-21482 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 40899-4099]

Ocean Salmon Fisheries Off the Coast of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement an amendment to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP). This amendment is a multi-year management plan that describes the processes by which the ocean salmon fishery will be managed, including when, how, and within what limits regulatory changes will be made and the estimated ranges of the resulting impacts. This framework amendment provides the mechanism for making preseason and inseason adjustments in the regulations without annual amendments to the FMP. Management under this rule will be administratively less cumbersome than under current rules and will allow more timely response to the needs of the ocean salmon fisheries and to changes in the condition of the salmon resource.

DATE: Comments about the amendment and proposed rule are invited until September 21, 1984.

ADDRESSES: Send comments to: Dr. T.E. Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN CI5700, Seattle, WA 98115; or Mr. E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the framework amendment, including the supplemental environmental impact statement and the regulatory impact review/initital regulatory flexibility analysis, are available from the Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. T.E. Kruse, 206-526-6150; Mr. E.C. Fullerton, 213-548-2575; or Joseph C. Greenley, Pacific Fishery Management Council, 503-221-6352.

SUPPLEMENTARY INFORMATION:

Background

Under the Magnuson Fishery Conservation and Management Act (Magnuson Act), the FMP was prepared by the Pacific Fishery Management Council (Council), and was approved by the Secretary of Commerce (Secretary) on March 2, 1978. Regulations to implement the FMP were first published on April 14, 1978 (43 FR 15629), as emergency regulations. From 1979 to 1983, the Council amended the FMP annually to establish each year's regulations according to salmon abundance estimates and social and economic factors affecting the fisheries. The 1984 reglations were implemented by emergency action without amending the FMP (49 FR 18853, May 3, 1984). These emergency regulations will remain in effect until midnight, Pacific Standard Time, October 28, 1984, after which the 1983 regulations (48 FR 45263, October 4, 1983) will again be effective.

The Council's long-term goal is to develop a comprehensive plan for management of all important salmon stocks. As a first step, the Council developed the framework amendment to obviate the cumbersome and time-consuming process of amending the plan annually.

The major purposes of the framework amendment are to: (1) Reduce the time required to implement Council recommendations; (2) allow more time for the preparation of documents required for annual modifications; (3) reduce the number and length of duplicative planning documents; (4) reduce the administrative costs of management; (5) provide the public with a better understanding of the criteria and procedures used to set management measures; and (6) maximize the opportunity for public comment.

Development of the framework amendment by the Council began two years ago. A draft document was distributed to interested parties for review in March 1983. Comments were invited and six public hearings were held March 30–April 1, 1983. Because of the complexity of the issues and changes made in the draft, the Council distributed a revised draft, again invited comments, and held additional hearings October 18–20, 1983. The Council sought additional public input on objectives, spawning escapement goals, methods of allocation between ocean commercial and recreational fisheries, and the process and schedule for making preseason and inseason adjustments to the ocean salmon regulations.

After considering the comments received during the comment period, at the public hearings, and during the November and December 1983 Council meetings, and after lengthy discussions with the Salmon Plan Development Team, the Salmon Advisory Subpanel, and the Scientific and Statistical Committee, the Council made its final selection of options for the framework amendment at the January 11–12, 1984, meeting in Portland, Oregon.

Under the framework amendment approved by the Council, certain management measures and principles are fixed to provide a long-term management system which cannot be altered without a plan amendment. Other measures are flexible and may be changed annually or during the season according to procedures specified in the amendment.

The fixed measures are the fishery management unit, the management objectives, the method of determining optimum yield and spawning escapement goals, the basis for allocating between the ocean commerical and recreational fisheries, and the procedures and schedules for making preseason and inseason adjustments to the regulations.

The flexible measures are the determinations of the annual allowable levels of ocean harvests, annual allocations, management boundaries, minimum size limits, recreational daily bag limits, gear restrictions, seasons, and quotas.

Regulations implementing the 1983 amendment to the FMP (48 FR 45263, October 4, 1983) will remain in effect (after the expiration of the 1984 emergency regulations, 49 FR 18855, May 3, 1984 and extended at 49 FR 30948, August 2, 1984) until superseded by this rule, which will comprise Subparts A and B to Part 661 of the Code of Federal Regulations. Subpart A will contain the general measures of the framework amendment; subpart B will contain procedures for determining the management measures to be developed during the annual preseason and inseason process. These will replace subparts A and B of the 1983 regulations.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97–453, requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of the FMP amendment and regulations even if he has not yet determined that the amendment the regulations would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period for the proposed rules.

A supplemental environmental impact statement (SEIS) for the framework amendment has been prepared and is available, as part of the framework amendment, from the Council (see ADDRESSES).

The Administrator of NOAA has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination was based on analysis of the regulatory impact review prepared for this rule and summarized below. This rule may have a significant economic impact on a substantial number of small businesses for purposes of the Regulatory Flexibility Act, and thus required a regulatory flexibility analysis. A summary of the regulatory impact review/regulatory flexibility analysis RIR/RFA) follows.

The framework amendment is a procedural document which describes the processes by which the ocean salmon fisheries will be managed and establishes the limits and controls within which regulatory adjustments may be made. It does not specify future fishery management regulations for any given year. Therefore, the primary objective of the RIR/RFA was to describe the process by which social and economic impacts would be analyzed under the framework amendment.

Quantifying the impact of any specific set of salmon fishing regulations is difficult due to a number of external factors which influence social and economic conditions in the fishery. The principal external factors identified and discussed were weather and oceanic conditions, in-river environmental conditions, world market situations, fluctuations in preseason inventories and exvessel prices, and interception of returning stocks by Alaskan and Canadian fisheries.

The difficulty in performing an economic impact analysis without adequate information to assess long-term costs and benefits of proposed regulations was examined. When stock abundance is low, restrictive regulations, resulting in significant economic hardships on current harvesters, may be imposed in order to meet spawning escapement goals. However, failure to impose such restrictions would most likely cause greater losses in economic value in the future.

After examining the limitations on assessment of eonomic impacts of federal regulations on ocean salmon fisheries, a comparison was made of commercial and recreational ocean salmon fishery harvests for the five-year period before Federal management (1971–75) and the years 1977 and 1983 when the Federal regulations were considered to be the least restrictive and the most restrictive, respectively. This was an attempt to establish a potential range of impacts that may be expected from regulations under the framework amendment.

Due to the procedural nature of the framework amendment and outside environmental and market factors which greatly accentuated the short-term losses presented, the generic RIR/RFA provided a broad range of impacts. In order to satisfy the intent of socioeconomic analysis requirements embodied in the Regulatory Flexibility Act and other relevant legislation, an annual preseason and postseason review of social and economic considerations is built into the framework process. In this manner, the impacts of annual regulatory options, within the specific environmental and market conditions of a given year can be examined. Incorporation of this information into the Salmon Plan Development Team's report for the Council also will allow for public review on an annual basis.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of the States of Washington, Oregon, and California. The three States have been notified of this determination.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Indians.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 7, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 661 is proposed to be revised to read as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Subpart A—General Measures

Sec.

661.1 Purpose.
661.2 Relation to other laws.
661.3 Definitions.
661.4 Reporting requirements.
661.5 General restrictions.
661.6 Facilitation of enforcement.
661.7 Penalties.
661.8 Experimental fishing.
661.9 Scientific research.
661.10 Indian treaty fishing.

Subpart B—Management Measures

661.20 Annual actions.
661.21 Inseason actions.
661.22 Annual and inseason notice procedures.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Measures

§ 661.1 Purpose.

The purpose of this part is to provide for the management of the salmon and steelhead fisheries off the coasts of Washington, Oregon, and California in the fishery conservation zone (the FCZ, also known as the 3-to-200-mile zone) over which the United States exercises exclusive fishery management authority (i.e., the Pacific Fishery Management Council's Salmon Fishery Management Area) under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

§ 661.2 Relation to other laws.

(a) This part does not apply to fishing for pink and sockeye salmon conducted under the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol, in U.S. Convention Waters between 48° N. latitude and the provisional international boundary between the United States and Canada.

(b) Any person fishing subject to this part who also engages in fishing for groundfish should consult Federal regulations at 50 CFR Part 663 for applicable requirements of that part, including the requirement that vessels engaged in commercial fishing for groundfish (except commercial passenger vessels) have vessel identification in accordance with § 663.6 of that part.

(c) This part recognizes that any State law which pertains to vessels registered under the laws of that State and which is consistent with this part or any applicable Federal fishery management plan or amendment for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California, including any State landing law, will continue to have force and effect in the fishery management area with respect to fishing activities addressed herein.

(d) Any person fishing subject to this part is bound by the international boundaries of the fishery management area described in § 661.3, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are published by the United States.

§ 661.3 Definitions.

Authorized officer means—

(a) Any commissioned, warrant, or petty officer of the Coast Guard;

(b) Any special agent of the National Marine Fisheries Service or other officer authorized by the Secretary;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

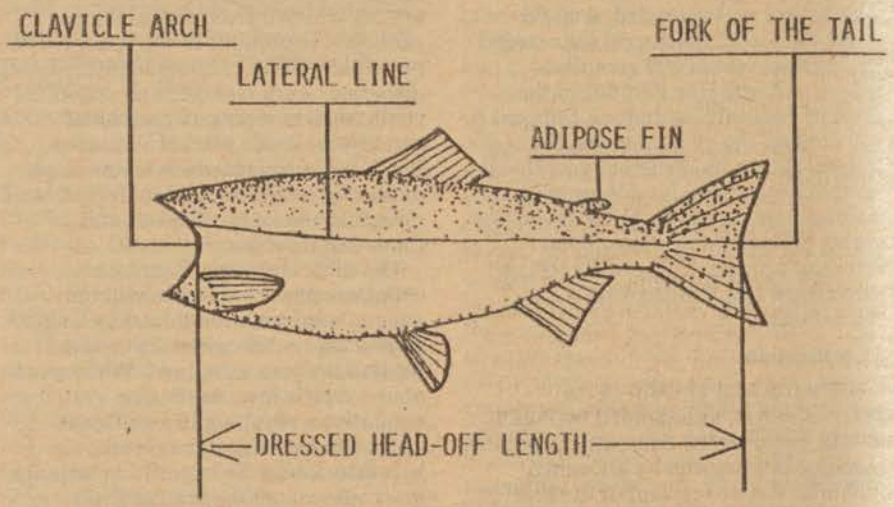
(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Barbless hook means a hook with a single shank and point, with no secondary point or barb curving or projecting in any other direction. Where *barbless hooks* are specified, hooks manufactured with barbs can be made "barbless" by forcing the point of the barb flat against the main part of the point.

Commercial fishing means fishing with troll fishing gear as defined in this section, or fishing for the purpose of sale or barter of the catch.

Council, means the Pacific Fishery Management Council, 526 SW Mill Street, Portland, OR 97201.

Dressed, head-off length of salmon means the shortest distance between the midpoint of the clavicle arch (see illustration) and the fork of the tail, measured along the lateral line while the fish is lying on its side, without resort to any force or mutilation of the fish other than removal of the head, gills, and entrails.



Dressed, head-off salmon means salmon that have been beheaded, gilled, and gutted without further separation of vertebrae, and are either being prepared for on-board freezing, or are frozen and will remain frozen until landed.

Fishery management area means the fishery conservation zone (FCZ) off the coasts of Washington, Oregon, and California between 3 and 200 miles offshore, bounded on the north by the Provisional International Boundary between the United States and Canada and bounded on the south by the International Boundary between the United States and Mexico. The inner boundary of the FCZ is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the "3-mile limit"). The outer boundary of the FCZ is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the United States and Canada or Mexico. The northeastern, northern, and northwestern boundaries of the fishery management area are as follows:

(a) Northeastern boundary—that part of a line connecting the light on Tatoosh Island, Washington, with the light of Bonilla Point on Vancouver Island, British Columbia, southerly of the International Boundary between the United States and Canada (at 48° 29' 37" N. latitude, 124° 43' 33" W. longitude), and northerly of the point where that line intersects with the boundary of the U.S. territorial sea.

(b) Northern and northwestern boundary is a line[1] connecting the following coordinates:

48° 29' 37.19" N. lat., 124° 43' 133.19" W. long.;
48° 30' 11" N. lat., 124° 47' 113" W. long.;
48° 20' 22" N. lat., 124° 50' 121" W. long.;
48° 30' 14" N. lat., 124° 52' 152" W. long.;
48° 29' 57" N. lat., 124° 59' 114" W. long.;
48° 29' 44" N. lat., 125° 00' 106" W. long.;
48° 28' 09" N. lat., 125° 05' 147" W. long.;
48° 27' 10" N. lat., 125° 08' 125" W. long.;
48° 26' 47" N. lat., 125° 09' 112" W. long.;
48° 20' 16" N. lat., 124° 22' 148" W. long.;
48° 18' 22" N. lat., 125° 29' 158" W. long.;
48° 11' 05" N. lat., 125° 53' 148" W. long.;
47° 49' 15" N. lat., 126° 40' 157" W. long.;
47° 36' 47" N. lat., 127° 11' 158" W. long.;
47° 22' 00" N. lat., 127° 41' 123" W. long.;
46° 42' 05" N. lat., 128° 51' 156" W. long.;
46° 31' 47" N. lat., 129° 07' 139" W. long.;

(c) The southern boundary of the fishery management area is the United States-Mexico International Boundary.

[1] The line joining these coordinates is the provisional international boundary of the U.S. FCZ as shown on NOAA/NOS Charts #18480 and #18002.

which is a line connecting the following coordinates:

32°35'22" N. lat., 117°27'49" W. long.;
32°37'37" N. lat., 117°49'31" W. long.;
31°07'58" N. lat., 118°36'18" W. long.;
30°32'31" N. lat., 121°51'58" W. long.;

Fishing means—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a) through (c) of this definition.

Fishing vessel means any boat, ship, or other craft which is used for, equipped to be used for, or of a type that is normally used for fishing.

Freezer trolling vessel means a fishing vessel, equipped with troll fishing gear, which has a present capability for (a) on-board freezing of the catch, *and* (b) storage of the fish in a frozen condition until they are landed.

Land or landing means to begin offloading fish, to arrive in port with the intention of offloading fish, or to cause fish to be offloaded.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Plugs means artificial fishing lures made of wood or hard plastic with one or more hooks attached. Lures commonly known as "spoons", "wobblers", "dodgers", and flexible plastic lures are not considered plugs, and may not be used where "plugs only" are specified.

Recreational fishing means fishing with recreational fishing gear as defined in this section and not for the purpose of sale or barter.

Recreational fishing gear means conventional angling tackle which is hand held while playing hooked fish and which consists of a rod, reel, and line, with no more than four single or multiple hooks to which may be attached not more than one artificial lure or natural bait.

Regional Director means the Director, Northwest Region, National Marine Fisheries Service (7600 Sand Point Way, NE, BIN C1 5700, Seattle, WA 98115) or his designee. For fisheries occurring primarily or exclusively in the fishery management area seaward of California, *Regional Director* means the Director, Northwest Region, National Marine Fisheries Service, acting in consultation with the Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

Salmon means any anadromous species of the family Salmonidae and genus *Oncorhynchus*, commonly known a Pacific salmon, including but not limited to—

Chinook (king) salmon—*Oncorhynchus tshawytscha*
Coho (silver) salmon—*Oncorhynchus kisutch*
Pink (humpback) salmon—*Oncorhynchus gorbuscha*
Chum (dog) salmon—*Oncorhynchus keta*
Sockeye (red) salmon—*Oncorhynchus nerka*

Secretary means the Secretary of Commerce, or a designee.

Steelhead means the anadromous form of the rainbow trout, *Salmo gairdneri*.

Total length of salmon means the shortest distance between the tip of the snout or jaw (whichever extends furthest while the mouth is closed) and the tip of the longest lobe of the tail, without resort to any force or mutilation of the salmon other than fanning or swinging the tail.

Treaty Indian fishing means fishing for salmon in the fishery management area by a person authorized by the Makah Tribe to exercise fishing rights under the Treaty with the Makah, or by the Quileute, Hoh, or Quinault Tribes to exercise fishing rights under the Treaty of Olympia.

Troll fishing gear means fishing gear that consists of one or more lines that drag hooks with bait or lures behind a moving fishing vessel, *and* which lines, in areas north of the Oregon-California border, are affixed to the vessel and are not disengaged from the vessel at any time during the fishing operation.

Whole bait means a hook or hooks baited with whole natural bait with no device to attract fish other than a flasher.

§ 661.4 Reporting requirements.

(a) This part recognizes that catch and effort data necessary for implementation of any applicable fishery management plan or amendment is collected by the States and Indian tribes of Washington, Oregon, and California under existing data collection provisions. No additional catch reports will be required of fishermen or processors as long as the data collection and reporting systems operated by State agencies and Indian tribes continue to provide the Secretary with statistical information adequate for management.

(b) As appropriate, and to the extent it exists, relevant unaggregated data colleted by observers placed aboard fishing vessels or by port samplers will be utilized in making preseason and inseason management adjustments to regulations as authorized by this part.

§ 661.5 General restrictions.

(a) The fishery management area is closed to salmon fishing except as opened by this part or superseding regulations or notices. All open fishing periods begin at 0001 hours and end at 2400 hours local time on the dates specified. Except as otherwise provided by or pursuant to Federal fishing regulations or permits, the following restrictions apply to all salmon fishing in the fishery management area.

(b) It is unlawful for any person to—

(1) Use, while on a fishing vessel with troll fishing gear on board, any part of that troll fishing gear to engage in recreational fishing for salmon.

(2) Take and retain or land salmon caught with a net in the fishery management area, except that a hand-held net may be used to bring hooked salmon on board a vessel.

(3) Fish for, or take and retain, any species of salmon:

(i) During closed seasons or in closed areas;

(ii) While possessing on board any species not allowed to be taken in the area at the time;

(iii) Once any catch limit is attained;

(iv) By means of gear or methods other than recreational fishing gear or troll fishing gear;

(v) In violation of any notice issued under this part; or

(vi) In violation of any applicable area, season, species, zone, gear, daily bag limit, or length restriction.

(4) Take and retain or possess aboard a fishing vessel any species of salmon which is less than the applicable minimum total length.

(5) Possess aboard a fishing vessel a salmon, for which a minimum total length is set by this part, in such a condition that its minimum total length is extended, or cannot be determined, except that "dressed, head-off salmon" may be possessed aboard a "Freezer trolling vessel" (unless the adipose fin of such salmon has been removed—see paragraph (7) of this section).

(6) Fail to return to the water immediately and with the least possible injury any salmon the retention of which is prohibited by this part.

(7) Remove the head of any salmon caught in the fishery management area, or possess a salmon with the head removed, if that salmon has been marked by removal of the adipose fin to

indicate that a coded wire tag has been implanted in the head of the fish.

(8) Take and retain, or possess any steelhead (*Salmo gairdneri*) within the fishery management area, unless such take and retention qualifies as treaty Indian fishing as that term is defined in this Supart A.

(9) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any species of salmon or salmon part which was taken or retained in violation of the Magnuson Act, this part, or any regulation issued under the Magnuson Act.

(10) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation issued under the Magnuson Act.

(11) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (b)(10) of this section;

(12) Resist a lawful arrest for any act prohibited by this part; or

(13) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part.

(14) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search conducted in the process of enforcing the Magnuson Act.

(15) Sell, offer to sell, or purchase any salmon taken in the course of recreational salmon fishing.

(16) Violate any other provision of this part, the Magnuson Act, any notice issued under subpart B of this part, or any regulation or permit promulgated under the Magnuson Act.

§ 661.6 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF–FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must—

(1) Guard Channel 16, VHR–FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.- .-) [1] [2] is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY–CY" (.-. -.-- -.-. -.--) means "You should proceed at slow speed, a boat is comming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... --.- ...--) means "You should stop or heave to; I am going to board you."

(4) "L" (.-..) means "You should stop your vessel instantly."

§ 661.7 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act and implementing regulations.

§ 661.8 Experimental fishing.

(a) The Secretary may allow such experimental fishing in the fishery management area as may be recommended by the Council, the Federal government, State government, or treaty Indian tribes having usual and accustomed fishing grounds in the fishery management area.

(b) The Secretary will not allow any experimental fishery recommended by the Council unless he determines that the purpose, design, and administration of the experimental fishery are consistent with the goals and objectives of the Council's fishery management plan, the national standards (section 301(a) of the Magnuson Act), and other applicable law.

(c) Each vessel participating in any experimental fishery recommended by the Council and allowed by the Secretary is subject to all provisions of this part, except those portions which relate to the purpose and nature of the experimental fishery. These exceptions will be specified in a letter issued by the Regional Director to each vessel participating in the experimental fishery and that letter must be carried aboard each participating vessel.

§ 661.9 Scientific research.

Nothing in this part is intended to inhibit or prevent any scientific or oceanographic research in the fishery management area by a scientific

[1] Period (.) means a short flash of light.

[2] Dash (-) means a long flash of light.

research vessel. The Regional Director will acknowledge any notification he might receive of any scientific or oceanographic research with respect to salmon being conducted by a scientific research vessel, by issuing to the operator or master of that vessel a letter of acknowledgement, containing information on the purpose, locations, and schedules of the activities. The Regional Director will transmit copies of this letter to the Council, and to State and Federal administrative and enforcement agencies, to ensure that all concerned parties are aware of the research activities.

§ 661.10 Treaty Indian fishing.

Except as otherwise provided in this part, treaty Indian fishing is subject to the provisions of this part, the Magnuson Act, and any other regulations issued under the Magnuson Act.

Subpart B—Management Measures

§ 661.20 Annual actions.

(a) The Secretary will annually establish or, as necessary, adjust management specifications for the commercial, recreational, and treaty Indian fisheries by publishing a notice in the **Federal Register** under § 661.22. Management specifications include allowable ocean harvest levels (including quotas), allocations, management boundaries and zones, minimum size limits, gear restrictions, seasons, and selective fisheries and will be specified as follows:

(1) *Commercial fishing.*

(i) Area, seasons, species, zone, and gear restrictions.

(ii) Length restrictions (minimum total lengths, in inchs, and minimum lengths for dressed, head-off, in inches).

(2) *Recreational fishing.*

(i) Area, seasons, species, zone, daily bag limits, and gear restrictions.

(ii) Length restrictions (minimum total lengths, in inchs, and minimum lengths for dressed, head-off, in inches).

(3) *Quotas.* Commercial and recreational, by species (including fish caught 0–3 nautical miles seaward of Washington, Oregon, and California).

(4) *Treaty Indian fishing.*

(i) Area, seasons, species, zone, and gear restrictions.

(ii) Length restrictions (minimum total length, in inchs, and minimum length for dressed, head-off, in inches).

(b) *Schedule and procedures for annual actions.* The schedule and procedures for establishing and adjusting annual management specifications are described in the Appendix (I.; II. A. and B.). The schedule will be followed to the extent possible.

§ 661.21 Inseason actions.

(a) *Changes to quotas and fishing seasons.* The secretary may adjust existing fishing seasons and quotas for the commercial, recreational, and treaty Indian fisheries by publishing a notice in the **Federal Register** under § 661.22.

(b) *Automatic season closures based on quotas.* When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.22, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached.

(c) *Redistribution of quotas.* The Secretary may redistribute a portion of one or more of the existing quotas by publishing a notice in the **Federal Register** under § 661.22.

(d) *Boundary modifications.* The Secretary may modify one or more of the boundaries for the existing areas by publishing a notice in the **Federal Register** under § 661.22.

(e) *Recreational daily bag limit.* The Secretary may modify one or more of the existing daily bag limits by publishing a notice in the **Federal Register** under § 661.22.

(f) *Procedures for inseason changes.* Specific procedures for adjusting the management specifications set forth in paragraphs (a) through (e) of this section are contained in the Appendix (III. A. through E.).

§ 661.22 Annual and inseason notice procedures.

(a) Annual and inseason actions taken under § 661.20 and §661.21 will be by notice published in the **Federal Register** issued under this section.

(b) The Secretary will publish the notice in the **Federal Register** and invite public comment prior to its effective date, except as provided in paragraph (c) of this section.

(c) If the Secretary determines, for good cause, that a notice must be issued without affording a prior opportunity for public comment, public comments on the notice will be received by the Secretary for a period of 15 days after the effective date of the notice.

(d) *Effective dates.* (1) Any notice issued under this section is effective on the date specified in the notice or on the date the notice is filed for public inspection with the Office of the Federal Register, whichever is later.

(2) Any notice issued under this section will remain in effect until the expiration date stated in the notice or until rescinded, modified, or superseded However, no notice of an inseason action has any effect beyond the end of the calendar year in which it is issued.

(e) *Availability of data.* The Regional Director will compile in aggregate form all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, Washington. For actions affecting fisheries occurring primarily or exclusively in the fishery management areas seaward of California, information relevant to the action will also be made available for public review during normal office hours at the Southwest Regional Office, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California.

(f) Nothing contained in this part limits the authority of the Secretary to issue emergency regulations under section 305(e) of the Magnuson Act, if the Secretary determines that an emergency involving the salmon fishery exists. Such emergency regulations are effective upon filing for public inspection with the Office of the Federal Register.

Appendix—Schedule and Procedures for Annual Actions

I. Introduction

The regulations implementing the "Proposed Framework Plan for Managing the Ocean Salmon Fisheries off the coasts of Washington, Oregon, and California Commencing in 1985" amend the Pacific Council's 1978 FMP to incorporate a flexible framework for setting preseason and inseason management measures without the need for a plan amendment. Under this framework amendment, certain principles and measures are fixed to provide a long-term management system, which cannot be altered without a plan amendment. Other measures are flexible and are determined before or during each season according to procedures specified in this document. The schedule for preseason modification of the regulations is shortened under this framework amendment, requiring approximately 60 days from initiation of a resource status report to implementation of regulatory changes. The framework provisions for annual adjustments, both preseason and inseason, are explained below. More detail concerning this framework mechanism and the rational for its various components are presented in Chapter 3 of the FMP.

II. Annual Changes To Management Specifications

A. Schedule for Establishing or Adjusting Annual Management Specifications

The approximate schedule of events leading to the Secretary's annual management specifications is indicated below.

Approximate date	Event
First week of March	The Council publishes a notice in the FEDERAL REGISTER announcing availability of documents, dates and locations of the two Council meetings to follow, dates and locations of public hearings, and the complete schedule for determining proposed and final management measures.
Second week of March	The Council's Salmon Plan Development Team (Team) distributes a report to the Council, its advisors, and the public recommending specific management measures for the upcoming season.
Third week of March	The Team's report is reviewed at a joint meeting of the Council's Scientific and Statistical Committee, the Team, and the Salmon Advisory Subpanel.
Third week of March	The Council meets to act on proposed management measures.
Last week of March	The Team distributes a report analyzing the impacts of the proposed annual management measures to the Council, its advisors, and the public.
First week of April	Public hearings.
Mid-April	The Council meets to adop its final annual recommendations and submit them to the Secretary.
First week of May	A notice of Secretary's decision and final annual actions is published in the FEDERAL REGISTER.
May 15	Close of public comment period.

B. Procedures for Establishing and Adjusting Annual Management Measures

1. Allowable ocean harvest levels and quotas. (a) *Coho south of Leadbetter Point (Oregon Production Index Area).*

A preseason estimate will be made each year of the coho stock size in the Oregon Production Index Area (OPI) using the OPI abundance predictor (jack index and an independent estimate of the private hatchery catch contribution). The number of three-year-old adult coho in the OPI area for a given year will be predicted by the number of two-year-old jack coho returning to selected facilities the prior year using the most updated relationship of jacks to adults. A separate estimate will be made of fish of private hatchery origin contributing to the ocean catch in the OPI area based on the number of smolts released, the recent average survival rate, and the expected harvest rate (based on a recent observed rate) as follows:

Number of smolts released
x Estimated survival rate
x Estimated harvest rate of private hatchery fish associated with the harvest rate appropriate for the other OPI stocks
= Expected catch of private hatchery coho

The total coho abundance in the OPI area will be determined by the sum of adults predicted by the OPI jack index and the expected private hatchery catch. The total allowable ocean coho harvest for the OPI area will be determined by subtracting the OPI ocean escapement goal from the total stock size estimate for the OPI area. The total allowable ocean harvest for the OPI area will then be partitioned based on recent historical averages (and observed distribution patterns of private hatchery fish) into two areas: from Leadbetter Point to Cape Falcon, Oregon; and from Cape Falcon to the U.S.-Mexico border. The harvest may be partitioned further into specific subareas. The total allowable harvest, as well as the allowable harvest in individual subareas, may be modified to address conservation needs of Oregon coastal and Washington coastal coho.

(b) *Coho north of Cape Falcon.* Preseason abundance forecasts will be made for each stock based upon the best available forecasting techniques and consistent with forecasts made to establish preseason management plans for fisheries inside state waters. The Washington Department of Fisheries/National Bureau of Standards (WDF/NBS) model will be adjusted to expected abundance levels by stocks. WDF/NBS model fishing rates will be adjusted to reflect anticipated regulations and exploitation rates associated with fisheries in Canada, Washington, Oregon, and California. Adult terminal run sizes will be estimated, in the absence of prior interceptions by fishermen subject to treaty Indian allocation requirements for management units with treaty obligations, using the WDF/NBS model. Treaty Indian and non-Indian harvest shares will be computed for each appropriate stock. The non-Indian troll and recreational quotas north of Cape Falcon will be computed with the WDF/NBS model based upon providng sufficient escapement from the ocean to provide for spawning escapement objectives and treaty shares of the weakest stocks. Separate quotas may be established for subareas within the area north of Cape Falcon. The allowable harvest in the area from Cape Falcon to Leadbetter Point will be established to address a blend of OPI and Washington state coho management considerations. Specific provisions for non-Indian fishery needs inside State waters may be built into the quotas. Ocean coho quotas will be defined as either the maximum total allowable harvest of all stocks, which will be estimated prior to the fishing season using the WDF/NBS model based on the maximum allowable harvest impact on weak stocks, or, if tools to monitor the actual catch of the weak stocks inseason become available, as the maximum allowable ocean harvest of the weak stocks only.

(c) *California chinook.* Chinook abundance will be estimated relative to the previous year or to an average by examining factors including, but not limited to, relative ocean abundance of two-year-old and three-year-old chinook in the previous year, ocean escapements of two- and three-year-olds in key river systems in the previous year, magnitude of brood year escapements and hatchery releases, expected change in survival of hatchery fish due to changes in hatchery practices (e.g., time and location of release), and environmental factors (such as abundance of forage, floods, and droughts). When a relative measure of expected chinook abundance is obtained, past management plans and their impact on escapements will be analyzed by simulation modeling to determine the appropriate harvest to meet the desired level of escapement for a four-year ocean management period. The appropriate fishing season dates which would likely produce that harvest then will be estimated after analysis of expected fishing effort. For fall chinook salmon, the end of the season will be set at the time when most maturing fish have left the ocean in order to avoid problems of hooking fish which legally must be released and to increase poundage yield by allowing all immature fish to grow and be harvested in the following year.

(d) *Oregon coastal chinook south of Cape Falcon.* A relative measure of stock abundance will be derived based on factors including, but not limited to, brood year escapement levels contributing to the year's fishery, catch levels in prior years, ocean assessment of two-and three-year-old chinook in previous years, relative age composition in prior years, environmental conditions, hatchery production levels and changes in hatchery practices which might affect production. Information from prior year's fisheries will be reviewed to provide a calibration between past ocean management and resultant escapement. Past seasons will be reviewed in terms of season length, catch, fishing effort, relative stocks abundance, and escapement level to determine relationships among catch levels, stock abundance, and spawning escapement. Based on established escapement goals and the factors outlined above, an appropriate level of harvest will be determined for each year's fishery. This desired catch level will be translated into a specific seasons structure based on the pattern of harvest over time, area distribution of catch, age structure of the population by time and area, expected redistribution of catch and effort following season adjustments in any time period or area, and mangement objectives for other chinook and coho stocks. The maximum season length off the Oregon coast will be May 1 through October 31. Seasons will be adjusted by time and area to maximize the harvest of mature fish of desired stocks while meeting escapement objectives. If additional restrictions are required to reduce mortaility of immature chinook salmon, closures may be imposed during the September 15 through October 31 period.

(e) *Chinook north of Cape Falcon.* Preseason abundance forecasts will be made for as many stocks in the unit as possible based upon the best available forecasting techniques and consistent with forecast made to establish preseason management plans for inside fisheries. Recent year's catch, effort, and escapement levels will be used to estimate the expected harvest. When important viable stocks are known to be depressed, appropriate season and/or quotas may be developed using general indicators of relative abundance. Quotas may be apportioned to fishing periods and subareas in response to differential impacts upon stocks of concern. As acceptable monitoring tools are developed to estimate the actual harvest of specific stocks, a quota will be identified for specific stocks rather than the total chinook harvest of all stocks. Each

fishery will be managed during the season to ensure that the quota is not exceeded.

2. Allocation of ocean harvest levels.

(a) *Coho and chinook from the U.S.—Canada border to Cape Falcon.* (i) Allocation of coho and chinook salmon north of Cape Falcon, Oregon, will be based on the following schedue:

Allowable annual non-treaty ocean coho harvest (thousands of fish)	Coho harvest percentage [1]		Chinook harvest percentage	
	Commercial percentage [1]	Recreational percentage	Commercial percentage	Recreational percentage
1,500	69	31	54	46
1,400	69	31	54	46
1,300	69	31	54	46
1,200	67	33	54	46
1,100	64	36	54	46
1,000	61	39	54	46
900	58	42	54	46
800	55	45	54	46
700	52	48	54	46
600	49	51	54	46
500	46	54	55.5	44.5
400	43	57	57	43
300	40	60	58.5	41.5
200	37	63	60	40
100	34	66	61.5	38.5
0	31	69	63	37

[1] For allowable coho harvests between the numbers shown, the allocations will be interpolated linearly. Species substitutions made at ocean harvest levels between 0 and 600,000 coho are intended to approximate an exchange ratio of four coho to one chinook, assuming a chincook harvest level of 182,000.

(ii) Total allowable ocean harvest will be maximized to the extent possible consistent with treaty obligations, State fishery needs, and spawning requirements.

(iii) If total allowable non-treaty ocean catch of coho for the area is less than 600,000, species substitution (chinook and coho) may be used to minimize hardship to either troll or recreational fisheries. Chinook equivalency for species substitution will be based upon an exchange ratio of four coho to one chinook. Every effort will be made to establish seasons and gear requirements which provide troll and recreational fleets a reasonable opportunity to catch the available harvest. In no event will species substitution exceed 25 percent of the allocations tabulated above.

(iv) The percentages presented above are averages for the entire area between Cape Falcon and the U.S. Canada border. These percentages may be varied by major subareas if there is need to do so to protect the weak stocks. These deviations will be avoided where possible, and will be held to the minimum necessary to protect the stocks. In all cases, each major subarea, i.e., north of Leadbetter Point and south of Leadbetter Point, will retain at least 50 percent of the allocation that would have been established in the absence of transfer.

(b) *Coho south of Cape Falcon.* (i) Allocation of coho salmon south of Cape Falcon, Oregon will be based on the following schedule:

Allowable ocean harvest (thousands of fish)	Commercial		Recreational	
	Number (thousands)	Percentage [1]	Number (thousands)	Percentage [1]
2,500	2,150.0	86.0	350.0	14.0
2,400	2,056.8	85.7	343.2	14.3
2,300	1,964.2	85.4	335.8	14.6
2,200	1,874.4	85.2	325.6	14.8
2,100	1,780.8	84.8	319.2	15.2
2,000	1,690.0	84.5	310.0	15.5
1,900	1,597.9	84.1	302.1	15.9
1,800	1,506.6	83.7	293.4	16.3
1,700	1,416.1	83.3	283.9	16.7
1,600	1,324.8	82.8	275.2	17.2
1,500	1,234.5	82.3	265.5	17.7
1,400	1,145.2	81.8	254.8	18.2
1,300	1,056.0	81.2	244.0	18.8
1,200	966.0	80.5	234.0	19.5
1,100	876.7	79.7	223.3	20.3
1,000	788.0	78.8	212.0	21.2
900	699.3	77.7	200.7	22.3
800	612.0	76.5	188.0	23.5
700	525.7	75.1	174.3	24.9
600	430.0	71.7	170.0	28.3
500	330.0	66.0	170.0	34.0
400	230.0	57.5	170.0	42.5
300	130.0	43.3	170.0	56.7
200	30.0	15.0	170.0	85.0
100	(2)	(2)	100.0	100.0

[1] For allowable coho harvests of 700,000 and above, the allocations will be interpolated linearly between the numbers shown.

[2] Incidental coho allowances associated with a directed chinook fishery would be deducted from the recreational catch. Incidental allowances could be in the form of estimated hooking mortality or actual landing allowances.

(ii) If the total allowable ocean harvest of coho is below 700,000, deviations from the above schedule may be made to minimize hardship to either troll or recreational fisheries by establishing subarea quotas, by establishing directed all-salmon-except-coho fisheries with incidental coho allowances, and by using other modifications in management measures which control relative impacts of troll and recreational gear on specific viable natural stocks.

(iii) Allowable harvest south of Cape Falcon may be divided and portions assigned to subareas based on considerations

including, but not limited to, controlling ocean harvest impacts on depressed, viable natural stocks within acceptable maximum allowable levels; stock abundance; allocation considerations; stock specific impacts; relative abundance of the salmon species in the fishery; escapement goals; and maximizing harvest potential.

3. Management boundaries and zones. Management boundaries and zones will be established or adjusted as necessary to achieve a conservation purpose. A conservation purpose protects a fish stock, simplifies management of a fishery, or promotes wise use of fishery resources by, for example, separating fish stocks, facilitating enforcement, sparating conflicting fishing activities, or facilitating harvest opportunities. Management boundaries and zones will be described by geographical references, coordinates (latitude and longitude), LORAN readings, depth contours, distance from shore, or similar criteria.

4. Minimum harvest lengths. The minimum harvest lengths for commercial and recreational fishing may be changed upon demonstration that a useful purpose will be served. For example, an increase in minimum size for commercially-caught salmon may be necessary for conservation or may provide a greater poundage and monetary yield from the fishery while not substantially increasing hooking mortailty. The removal of a minimum size for the recreational fishery may prevent wastage of fish and outweigh the detrimental impacts of harvesting immature fish.

5. Recreational daily bag limit. Recreational daily bag limits for each fishing area will be set equal to one, two, or three salmon of same combination of species. The recreational daily bag limit for each fishing area will be set to maximize the length of the fishing season consistent with the allowable level of harvest in the area.

6. Fishing gear restrictions. Gear restrictions for commercial and recreational fishing may be established or changed upon demonstration that a useful purpose will be served. For example, gear restrictions may be imposed or modified to facilitate enforcement, reduce hooking mortality, or reduce gear expenses for fishermen.

7. Seasons. (a) *In general.* Seasons for commercial and recreational fishing will be established or modified taking into account allowable ocean harvest levels (and quotas), allocations between the commercial and recreational fisheries, and the estimated amount of effort required to catch the available fish based on past seasons.

(b) *Inseason adjustment.* Seasons are subject to inseason adjustment according to procedures described herein.

(c) *Commercial seasons.* (i) No commercial fishery will open prior to May 1.

(ii) No commercial coho fishery north of the Oregon-California border will open prior to July 1.

(iii) No commercial chinook or coho fishery will extend after October 31.

(iv) Commercial seasons will be established or modified taking into account wastage of fish which legally cannot be retained, size and poundage of fish caught, effort shifts between fishing areas, and protection of depressed stocks present in the fishing areas.

(v) All-species seasons will be established to allow the maximum allowable harvest of pink and sockeye salmon without exceeding allowable chinook or coho harvest levels and within conservation and allocation constraints of the pink and sockeye stocks.

(d) *Recreational seasons.* (i) No recreational fishery north of the Oregon-California border will open prior to May 1.

(ii) No recreational fishery for chinook or coho off California will open before the Saturday closest to February 15 nor extend after the Sunday closest to November 15.

(iii) If feasible, recreational seasons will be established or modified to encompass Memorial Day and Labor Day weekends, and to avoid the need for inseason closures.

8. Quotas. (a) Quotas for commercial and recreational fishing may be modified as necessary to ensure that allowable ocean harvests are not exceeded.

(b) Quotas are subject to inseason adjustment according to the procedures herein.

(c) Quotas may be used in conjunction with seasons established according to the procedures herein.

9. Selective fisheries. In addition to the all-species seasons and the all-species-except-coho seasons established for the commercial and recreational fisheries, selective coho-only, chinook-only, or pink-only fisheries may be established if harvestable fish of the target species are available; harvest of incidental species will not exceed allowable levels; proven, documented selective gear exists; significant wastage of incidental species will not occur; and the selective fishery will occur in an acceptable time and area where wastage can be minimized and target stocks are primarily available.

10. Treaty Indian fishing. (a) The Secretary will establish or modify treaty Indian fishing seasons and fixed or adjustable quotas, size limits, gear restrictions, and/or area restrictions based on proposals from affected tribes as recommended by the Council or in response to Federal court proceedings.

(b) The combined treaty Indian fishing seasons will not be longer than necessary to harvest the allowable treaty Indian catch, which is the total treaty harvest that would occur if the tribes chose to take their total entitlement of the weakest stock in the fishery management area, assuming this level of harvest did not create conservation or allocation problems on other stocks.

(c) Any fixed or adjustable quotas established will be consistent with established treaty rights and will not exceed the harvest that would occur if the entire treaty entitlement to the weakest run were taken by treaty Indian fisheries in the fishery management area.

(d) If adjustable quotas are established for treaty Indian fishing, they may be subject to inseason adjustment because of unanticipated coho hooking mortality occuring during the season, catches in treaty Indian fisheries inconsistent with those anticipated under Federal regulations, or a need to redistribute quotas to ensure attainment of an overall quota.

III. Inseason Changes to Management Measures

A. General Procedures

1. In the course of its annual determination of whether management specifications should be modified for the season, the Council also will determine which one or more, if any, of the inseason actions enumerated below should be employed to modify management measures during the season and will recommend same to the Secretary for implementation.

2. For those actions below, which the Council determines will be employed during the season, the following procedures will be followed:

(a) Prior to taking any inseason action the Regional Director will consult with the Chairman of the Council and the appropriate State Directors.

(b) As the actions are taken by the Secretary, the Regional Director will compile in aggregate form all data and other information relevent to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, Washington.

(c) Inseason actions will be published by a notice in the **Federal Register.** In addition, the Regional Director and the Council will publish notice of the inseason action in local and regional news media.

(d) If the Secretary determines, for a good cause, that a notice must be issued without affording a prior opportunity for public comment, public comments on the notice will be received by the Secretary for a period of 15 days after the effective date of the notice.

B. Changes to Quotas and Fishing Seasons

1. *Private hatchery contributions.* The estimated contributions of private hatchery coho to coho quotas for the current year will be established during the preseason process of annually adjusting the regulations. During the season the Regional Director will review the estimated contributions of private hatchery coho, taking into account coded-wire tag and/or scale analysis data gathered during the season. If the contribution of private hatchery coho varies from the preseason estimates, the Secretary may modify coho quotas and seasons accordingly by publishing a **Federal Register** notice.

2. *Coho hooking mortality.* Approximately halfway through each regularly scheduled all-species season, the Regional Director will estimate the number of coho salmon that will be hooked and released during the all-species seasons, and the Secretary may modify the commercial coho quotas and seasons accordingly by publishing a **Federal Register** notice.

3. *Revised abundance estimates.* During the season the Regional Director will monitor the actual abundance of coho compared to the preseason abundance estimates. If it appears that actual conditions of abundance and distribution of salmon, and of fishing effort and catches, differ from conditions anticipated prior to the all-species season in the pertinent management area, the Secretary may modify the estimate of coho abundance

and any related quotas and seasons accordingly by publishing a **Federal Register** notice. Any inseason modification of coho abundance estimates and related quotas and seasons will be consistent with ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation scheme in the framework plan. In determining whether coho abundance and quotas and/or seasons should be revised the Regional Director will consider:

(a) The number of participants, level and distribution of fishing effort, and coho salmon catches of the commercial and recreational fisheries compared to data from the same management area for similar time periods in prior years;

(b) Variations between preseason abundance estimates for the same area and abundance estimates as of the same date in prior years;

(c) Data from marked-fish recoveries, including analysis of recoveries of coho salmon with implanted coded-wire tags; and

(d) Any other scientific information relevant to the abundance and distribution of coho stocks, total fishing effort, and catches that is available.

4. *Catches in the territorial sea.* The Regional Director will monitor salmon catches in the territorial sea (0–3 nautical miles) seaward of Washington, Oregon, and California. If the Regional Director determines that salmon catches have occurred in the territorial sea or a portion thereof which were not accounted for when the Federal quotas and seasons were established and which may cause the Federal quotas or the anticipated catch during the Federal seasons to be exceeded, the Secretary may reduce the Federal quotas or shorten the Federal seasons accordingly by publishing a **Federal Register** notice.

C. Redistribution of Quotas

The Secretary may redistribute a portion of one or more of the quotas during the season by publishing a **Federal Register** notice, if the Regional Director determines that—

1. Redistribution between the commerical and recreational fisheries, or between areas in the same fishery, will increase the likelihood that an overall quota for a species will be achieved;

2. Redistribution is consistent with ocean escapement goals, conservation of the salmon resource, and any adjudicated Indian fishing rights; and

3. The redistribution is consistent with the ocean allocation scheme in the framework plan.

D. Boundary Modifications

The Secretary may modify one or more of the boundaries establishing fishery management areas during the season by publishing a **Federal Register** notice, if the Regional Director determines that one of the following circumstances exists, and the boundary modification is consistent with ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation scheme in the framework plan:

1. A quota for one species will be reached before a quota for a difference species in the same area, and the likelihood that the two quotas will be reached at or near the same time will be increased by modifying existing boundaries.

2. Attainment of a quota is jeopardized by an unanticipated shift in the location of the stocks or fishery to which it applies.

E. Recreational Daily Bag Limit

The Secretary may modify one or more of the daily bag limits during the season by publishing a **Federal Register** notice. Any such modification will be based on consideration of the following factors and will be consistent with ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation scheme in the framework plan:

1. Predicted sizes of salmon runs.
2. Apparent actual size of salmon runs.
3. Recreational quota for the area.
4. Amount of the recreational and commercial catch of each species in the area to date.
5. Amount of the recreational and commercial fishing effort in the area to date.
6. Estimated average daily catch per fisherman.
7. Predicted recreational fishing effort for the area to the end of the scheduled season.
8. Other factors as appropriate.

[FR Doc. 84–21421 Filed 8–9–84; 1:44 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 49, No. 158
Tuesday, August 14, 1984

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

Food and Nutrition Service

National Average Minimum Value of Donated Foods for the Period July 1, 1984, Through June 30, 1985

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods or, where applicable, cash in lieu thereof, to be given in the 1985 school year for each lunch served by schools participating in the National School Lunch Program or as commodity schools and for each lunch and supper served by institutions participating in the Child Care Food Program.

EFFECTIVE DATE: July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Gwena Key Tibbits, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22303, (703) 756-3660.

SUPPLEMENTARY INFORMATION: This action, which implements mandatory provisions of sections 6(e), 14(f), and 17(h) of the National School Lunch Act (the Act), has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512. It has been classified as "nonmajor", because it meets none of the three criteria in the Executive Order; the action will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs, and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act of 1980. Robert E. Leard, Administrator, Food and Nutrition Service, has determined that it will not have a significant economic impact on a substantial number of small entities. The purpose of the action is to notify States of the level of donated-food assistance to be provided during the 1985 school year.

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review.

Section 6(e) of the Act establishes the national average value of donated-food assistance to be given to States for each lunch served in the National School Lunch Program at 11.00 cents per meal. This amount is subject to annual adjustment as of July 1 of each year to reflect changes in the Price Index for Food Used in Schools and Institutions. Section 17(h) of the Act provides that the same value of assistance in donated foods for school lunches shall also be established for lunches and suppers served in the Child Care Food Program. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under the National School Lunch Program (7 CFR Part 210) and per lunch and supper under the Child Care Food Program (7 CFR Part 226) shall be 12.00 cents for the period July 1, 1984, through June 30, 1985. This constitutes a .50 cent per lunch increase over the rate in effect for the 1984 school year, which was 11.50 cents per lunch.

The Price Index for Food Used in Schools and Institutions is computed on the basis of five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oil). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month simple average value of this Price Index for March, April and May. The three-month average of the Price Index increased by 4.1 percent, from a revised value of 256.0 for March, April and May of 1983 to an initial value of 266.6 for the same three months in 1984. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1984, through June 30, 1985, will be 12.00 cents per meal.

Section 14(f) of the Act provides that commodity-only schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(e) of the Act and national average payment established under section 4 of the Act. Such schools are eligible to receive up to 5 cents of this value in cash for processing and handling expenses related to the use of such foods. Commodity-only schools are defined in section 12(d)(8) of the Act as "schools which do not participate in the school lunch program under this Act but which receive commodities made available by the Secretary for use in nonprofit lunch programs".

In interim regulations published on April 15, 1982 (47 FR 15978-86) to implement the provisions of section 14(f), it was indicated that the term "commodity schools" will be used for such schools instead of "commodity-only schools".

For the 1985 school year, commodity schools shall be eligible to receive donated-food assistance valued at 24.00 cents for each lunch served. This amount is based on the sum of the section 6(e) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 1984 announced by the Department on July 6, 1984 (49 FR 27799). The section 4 factor for commodity schools does not include the 2-cents per lunch increase for lunches served in the second preceding year free or at reduced prices, since that increase is applicable only to schools participating in the National School Lunch Program.

(Catalog of Federal Domestic Assistance Nos. 10.550, 10.555, and 10.558)

Authority: Secs. 6, 14 and 17 of the National School Lunch Act, as amended, 42 U.S.C. 1755, 1766.

Dated: August 7, 1984.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 84-21511 Filed 8-13-84; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 268]

Resolution and Order Approving the Application of the Nevada Development Authority for a Special-Purpose Subzone in Reno, NV, Within the Reno Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Nevada Development Authority, grantee of Foreign-Trade Zone 89, filed with the Foreign-Trade Zones Board (the Board) on June 1, 1984, requesting special-purpose subzone status for the automobile preparation facility of Porsche Cars North America, Inc., in Reno, Nevada, within the Reno Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone for Porsche in Reno, NV

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Nevada Development Authority, grantee of Foreign-Trade Zone No. 89, has made application (filed June 1, 1984, Docket No. 30–84, 49 FR 23669) in due and proper form to the Board for authority to establish a special-purpose subzone at the automobile preparation facility of Porsche Cars North America, Inc., in Reno, Nevada, within the Reno Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed June 1, 1984, the Board hereby authorizes the establishment of a subzone at the Porsche facility at Reno, designated on the records of the Board as Foreign-Trade Subzone No. 89A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 8th day of August 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Alan F. Holmer,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-21505 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 269]

Resolution and Order Approving the Application of the South Carolina State Ports Authority for a Special-Purpose Subzone for Porsche in Charleston, SC, within the Charleston Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the South Carolina State Ports Authority, grantee of Foreign-Trade Zone 21, filed with the Foreign-Trade Zones Board (the Board) on June 1, 1984, and amended on June 29, 1984, requesting special-purpose subzone status for the automobile preparation facility of Porsche Cars North America, Inc., in Charleston, South Carolina, with a temporary site in Hanahan, within the Charleston Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone for Porsche in Charleston, SC

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to

ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the South Carolina State Ports Authority, grantee of Foreign-Trade Zone No. 21, has made application (filed June 1, 1984, Docket No. 31–84, 49 FR 23669, and amended on June 29, 1984, 49 FR 27598) in due and proper form to the Board for authority to establish a special-purpose subzone at the automobile preparation facility of Porsche Cars North America, Inc., in Charleston, South Carolina, with a temporary storage site to be used until April 1, 1985, in Hanahan, South Carolina, within the Charleston Customs port of entry.

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed June 1, and amended June 29, 1984, the Board hereby authorizes the establishment of a subzone at the Porsche facility in Charleston, with a temporary site in Hanahan, designated on the records of the Board as Foreign-Trade Subzone No. 21A at the locations mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC this 8th day of August 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Alan F. Holmer,

Acting Assistant Secretary of Commerce for Trade Administration Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-21506. Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-791-007]

Certain Steel Products From South Africa; Preliminary Results of Administrative Review of Countervailing Duty Orders

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Orders.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty orders on certain steel products from South Africa. The review covers the period July 1, 1981 through December 31, 1982.

As a result of the review, the Department has preliminarily determined the products' total bounty or grant for the period to be:

	Percent ad valorem
Carbon steel structural shapes	1.69
Hot-rolled carbon steel plate	1.75
Hot-rolled carbon steel sheet	12.87
Cold-rolled carbon steel sheet	11.03
Galvanized carbon steel sheet	8.96
Hot-rolled carbon steel bars	12.87
Hot-rolled alloy steel bars	12.87
Cold-formed carbon steel bars	7.50

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Otterness or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1982, the Department of Commrce ("the Department") published in the **Federal Register** (47 FR 39379) countervailing duty orders on certain steel products from South Africa and announced its intent to conduct an administrative review of the orders. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars, and cold-formed carbon steel bars. The products are fully described in the appendix to this notice. We have clarified the definition of cold-formed carbon steel bars to exclude explicitly wire that is cut into lengths, in conformity with the intentions of the original investigation.

The review covers the period July 1, 1981 through December 31, 1982 and eleven programs: (1) Export Incentive Program—Categories A, B, and D; (2) government assumption of financing charges; (3) exemption from the payment of stamp duties; (4) a loan from the General Levy and Import Subsidy Scheme (GLISS"); (5) Industirial Development Corporation loans; (6) preferential rail rates; (7) loans to uncreditworthy companies; (8) government equity participation; (9) governement loan guarantees; (10) regional decentralization program; and (11) beneficiation allowances for mineral processors. There are five known exporters of these products to the United States.

Analysis of Programs

(1) Export Incentive Program

In 1980 the South African Department of Industries, Commerce, and Tourism expanded and restructured its Export Incentive Program into four categories. Category C of this program was eliminated on April 1, 1982.

Category A is a tax credit equal to 50 percent of the value of import duties on raw materials that are re-exported after further processing. One of the companies producing cold-formed carbon steel bars used this program

during the review period. To calculate the benefit attributable to this program, we divided the total tax credit claimed in the review period by exports of that product.

Category B is a tax credit equal to 10 percent of the value-added component of merchandise a company exports if there is a South African import duty on such merchandise. There are import duties on the products under review. Under the program the Department of Industries, Commerce, and Tourism calculates the value-added component by taking the average f.o.b. export sales price per ton and subtracting the producers' average raw material costs. It then multiplies that figure by 10 percent to obtain the amount of credit. One of the companies producing cold-formed carbon steel bars used this program during the review period. To calculate the benefit attributable to Category B, we divided the total tax credit claimed in the review period by total exports of that product.

Category D consists of a deduction from taxable income of up to 200 percent of export market development expenses. During the review period, three companies used this program. To calculate the benefits attributable to Category D, we multiplied the total claim by the tax rate and then divided by total exports for each producer. We then weight-averaged the resulting rates by each company's share of exports to the U.S. At verification we learned that one of the three companies, the South African Iron and Steel Corporation ("ISCOR"), had offset its remaining taxable income with "loss carry-forward" funds. Part of ISCOR's loss carry-forward fund is comprised of Category D deductions not taken in previous years. ISCOR did not provide us with requested information on the make-up of its loss carry-forwarded fund. Therefore, as best information available, we assumed that the total amount of Category D benefits previously claimed was included in the loss carry-forward used to offset ISCOR's taxable income during the review period. We included these claims when calculating ISCOR's portion of Category D benefits.

For the Export Incentive Program, we preliminarily determine the benefit to be:

	Percent ad valorem
Carbon steel structural shapes	0.43
Hot-rolled carbon steel plate	0.48
Hot-rolled carbon steel sheet	2.40
Cold-rolled carbon steel sheet	2.34
Galvanized carbon steel sheet	2.21
Hot-rolled carbon steel bars	2.40
Hot-rolled alloy steel bars	2.40
Cold-formed carbon steel bars	7.50

For cash deposit purposes we are including only benefits claimed during the last fiscal year in our review period and not those benefits we carried forward. Therefore, we preliminarily determine the cash deposit rate for the Export Incentive Program to be:

	Percent ad valorem
Carbon steel structural shapes	0.17
Hot-rolled carbon steel plates	0.17
Hot-rolled carbon steel sheet	0.23
Cold-rolled carbon steel sheet	0.22
Galvanized carbon steel sheet	0.21
Hot-rolled carbon steel bars	0.23
Hot-rolled alloy steel bars	0.23
Cold-formed carbon steel bars	7.50

(2) Government Assumption of Financing Charges

In 1978, the Government of South Africa assumed 70 million rand of financing charges facing ISCOR. To calculate the subsidy attributable to this program, we followed the grants methodology as outlined in the Subsidies Appendix to the notice of "Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" on certain cold-rolled carbon steel flat-rolled products from Argentina ("the Subsidies Appendix") (49 FR 18006). We allocated the grant over 15 years, the average life of assets in the steel industry, using the described present value method. For a discount rate, we used ISCOR's weighted cost of capital. For this program, we preliminarily determine the benefit to be:

	Percent ad valorem
Carbon steel structural shapes	0.06
Hot-rolled carbon steel plate	0.07
Hot-rolled carbon steel sheet	0.46
Cold-rolled carbon steel sheet	0.45
Galvanized carbon steel sheet	0.42
Hot-rolled carbon steel bars	0.46
Hot-rolled alloy steel bars	0.46
Cold-formed carbon steel bars	0

(3) Exemption from the Payment of Stamp Duties

Between 1968 and 1980, ISCOR did not pay stamp duties on issuances of its stock to the Government of South Africa. The South African tax authorities apparently did not discover that ISCOR was liable for payment of these duties until 1982. In that year, the Government of South Africa passed a law that exempted ISCOR from payment of these back duties. We treated this program as a grant received in the year in which the government forgave payment. For the full review period, we preliminarily determine the benefit to be:

	Percent ad valorem
Carbon steel structural shapes	0.01
Hot-rolled carbon steel plate	0.01
Hot-rolled carbon steel sheet	0.06
Cold-rolled carbon steel sheet	0.06
Galvanized carbon steel sheet	0.06
Hot-rolled carbon steel bars	0.06
Hot-rolled alloy steel bars	0.06
Cold-formed carbon steel bars	0

Because the exemption from the stamp duties applied only to particular back duties owed by ISCOR, we have not included an amount for this program in the cash deposit rate.

(4) Loan from General Levy and Import Subsidy Scheme ("GLISS")

Prior to the review period, the South African Department of Industries, Commerce, and Tourism made one loan to ISCOR from the GLISS fund. We first discovered this loan during our verification and asked ISCOR for further details on the terms of the loan. ISCOR did not provide us with the information requested. Therefore, using the best information available, we preliminarily determine that this loan was given at a preferential interest rate and is countervailable. To calculate the benefit, we compared the interest rate on the one repayment receipt we examined with the commercial "prime overdraft" rate in South Africa on the day of repayment. We then applied the differential to the total amount of the loan outstanding during the review period. For this program, we preliminarily determine the benefit to be:

	Percent ad valorem
Carbon steel structural shapes	0.01
Hot-rolled carbon steel plate	0.01
Hot-rolled carbon steel sheet	0.09
Cold-rolled carbon steel sheet	0.09
Galvanized carbon steel sheet	0.08
Hot-rolled carbon steel bars	0.09
Hot-rolled alloy steel bars	0.09
Cold-formed carbon steel bars	0

ISCOR Completely repaid the loan in November 1982. Therefore, we have not included an amount for this program in the cash deposit rate.

(5) Industrial Development Corporation Loans

The Industrial Development Corporation ("IDC"), a South African government corporation, provides funds for the purposes of establishing new export capacity throughout the country and housing in decentralized areas. The loans are long-term and at below commercial interest rates. We verified that four of the five companies did not have any outstanding IDC loans. The fifth, ISCOR, did not allow us to verify that it had not used the program. Therefore, we preliminarily determine that ISCOR used this program during the review period. As best information available, we consider ISCOR's benefit to be equal to the highest *ad valorem* benefit received by a South African company from this program in any other South African case. For IDC loans, we preliminarily determine the benefit to be:

	Percent ad valorem
Carbon steel structural shapes	0.09
Hot-rolled carbon steel plate	0.11
Hot-rolled carbon steel sheet	0.77
Cold-rolled carbon steel sheet	0.75
Galvanized carbon steel sheet	0.71
Hot-rolled carbon steel bars	0.77
Hot-rolled alloy steel bars	0.77
Cold-formed carbon steel bars	0

(6) Preferential Rail Rates

During the original investigation, the Government of South Africa stated that the South African Transport Services ("SATS") eliminated preferential rail rates on certain shipments of steel products destined for export. As of April 1, 1982, SATS arguably charged shipments of steel products that met certain conditions the same rate (Tariff 12), regardless of the destination of the steel products. Consequently, in our final affirmative determinations, we found no subsidy under this program after April 1, 1982.

Information gathered during the annual review, at verification and submitted by the South African government following verification, indicates that some of ISCOR's shipments of steel products destined for export continued to receive rates more favorable than comparable shipments destined for the domestic market after Arpil 1, 1982. The South African government maintains that the favorable treatment accorded to certain ISCOR shipments during the review period was only provisional, pending creation of rail contracts between SATS and ISCOR. Under the new contracts, SATS would equalize the rates on shipments of domestically-destined steel products from April 1, 1982 onwards with those on steel products destined for export. In a supplemental questionnaire we asked whether the *ex post* adjustments had taken place. The South African government responded that the adjustments had not yet been made and did not indicate when they would occur.

In light of the rail rate differential in effect during the review period, and the lack of *ex post* adjustment during the review period, we preliminarily determine that South African steel producers continued to benefit from this program after April 1, 1982. As best information available, we relied on information gathered in the original investigation to calculate the benefit. For this program, we preliminarily determine the benefit to be:

	Percent ad valorem
Carbon steel structural shapes	1.09
Hot-rolled carbon steel plate	1.07
Hot-rolled carbon steel sheet	9.09
Cold-rolled carbon steel sheet	7.34
Galvanized carbon steel sheet	5.48
Hot-rolled carbon steel bars	9.09
Hot-rolled alloy steel bars	9.09
Cold-formed carbon steel bars	0

In 1983, two major producers, ISCOR and Highveld Steel and Vanadium Corporation, entered into contract agreements with SATS. We verified that both export- and domestic-destined shipments meeting the conditions of the contract are being shipped at the same rail rates. We therefore preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that contract rail rates do not confer a bounty or grant.

(7) Loans to Uncreditworthy Companies

Based on our 1984 reconsideration of the 1982 methodology for creditworthiness, as described in the Subsidies Appendix, we have decided that it is appropriate to examine again whether ISCOR was uncreditworthy from 1978 through 1982.

The Department considers a company to be uncreditworthy if it can not obtain commercial financing absent new government involvement. For these preliminary results, we have limited our analysis to the years 1978 through 1982. However, we may find it necessary to consider ISCOR's creditworthiness prior to 1978 before reaching our final results. To determine if ISCOR was uncreditworthy in those years, we looked at several measurements of its financial performance. We gave great weight to ISCOR's cash flow and ability to cover its existing interest charges, and we also considered its debt-equity ratio and rate of return on sales. Although ISCOR's ability to cover its interest charges ("coverage ratio") was poor in 1978 and 1979, it improved dramatically in 1980 and remained strong throughout the remaining period. During the 5 year span, the company's debt-equity ratio continually improved. The company also showed a modest rate of return on sales. Based on a review of these indicators of ISCOR's financial performance, the Department preliminarily determines that ISCOR was creditworthy during those years. Before issuing the final results on this issue, the Department may consider other factors.

(8) Government Equity Participation

We are also reconsidering whether government equity participation in ISCOR was inconsistent with commercial considerations. Again, for these preliminary results, we have limited our analysis to the years 1978 through 1982. However, before issuing our final results, we may consider whether investment in ISCOR prior to 1978 was commercially reasonable.

To determine if investments in ISCOR were reasonable during 1978 through 1982, we gave great weight to ISCOR's rate of return on equity and debt-equity ration. To compare ISCOR's rate of return on equity to national rates, we have made an adjustment to ISCOR's reported profits to account for the company's unusual method of revaluing its fixed assets. We have done this because ISCOR's method is not: (a) In accordance with South African generally accepted accounting principles and (b) the predominant practice among South African companies. After our adjustments, ISCOR's financial records indicate that the company had an unsatisfactorily low positive rate of return on equity in 1978 and 1979. ISCOR's rate of return improved dramatically in 1980, and remained at that level through 1982, although it was still slightly below national average rates of return in that year. As noted in the prior section above, other indicators of ISCOR's financial health improved throughout the period.

Investment in a company is clearly unreasonable if its rate of return is significantly below the national average for its risk class for several years, and there are no reasonable prospects for a turnaround in that unsatisfactory performance. The difference between ISCOR's rate of return and the national average in those years is not large enough to indicate clearly that the company was not a good investment at that time. Moreover, our current

evidence is not conclusive enough concerning the company's long-term prospects at the time the government agreed to purchase equity from ISCOR. We therefore preliminarily determine that investments in ISCOR were reasonable from 1978 through 1982. Before issuing our final results, however, we may seek additional information on market projections, expansion and rationalization programs, etc., in order to assess the company's long-term prospects at the time of agreement.

(9) Government Loan Guarantees

At verification, we discovered that during the period of review ISCOR had received a loan guarantee from the Government of South Africa. A government loan guarantee to a creditworthy company bestows a benefit to the extent that the recipient of the guaranteed loan pays less for the debt than it would have absent the guarantee. To determine if the loan guarantee conferred a benefit, we compared the interest rate for the guaranteed loan with the average cost of long-term funds in the country in which the loan was obtained. The guaranteed loan carried an interest rate substantially higher than the benchmark. Given our determination of ISCOR's creditworthiness, the interest rate on the guaranteed loan does not appear to be preferential. Because of the substantial spread between the interest rate and the benchmark, we preliminarily determine that the government loan guarantee did not confer a bounty or grant upon ISCOR during the review period.

(10) Other Programs

We also examined the following programs and preliminarily find that the known South African exporters of certain steel products to the United States did not use them during the review period:

A. Regional Decentralization Program

B. Beneficiation Allowances for Mineral Processors

Preliminary Results of the Review

As a result of the review, we preliminarily determine the total bounty or grant on the covered products during the review period to be:

	Percent ad valorem
Carbon steel structural shapes	1.69
Hot-rolled carbon steel plate	1.75
Hot-rolled carbon steel sheet	12.87
Cold-rolled carbon steel sheet	11.03
Galvanized carbon steel sheet	8.96
Hot-rolled carbon steel bars	12.87
Hot-rolled alloy steel bars	12.87
Cold-formed carbon steel bars	7.50

Section 707 of the Tariff Act provides that the difference between the deposit of an estimated countervailing duty and the final calculation of the duty under a countervailing duty order shall be disregarded to the extent that the estimated duty is less than the final duty, and refunded to the extent that the estimated duty is higher than the final duty, for merchandise entered, or withdrawn from warehouse, for consumption before (for non-signatories) the date of the countervailing duty order. The Department therefore intends to instruct the Customs Service to assess countervailing duties at the appropriate rates for all shipments of the merchandise entered, or withdrawn from warehouse, for consumption on or after June 17, 1982, the date of the preliminary affirmative determination (47 FR 26340), and on or before September 6, 1982.

We intend to instruct the Customs Service to assess countervailing duties in the above listed amounts on the f.o.b. invoice price on any shipments entered, or withdrawn from warehouse, for consumption on or after September 7, 1982, and exported on or before December 31, 1982.

As provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect cash deposits of estimated countervailing duties in the amounts below on all shipments of certain steel products entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review:

	Percent of entered value
Carbon steel structural shapes*	0
Hot-rolled carbon steel plate*	0
Hot-rolled carbon steel sheet	1.46
Cold-rolled carbon steel sheet	1.42
Galvanized carbon steel sheet	1.34
Hot-rolled carbon steel bars	1.46
Hot-rolled alloy steel bars	1.46
Cold-formed carbon steel bars	7.50

*The estimated countervailing duties for deposit purposes on carbon steel structural shapes and hot-rolled carbon steel plate are 0.32 percent and 0.35 percent respectively. We consider these rates to be *de minimis*.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

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: August 8, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

Appendix

Description of Products

For purposes of this review:

1. The term *"carbon steel structural shapes"* covers hot-rolled, forged, extruded or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to schedule 6, Part 2 of the Tariff Schedules of the United States Annotated ("TSUSA"), for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the TSUSA, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the TSUSA. Such products are generally referred to as structural shapes.

2. The term *"hot-rolled carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620, 607.6625, or 607.9400 of the TSUSA; and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc, including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.1100 of the TSUSA. Semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included.

3. The term *"hot-rolled carbon steel sheet"* covers the following hot-rolled steel products. Hot-rolled carbon steel sheet is a hot-rolled carbon steel product, whether or not corrugated or crimped, whether or not pickled, and whether or not painted or

varnished; not cold-rolled; not cut; not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches in width and in coils or, if not in coils, under 0.1875 inch in thickness and over 12 inches in width as currently provided for in items 607.6610, 607.6710 through 607.6740, 607.8320, 607.8342, or 607.9400 of the TSUSA. *Please note that the definition of hot-rolled carbon steel sheet includes some products classified as "plate" in the TSUSA (items 607.6610 and 607.8320).*

4. The term *"cold-rolled carbon steel sheet"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a cold-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and in coils or, if not in coils, under 0.1875 inch in thickness; as currently provided for in items 607.8320 or 607.8350 through 607.8360 of the TSUSA. *Please note that the definition of cold-rolled carbon steel sheet includes some products classified as "plate" in the TSUSA (item 607.8320).*

5. The term *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.1100, 608.1310, 608.1320, or 608.1330 of the TSUSA. *Note that the definition of galvanized carbon steel sheet includes some products classified as "plate" in the TSUSA (items 608.0710 and 608.1100).* Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc is not included.

6. The term *"hot-rolled carbon steel bars"* covers hot-rolled carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, and not coated or plated with metal, as currently provided for in item 606.8310, 606.8330, or 606.8350 of the TSUSA.

7. The term *"hot-rolled alloy steel bars"* covers hot-rolled alloy steel products, other than those of stainless or tool steel, of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, as currently provided for in item 606.9700 of the TSUSA.

8. The term *"cold-formed carbon steel bars"* covers cold-formed carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, as currently provided for in items 606.8805 or 606.8815 of the TSUSA. Cold-formed carbon steel bars does not include cold-rolled carbon steel products cut to length, of any cross-sectional dimension less than 0.703 inch in maximum cross-sectional dimension, or if of rectangular cross section, not over 0.25 inch in thickness and not over 0.50 inch in width.

[FR Doc. 84-21508 Filed 8-13-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-533-035]

Oleoresins From India; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on oleoresins from India. The review covers the period January 1, 1983 through December 31, 1983.

As a result of the review, the Department has preliminarily determined the net subsidy to be 2.86 percent *ad valorem* for 1983. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 45579) the final results of its last administrative review of the countervailing duty order on oleoresins from India (44 FR 21009; April 9, 1979) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Indian oleorsins, which are determined by the Customs Service to be ineligible for duty-free treatment under the Generalized System of Preferences. Oleoresins are flavoring extracts, fruit flavors, essences, esters, and oils, not containing alcohol and not in ampules, capsules, tablets, or similar forms. Such merchandise is currently classifiable under items 450.2010, 450.2015, 450.2025, and 450.2040 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1983 through December 31, 1983, and the following programs: (1) A rebate upon export of indirect taxes under the Cash Compensatory Support Program ("CCS"), (2) pre-shipment export loans program, (3) income tax deductions under the Exports Market Development Allowance; and (4) grants through the Market Development Assistance Program.

Analysis of Programs

(1) CCS Program

The Government of India Introduced the CCS program in 1966 for the primary purpose of rebating upon exportation indirect taxes on merchandise. The rebates are paid as a percentage of the f.o.b. invoice price. In the final results of our last administrative review we found that the Indian government had satisfactorily demonstrated the requisite linkage between the tax incidence on the product and the CCS payment.

Although the Indian government rebates upon export various indirect taxes through the CCS program, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs that are physically incorporated in the exported product (see Annex 1.1 of Part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of Part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

The Indian government raised the CCS rate for oleoresins from 7 percent to 8 percent on March 1, 1983. We preliminarily find that the weighted-average net subsidy attributable to this program during 1983 is 0.9 percent *ad valorem*. For purposes of cash deposit of estimated countervailing duties, we preliminarily find that the potential net subsidy attributable to this program is 1.07 percent *ad valorem*.

(2) Pre-Shipment Export Loans

The Reserve Bank of India, through commercial banks, provides pre-shipment or "packing" credit to exporters, allowing them to purchase raw materials, packing materials, etc., based on presentation of a confirmed order or letter of credit. In general, the loans are granted for a period of 90 to 180 days. We found in another Indian case, certain iron-metal castings, that most banks extended such funds to

exporters for a maximum period of 90 days. The Government of India provided no response to our questions regarding the pre-shipment export loans program. We have therefore used, as the best and most recent information available, the interest rate for such loans in 1982. That rate, which the Indian government provided for the current administrative review of certain iron-metal castings, is 12.5 percent. The average comparable commercial interest rate during the 1982–83 fiscal year was 19.5 percent, as quoted by the World Bank from the Reserve Bank of India's Report on Currency and Finances. Therefore, using the differential between these rates for loans granted on a quarterly basis, and assuming full utilization of principal, we preliminarily find a net subsidy of 1.75 percent *ad valorem* in 1983.

(3) Income Tax Deductions Under the Export Markets Development Allowance.

Under Article 35B of the Finance Act, the Government of India allows exporters to deduct 133 percent of certain expenses for market development. However, because the Indian government allows deductions of 100 percent of such expenses for non-export sales, we focus on the remaining 33 percent as the benefit. The Indian government provided no response to our questions regarding the use of this program. We have therefore used, as the best information available, the rate preliminarily determined for the year of 1982 in another Indian case, certain iron-metal castings, and applied this rate to 1983. The rate is 0.18 percent *ad valorem*.

On May 13, 1983, the Government of India published in the Gazette of India the Finance Act of 1983, which included an amendment to Article 35B. Effective April 1, 1983, no income tax benefits are available for expenditures incurred after March 1, 1983. For purposes of cash deposit of estimated countervailing duties, we preliminarily determine that no benefit exists from this program.

(4) Market Development Assistance Grants

The Indian government provides grants to exporters to offset expenses for foreign market study teams and promotional publications. The Indian government provided no response to our questions regarding the use of this program. We have therefore used preliminarily, as the best information available, the rate determined in our last administrative review, and applied this rate to 1983. That rate is 0.03 percent *ad valorem*.

Preliminary Results of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 2.86 percent *ad valorem* for the period January 1, 1983 through December 31, 1983.

On December 30, 1982, the International Trade Commission ("the ITC") notified the Department that the Indian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after December 30, 1982 and through the date of the ITC's notification to the Department of its determination.

The Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, of 2.85 percent of the entered value on all shipments of non-GSP Indian oleoresins entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publicaiton or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

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: August 8, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-21507 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-791-004]

Carbon Steel Wire Rod From South Africa; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on carbon steel wire rod from South Africa. The review covers the period July 1, 1982 through December 31, 1982.

As a result of the review, the Department has preliminarily determined the amount of the total bounty or grant to be 7.57 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 14, 1984.

FOR FUTHER INFORMATION CONTACT: Philip Otterness or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 27, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 42396) a countervailing duty order on carbon steel wire rod from South Africa and announced its intent to conduct an administrative review. As required by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of South African wire rod. Such merchandise is currently classifiable under item 607.1700 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1982 through December 31, 1982 and eleven programs: (1) Export Incentive Program—Categories A, B and D; (2) government assumption of financing charges; (3) exemption from the payment of stamp duties; (4) a loan from the General Levy and Import Subsidy Scheme ("GLISS"); (5) Industrial Development Corporation loans; (6) preferential rail rates; (7) loans to uncreditworthy companies; (8)

government equity participation; (9) government loan guarantees; (10) regional decentralization program; and (11) beneficiation allowances for mineral processors. During the period of review, the South African Iron and Steel Corporation ("ISCOR") was the only known exporter of South African wire rod to the United States.

Analysis of Programs

(1) Export Incentive Program

In 1980 the South African Department of Industries, Commerce, and Toursim expanded and restructured its Export Incentive Program into four categories. Category C of this program was eliminated on April 1, 1982.

Category A is a tax credit equal to 50 percent of the value of import duties on raw materials that are re-exported after further processing. Category B is a tax credit equal to 10 percent of the value-added component of merchandise a company exports if there is a South African import duty on such merchandise. There is an import duty on wire rod. ISCOR did not pay taxes during the review period and therefore could not receive either of these tax credits.

Category D consists of a deduction from taxable income of up to 200 percent of export market development expenses. To calculate the benefits attributable to Category D, we multiplied the total claim by the tax rate and then divided by ISCOR's total exports.

For the Export Incentive Program, we preliminarily determine the benefit to be 0.28 percent *ad valorem.*

(2) Government Assumption of Financing Charges

In 1978, the Government of South Africa assumed 70 million rand of financing charges facing ISCOR. To calculate the subsidy attributable to this program, we followed the grants methodology as outlined in the Subsidies Appendix to the notice of "Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" on cold-rolled carbon steel flat-rolled products from Argentina ("the Subsidies Appendix") (49 FR 18006). We allocated the grant over 15 years, the average life of assets in the steel industry, using the described present value method. For a discount rate, we used ISCOR's weighted cost of capital. For this program, we preliminarily determine the benefit to be 0.47 percent *ad valorem.*

(3) Exemption from Payment of Stamp Duties

Between 1968 and 1980, ISCOR did not pay stamp duties on issuances of its stock to the Government of South Africa. The South African tax authorities apparently did not discover that ISCOR was liable for payment of these duties until 1982. In that year, the Government of South Africa passed a law that exempted ISCOR from payment of these back duties. We treated this program as a grant received in the year in which the Government forgave payment. For the full review period, we preliminarily determine the benefit to be 0.06 percent *ad valorem.*

Because the exemption from stamp duties applied only to back duties owed by ISCOR, we have not included an amount for this program in the cash deposit rate.

(4) Loan from General Levy and Import Subsidy Scheme ("GLISS")

Prior to the review period, the South African Department of Industries, Commerce, and Tourism made one loan to ISCOR from the GLISS fund. We first discovered this loan during our verification and asked ISCOR for further details on the terms of the loan. ISCOR did not provide us with the information requested. Therefore, using the best information available, we preliminarily determine that this loan was given at a preferential interest rate and is countervailable. To calculate the benefit, we compared the interest rate on the one repayment receipt we examined with the commercial "prime overdraft" rate in South Africa on the day of the repayment. We then applied the differential to the total amount of the loan outstanding during the review period. For this program, we preliminarily determine the benefit to be 0.09 percent *ad valorem.* ISCOR completely repaid the loan in November 1982. Therefore, we have not included an amount for this program in the cash deposit rate.

(5) Industrial Development Corporation Loans

The Industrial Development Corporation ("IDC"), a South African corporation, provides funds for the purposes of establishing new export capacity throughout the country and housing in decentralized areas. The loans are long-term and are given at below commercial interest rates. ISCOR did not allow us to verify that it had not used the program. Therefore, we preliminarily determine that ISCOR used this program during the review period. As best information available, we consider ISCOR's benefit to be equal to the highest *ad valorem* benefit received by a South African company from this program in any other South African case. For IDC loans, we preliminarily determine the benefit to be 0.77 percent *ad valorem.*

(6) Preferential Rail Rates

During the original investigation, the Government of South Africa stated that the South African Transport Services ("SATS") eliminated preferential rail rates on certain shipments of wire rod destined for export. According to the Government of South Africa, as of April 1, 1982, shipments of wire rod that met certain conditions were charged the same rate (Tariff 12), regardless of the destination of the wire rod. Consequently, in our final determination, the Department found no subsidy under this program after April 1, 1982.

Information gathered during the annual review, at verification, and submitted by the Government of South Africa following verification indicates that some of ISCOR's shipments of wire rod destined for export continued to carry charges more favorable than comparable shipments destined for the domestic market after April 1, 1982. The South African government maintains that the favorable treatment accorded to certain ISCOR shipments during the review period was only provisional, pending the completion of rail contracts between SATS and ISCOR. Under the new contracts, SATS would equalize the rates on shipments of domestically-destined steel products from April 1, 1982 onwards with those on steel products destined for export. In a supplemental questionnaire we asked whether the *ex post* adjustments had taken place. The South African government responded that the adjustments had not yet been made and did not indicate when they would occur.

In light of the rail rate differential in effect during the review period, and the lack of *ex post* adjustments during the review period, we preliminarily determine that ISCOR benefited from this program after April 1, 1982. As best information available, we relied on information gathered in the original investigation to calculate the benefit. For this program, we preliminarily determine the benefit to be 5.90 percent *ad valorem.*

In 1983, ISCOR entered into a contract agreement with SATS. We verified that both export- and domestic-destined shipments meeting the conditions of the contract are being shipped at the same rail rates. We therefore preliminarily

determine, for purposes of cash deposits of estimated countervailing duties, that contract rail rates do not confer a bounty or grant.

(7) Loans to Uncreditworthy Companies

Based on our 1984 reconsideration of the 1982 methodology for creditworthiness, as described in the Subsidies Appendix, we have decided that it is appropriate to examine again whether ISCOR was uncreditworthy from 1978 through 1982.

The Department considers a company to be uncreditworthy if it cannot obtain commercial financing absent new government involvement. For these preliminary results, we have limited our analysis to the years 1978 through 1982. However, we may find it necessary to consider ISCOR's creditworthiness prior to 1978 before reaching our final results. To determine if ISCOR was uncreditworthy in those years, we looked at several measurements of its financial performance. We gave great weight to ISCOR's cash flow and ability to cover its existing interest charges, and we also considered its debt-equity ratio and rate of return on sales. Although ISCOR's ability to cover its interest charges ("coverage ratio") was poor in 1978 and 1979, it improved dramatically in 1980 and remained strong throughout the remaining period. During the 5 year span, the company's debt-equity ratio continually improved. The company also showed a modest rate of return on sales. Based on a review of these indicators of ISCOR's financial performance, the Department preliminarily determines that ISCOR was creditworthy during those years. Before issuing the final results on this issue, the Department may consider other factors.

(8) Government Equity Participation

We are also reconsidering whether government equity participation in ISCOR was inconsistent with commercial considerations. Again, for these preliminary results, we have limited our analysis to the years 1978 through 1982. However, before issuing our final results, we may consider whether investment in ISCOR prior to 1978 was commercially reasonable.

To determine if investments in ISCOR were reasonable during 1978 through 1982, we gave great weight to ISCOR's rate of return on equity and debt-equity ratio. To compare ISCOR's rate of return on to national rates, we have made an adjustment to ISCOR's reported profits to account for the company's unusual method of revaluing its fixed assets. We have done this because ISCOR's method is not (a) in accordance with South African generally accepted accounting principles and (b) the predominant practice among South African companies. After our adjustments, ISCOR's financial records indicate that the company had an unsatisfactorily low positive rate of return on equity in 1978 and 1979. ISCOR's rate of return improved dramatically in 1980 and remained at that level through 1982, although it was still slighly below national average rates of return in the year. As noted in the prior section above, other indicators of ISCOR's financial health improved throughout the period.

Investment in a company is clearly unreasonable if this rate of return is significantly below the national average for its risk class for several years, and there are no reasonable prospects for a turnaround in that unsatisfactory performance. The difference between ISCOR's rate of return and the national average in those years is not large enough to indicate clearly that the company was not a good investment at that time. Moreover, our current evidence is not conclusive enough concerning the company's long-term prospects at the time the government agreed to purchase equity from ISCOR. We therefore preliminarily determine that investments in ISCOR were reasonable from 1978 through 1982. Before issuing our final results, however, we may seek additional information on market projections, expansion and rationalization programs, etc., in order to assess the company's long-term prospects at the time of agreement.

(9) Government Loan Guarantees

At verification, we discovered that during the period of review, ISCOR had received one loan guarantee from the Government of South Africa. A government loan guarantee to a creditworthy company bestows a benefit to the extent that the recipient of the guaranteed loan pays less for the debt than it would have absent the guarantee. To determine if the loan guarantee conferred a benefit, we compared the interest rate for the guaranteed loan with the average cost of long-term funds in the country in which the loan was obtained. The guaranteed loan carried an interest rate substantially higher than the benchmark. Given our determination of ISCOR's creditworthiness, the interest rate on the guaranteed loan does not appear to be preferential. Because of the substantial spread between the interest rate and the benchmark, we preliminarily determine that the government loan guarantee did not confer a bounty or grant upon ISCOR during the review period.

(10) Other Programs

We also examined the following programs and preliminarily find that the known South African exporters of wire rod to the United States did not use them during the review period:

A. Regional Decentralization Program

B. Beneficiation Allowances for Mineral Processors

Preliminary Results of the Review

As a result of the review, we preliminarily determine the total bounty or grant to be 7.57 percent *ad valorem* for the review period.

The Department intends to instruct the Customs Service to collect countervailing duties of 7.57 percent of the f.o.b. invoice price on any shipments entered, or withdrawn from warehouse, on or after July 14, 1982 and exported on or before December 31, 1982.

As provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties in the amount of 1.52 percent of the entered value on all shipments of carbon steel wire rod entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

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: August 8, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-21509 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-OS-M

[C-201-006]

Polypropylene Film From Mexico; Final Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of administrative review of suspension agreement.

SUMMARY: On June 26, 1984, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on polypropylene film from Mexico. The review covers the period December 7, 1982 through March 31, 1983.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 26, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR 26128) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on polypropylene film from Mexico (47 FR 54992, Dec. 7, 1982). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Mexican polypropylene film, a thin transparent film made from polypropylene resin. Such merchandise is currently classifiable under items 771.4316 and 774.5595 of the Tariff Schedules of the United States Annotated. Polypropylene film is used for packaging a wide variety of articles and in the manufacture of pressure sensitive packing tape, dielectric material in electrical capacitors, and for wrapping power and communication cables. The review covers the only known exporter of Mexican polypropylene film to the United States, Celulosa y Derivados, S.A. ("CYDSA"), the signatory to the suspension agreement.

The review covers the period December 7, 1982 through March 31, 1983, and eight programs: (1) CEDI, (2) FOMEX, (3) CEPROFI, (4) FONEI, (5) FOGAIN, (6) State Tax Incentives, (7) Import Duty Reductions and Exemptions, and (8) NIDP Preferential Price Discounts.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine that CYDSA has complied with the terms of the suspension agreement for the period December 7, 1982 through March 31, 1983. Therefore, the suspension agreement for Mexican polypropylene film shall remain in effect. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

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: August 8, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-21510 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application For Duty-Free Entry of Scientific Instrument; University of California, Davis

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84–144. Applicant: University of California, Davis, Davis, CA 95616. Instrument: GC/Mass Spectrometer with Data System, Model ZAB–2F–HS/11–250. Manufacturer: V.G. Instruments, Inc., United Kingdom. Intended use: See notice at 49 FR 14156.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations at the time the foreign instrument was ordered (December 21, 1983).

Reasons: The foreign instrument satisfies the following requirements: (1) Resolution greater than 20,000, (2) mass range greater than 2,000 atomic mass units using a fast atom bombardment ion source and (3) fast scan GC/MS operation (0.5 second cycle repetition rate). The National Institutes of Health advises in its memorandum dated June 20, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument." The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purpose of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to Hewlett-Packard, Nicolet Analytical Instruments and Nuclide Corporation, it is apparent that the domestic manufacturers were either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacturer a domestic

instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-21501 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Rocky Mountain Eye Foundation

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 83-338. Applicant: Rocky Mountain Eye Foundation, Boulder, CO 80302. Instrument: Argon Laser Coagulator, Model LPK80. Manufacturer: MEDITEC, West Germany. Intended use: See notice at 49 FR 24583.

Comments: None received.

Decision: Application denied. Because the article possesses no scientific value for the purposes for which it is intended, a prima facie case is not presented upon which to base a finding of scientific equivalency.

Reasons: Item 851.60 of the Tariff Schedules of the United States (TSUS) provides, *inter alia*, for duty-free treatment with respect to "Articles entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes. . . . if no instrument or apparatus of *equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used* is being manufactured in the United States" (Emphasis supplied). The law provides that "the Secretary of Commerce, whose authority has been delegated to this Office, is to determine "Whether an instrument or apparatus of equivalent scientific value to such [the foreign] article, for the purposes for which the instrument or apparatus is intended to be used, is being manufactured in the United States" (headnote 6(c), Schedule 8, Part 4, TSUS). In order to make the determination of scientific equivalency, it is clear that some scientific use for the foreign article, whether educational or research must be intended. Although the foreign article falls within the tariff items eligible for duty-free entry consideration, is it intended to be used "in operating room settings as well as . . . in outpatient clinical settings" in the care and treatment of patients. The Tariff Schedules limit duty-free treatment to those instruments or apparatus intended for use in scientific research or scientific education; even non-commercial use for disagnosis or patient treatment is not permissable if that is the exclusive intended use of the instrument in question. As explained in the "Analysis of Florence Agreement Implementing Legislation," submitted to Congress by the State Department during consideration of this provision for duty-free entry.

> [I]t is intended that such imported instruments or apparatus could *also* be used by [a nonprofit] institution, for example, in diagnostic laboratory work, for the treatment of patients, and in other activities of such an institution which are non-commercial, and need not be continuously or wholly limited to scientific research or educational purposes.

Implementation of Florence and Beirut Agreements: Hearings Before the House Ways and Means Committee, 89th Cong., 2d Sess. 12 (1966) (emphasis added). Thus, § 301.5(d)(iii) of the regulations mandates denial of applications when the contemplated purposes are limited to patient treatment, which is the only purpose the applicant has stated. In connection with this use the scientific consultants at NIH advise in a memorandum dated January 12, 1984 that the foreign article does not qualify for duty-free entry under Pub. L. 89-651 because its use is not related to scientific research or education.

Further, the applicant has failed to respond to a request (Dec. 27, 1983) for a copy of the purchase order as required by 5.c of the application.

In view of the intended use of the article and the above stated requirements of Pub. L. 89-651 [Item 851.60, TSUS], the Department cannot make the finding on scientific equivalency upon which duty-free entry must be conditioned. Therefore, pursuant to § 301.5(d)(1)(iii) of the regulations, the application is denied.

(Catalog of Federal Domestic Assistance Program No. 11-105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-21502 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Mass Spectrometers; Oregon Graduate Center, et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84-142. Applicant: Oregon Graduate Center, Beaverton, OR 97006. Instrument: Mass Spectrometer, Model 7070 EHF with Accessories. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: See notice at 49 FR 14156.

Docket No. 84-143. Applicant: The Regents of the University of California, Riverside, Riverside, CA 92521. Instrument: Mass Spectrometer, Model VG Micromass 7070E/HF with Accessories. Manufacturer: The Vacuum Generators Micromass Company, United Kingdom. Intended use: See notice at 49 FR 19089.

Comments: None received.

Advice submitted by: National Institutes of Health, June 20, 1984.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The foreign instruments provide a mass range of 1 to 3100 atomic mass units at 5000 volts, a maximum scan rate below mass 2000 of 0.2 seconds/decade, a maximum scan rate below mass 600 of 0.1 seconds/decade, and a minimum cycle time for the mass range 500-25-500 of 0.3 seconds. The National Institutes of Health advises that (1) the capability of each of the foreign instruments described above is pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-21500 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. C-469-038]

Unwrought Zinc 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 March 13, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on unwrought zinc from Spain. The review covers the period January 1, 1981 through December 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. After review of all comments received, the Department has determined the net subsidy to be 1.70 percent *ad valorem* in 1981 and 2.69 percent *ad valorem* in 1982.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 9441) the preliminary results of its administrative review of the countervailing duty order on unwrought zinc from Spain (41 FR 18587, Apr. 8, 1977). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish unwrought zinc. Such merchandise is currently classifiable under item 626.0200 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1981 through December 31, 1982 and two programs previously found countervailable: (1) A rebate of indirect taxes upon exportation, under the Desgravacion Fiscal a la Exportacion ("the DFE"); and (2) an operating capital loans program. The review also covers four additional programs.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the petitioner, the Lead-Zinc Producers Committee ("the Committee"), and the two known exporters of Spanish zinc to the United States, Asturiana De Zinc, S.A. and Espanola Del Zinc, S.A.

Comment 1: The exporters argue that our calculation of the overrebate in 1981 was in error. They claim we undervalued the allowable indirect taxes as a percentage of the value of the exported product by including the DFE rebate in the denominator used to establish the ratios of input values to final product value. In the previous administrative review, the Department relied upon the verified f.o.b. price alone.

Department's Position: We agree that we should have used the f.o.b. price which we verified and found accurate during the previous administrative review. We have re-calculated the amount of rebate allowable and find no overrebate of indirect taxes during 1981.

Comment 2: The exporters contend that the commercial benchmark used by the Department in evaluating the operating capital loans program is too high. They contest the Department's 2.5 percent addition to the average of the monthly prime rates for one-year loans because "any exporter that could obtain any significant amount of financing under the operating capital loans program would have been able to obtain normal commercial credit at a rate no higher than prime." Alternatively, the exporters suggest that the Department use the published rate for loans "of one to three years" as the commercial benchmark.

Department's Position: We have considered and rejected this argument in our prior administrative review of this order (48 FR 35689, August 5, 1983).

Comment 3: The exporters contend that the Department erred in attributing the entire amount of the benefit of preferential operating capital loans to the year in which the loan was made even though the exact beginning and ending dates of those loans were available in the questionnaire response. Rather, the Department should allocate a *pro-rata* amount to each year bridged by the loan in accordance with the methodology previously used by the Department in Brazilian cases.

Department's Position: The Department attributes benefits from preferential loan programs to the period in which the cash savings occur. In certain determinations in other cases we previously have used a different methodology, allocating a *pro rata* amount to each year bridged by the loan. We have reviewed our methodology and have decided that while both methods are reasonable, attributing benefits to the period in which cash savings occur is the more reasonable.

Comment 4: The petitioner, while specifically not addressing the issue of whether verification is a matter of Department discretion, alleges that we should have conducted a verification during this administrative review. The Committee argues that during the previous administrative review "documentary support for several of the claims made by the Spanish government concerning the programs at issue was questionable, speculative, or non-existent." In particular the Committee questions the Department's acceptance of the Spanish government's calculation of the allowable indirect taxes for the DFE rebate, as based only on general allocations and broad-based equations. Finally, the petitioner asserts that the administrative burden of verification would be minimal since there are only two exporters.

Department's Position: We believe we conducted a thorough and satisfactory verification of this case during the last administrative review. we adhere to our position that we need not verify every year. Finally, the burden of verification on the Department is cumulative, whatever the separate measure of difficulty in verifying two companies.

Comment 5: The petitioner suggests that the Department should calculate the indirect tax incidence and the DFE rebate amounts in absolute amounts (e.g., dollars or pesetas) rather than percentages. By doing so, the Department could ensure a valid comparison. Absolute amounts could then be compared to determine if an overrebate occurred. If an overrebate did exist we could then express it in percentage terms. Such an approach would avoid the problem highlighted by the exporters in Comment 1. More importantly, the Committee does not believe there is sufficient support in the record for a finding of linkage under the tests approved by the Court of Appeals for the Federal Circuit. *Industrial Fasteners Group, American Importers Association* v. **United States**, 710 F. 2d 1576 (1983).

Department's Position: During our last administrative review we verified the peseta value of each physically incorporated input used in the production of zinc. We also verified the value of those imputs as a percentage of the f.o.b. price of the exported merchandise. We see no need to shift to the calculation proposed by the Committee using absolute numbers.

With regard to the questions of proof of linkage we see no reason to shift from our conclusions in the last review.

Comment 6: Assuming the Department's authority to set a cash deposit rate different than the assessment rate in countervailing duty cases, the petitioner argues that the Department acted inappropriately in establishing a cash deposit rate of 0.84%. The cash deposit rate should equal the Department's calculated net subsidy for 1982 of 2.69%. While the Spanish have reported changes that would lower the potential subsidy, there are numerous other government programs which are likely to increase the future subisdy level.

Department's Position: In setting duty deposit rates, we include corroborated reports of government actions occurring after the end of the period of review and before the issuance of the notice of preliminary results, only if the change is program-wide (*i.e.*, one that is not company-specific). The operating capital loans program was the only program to confer subsidies in this case during the administrative review covering 1982. The maximum loan eligibility under the operating capital loans program was reduced, program-wide, effective January 1, 1984 (*i.e.*, prior to our notice of preliminary results). The cash deposit rate established during this administrative review reflects this reduction. The petitioner has not submitted adequate information on new programs for us to investigate during this review, let alone include in the calculation of the cash deposit rate for future entries.

Final Results of the Review

After consideration of all of the comments received and after the change described in Comment 1, we determine the aggregate net subsidy to be 1.70 percent *ad valorem* during 1981 and 2.69 percent *ad valorem* during 1982. Accordingly, the Department will instruct the Customs Service to assess countervailing duties of 1.70 percent of the f.o.b. invoice price on all shipments of Spanish unwrought zinc exported on or after January 1, 1981 and on or before December 31, 1981, and of 2.69 percent for shipments of this merchandise exported on or after January 1, 1982 and entered, or withdrawn from warehouse, for consumption on or before April 21, 1982.

On April 22, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after April 22, 1982, and through the date of the ITC's notification to the Department of its determination.

Further, as provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.84 percent of the entered value 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 begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, as early as possible after the Department's receipt of the requested 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: August 3, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-21504 Filed 8-13-84; 8:45 am]
BILLING CODE 3510-05-M

[A-122-402]

Certain Dried Salted Codfish From Canada; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain dried salted codfish from Canada are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 4, 1984, and we will make ours on or before December 26, 1984.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1756.

SUPPLEMENTARY INFORMATION:

The Petition

On July 19, 1984, we received a petition in proper form filed by Codfish Corporation, Ponce, Puerto Rico, an behalf of the U.S. industry producing cod. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleged that the imports of the subject merchandise from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or threaten material injury to, a United States industry. The petitioner based United States price on Canadian offers for sale to Puerto Rican wholesalers. Since the petitioner was unable to secure home market or third country prices for the merchandise subject to this investigation, foreign market value was based on the price of raw material in Canada and United States producers' costs of processing the raw material into the product under investigation. The petitioner states that U.S. processors' costs are approximately the same as those experienced in Canada. Using this comparison, there are apparent dumping margins from 4 to 24 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition on cod, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether cod from Canada are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by December 26, 1984.

Scope of Investigation

The term "certain dried salted codfish" covers cod, which has been dried and salted, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers, as currently provided for in the Tariff Schedules of the United States item number 111.22.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 4, 1984, whether there is a reasonable indication that imports of cod from Canada are materially injuring, or threaten material injury to, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: August 8, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-21544 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-402]

Certain Textiles and Textile Products From Peru; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Peru of certain textiles and textile products, as described in the "Scope of Investigation" section below, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before October 12, 1984.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane, Office of Investigations, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-5414.

SUPPLEMENTARY INFORMATION:

Petition

On July 19, 1984, we received a petition from counsel for the American Textile Manufacturers Association, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industry producing certain textiles and textile products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Peru of certain textiles and textile products receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, section 303 (a)(1) and (b) of the Act applies to this investigation. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Intitation of Investigation

Under section 702(c) of the Act, we must determine within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain textiles and textile products from Peru, and we have found that the petition meets the requirements. Therefore, we are initiating a countervailing duty investigation to determine whether the manufacturers, producers, or exporters in Peru of certain textiles and textile products, as described in the "Scope of Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by October 12, 1984.

Scope of Investigation

The products covered by this investigation are certain textiles and textile products as described in Appendix A of this notice.

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Peru of certain textiles and textile products receive the following benefits which constitute bounties or grants:

- Certificate of Tax Rebate System (CERTEX).
- Nontraditional Export Fund (FENT).
- Law for the Promotion of Exports of Nontraditional Goods (Export Law).
- Articles 8 and 9—Tax credits, pursuant to Decree Law 183550 (General Law of Industries), based upon upgraded industrial priority level.
- Article 12—Depreciation of fixed assets at rates above normal depreciation rate.
- Article 13—Exemptions from income taxes on exporter earnings capitalized within set time period.
- Article 14—Tax benefits for the increase of permanent jobs.
- Article 16—Suspension of duties on imported capital goods for enterprises exporting a percentage of annual production of nontraditional goods.
- Article 23—Exemptions from taxes from the formation of consortia for exportation of nontraditional goods.
- Article 24—Exemption from duties on raw materials and intermediate products used exclusively in the manufacture of exports.
- Article 31—Preferential shipping rates to exporters of nontraditional goods.
- Regional incentives.

Dated: August 8, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A

The products covered in the initiation are certain textile and textile products from Peru.

The merchandise is currently classified under the item numbers of the Tariff Schedules of the United States Annotated listed below:

Yarns							
301.0000	303.2040	303.2042	307.6600	307.6810	307.6840	307.6850	310.9120
Cordage							
316.4000							
Fabric							
320.0001	320.0002	320.0004	320.0008	320.0058	320.0064	320.0092	320.0094
320.1001	320.1002	320.1003	320.1004	320.1006	320.1008	320.1026	320.1058
320.1092	320.1094	320.2028	320.2032	320.2046	320.2058	320.2092	320.2094
320.3026	320.3028	320.3032	320.3042	320.3046	320.3060	320.3064	320.3092
320.3094	320.4094	320.5094	320.6028	320.8026	321.0044	321.1001	321.1004
321.1044	321.1046	321.1088	321.1092	321.2026	321.2032	321.2046	321.3092
321.4028	321.4094	322.0002	322.1001	322.1003	322.1004	322.1026	322.1028
322.1044	322.1060	322.1088	322.1092	322.3092	322.4028	322.4092	322.4094
322.8094	323.0088	323.0092	323.0094	323.1052	323.1092	324.1092	324.2094
326.0036	326.0038	326.1001	326.1054	326.3094	327.1001	327.3092	327.3094
328.3092	328.3094	336.1520	336.6241	336.6243	336.6251	336.6253	336.6257
336.6441	336.6443	336.6451	336.6453	336.6455	336.6457	338.5021	338.5041
338.5059	338.5069						
Special Construction Fabrics							
345.1040	346.3530	346.5200	346.6020	346.6050	352.8095	353.5032	357.1500
Textile Furnishings							
360.0600	360.1515	360.4225	360.4825	360.7000	361.0520	361.4500	361.4800
363.0120	363.1040	363.1500	363.2000	363.4500	363.6520	363.6540	363.7000
364.2000	364.2300	365.7865	365.8610	365.8620	366.2460	366.2480	366.2780
366.4700	367.3424	367.3428					
Apparel							
372.1010	372.1020	372.1050	372.1070	372.3000	372.3500	372.4500	372.7000
372.8000	373.1500	373.2500	374.3000	374.5020	374.5040	376.2000	378.1520
379.0260	379.1100	379.1530	379.1720	379.3905	379.3930	379.4020	379.4040
379.4050	379.4060	379.4070	379.5520	379.5550	379.6470	379.7240	379.7250
379.7295	379.7530	379.7620	379.7630	379.7650	379.7830	379.7900	379.8318
379.8360	379.8420	383.0390	383.0805	383.1200	383.1320	383.1340	383.1510
383.1615	383.1620	383.2013	383.2050	383.2060	383.2305	383.2708	383.2709
383.2720	383.2730	383.2731	383.2750	383.2751	383.3050	383.3090	383.3465
383.3770	383.4705	383.4709	383.4761	383.4821	383.4825	383.5035	383.5090
383.5395	383.5500	383.5820	383.5830	383.5845	383.6200	383.6310	383.6330
383.6340	383.6345	383.6350	383.6360	383.6371	383.6372	383.6385	383.6395
383.6690	383.7000	383.7210	383.7510	383.7540	383.7590	383.9255	383.9535
Miscellaneous							
385.3000	385.5000	386.0600	386.5045	388.1000	388.2000	388.4000	702.5400
702.5600	702.6000	702.7000	702.7500	702.8000	703.1600	704.2500	704.6000
704.6500	706.3650	706.4140					

[FR Doc. 84-21545 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-559-401]

Initiation of Countervailing Duty Investigation; Certain Textiles and Textile Products From the Republic of Singapore

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in the Republic of Singapore of certain textiles and textile products, as described in the "Scope of Investigation" section below, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before October 12, 1984.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.,

Washington, D.C. 20230; telephone (202) 377–3530.

SUPPLEMENTARY INFORMATION:

Petition

On July 19, 1984, we received a petition from the American Textile Manufacturers Institute (ATMI), the Amalgamated Clothing and Textile Workers Union (ACTWU), and the International Ladies' Garment Workers Union (ILGWU) on behalf of the domestic textiles and textile products industry. In compliance with the filing requirements § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, exporters in Singapore of textiles and textile products receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"). Singapore is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, section 303 (a)(1) and (b) of the Act applies to this investigation. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten to cause material injury to a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain textiles and textile products and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Singapore of certain textiles and textile products, as listed in the "Scope of the Investigation" section of the notice, receive benefits which constitute bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by October 12, 1984.

Scope of the Investigation

The products covered by this investigation are certain textiles and textile products. The merchandise is currently classified under the *Tariff Schedules of the United States Annotated* (TSUSA) item numbers as listed in Appendix A to this notice.

Allegations of Bounties or Grants

The petition alleges that producers, manufacturers, or exporters in Singapore of certain textiles and textile products receive benefits under the following programs that constitute bounties or grants:

A. Economic Expansion Incentive Act

a. Part IV, Export Enterprise,
b. Part II, Pioneer Enterprise,
c. Part II, Expanding Enterprise,
d. Part IVA, International Trading Company,
e. Part VIB, Certified Export Warehouse, and
f. Part VIA, Capital Investments.

B. Singapore Monetary Authority

C. Singapore Economic Development Board

1. The Capital Assistance Scheme,
a. Loans,
b. Loan guarantees;
2. The Product Development Assistance,
a. Grants; and
3. The Skills Development Fund,
a. Training grants,
b. Interest grants for mechanization, and
c. Development consultancy grants.

D. Export Credit Insurance Corporation

E. Double Deduction of Export Promotional Expenses

F. Training Center for Apparel Workers

G. Research and Development Tax Incentives

1. One or more years of "pioneer" status;

2. Double deductions from taxable income for research and development expenditures;

3. Deductions for certain expenses not ordinarily deductible;

4. An investment allowance of up to 50 percent of research and development capital investment (excluding building costs);

5. Accelerated depreciation over three years for all plant and machinery purchased for research and development, and

6. Venture capital tax incentive.

We are not initiating on the following allegation:

Singapore Economic Development Board

Petitioners allege that under the Capital Assistance Scheme the SEDB makes equity investments on terms inconsistent with commercial considerations. This petition does not provide any evidence that the producers or exporters of the products under investigation have received equity infusions on terms inconsistent with commercial considerations.

Dated: August 8, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A

The products covered by this investigation are certain textiles and textile products. The merchandise is currently classified under the item numbers of the *Tariff Schedules of the United States Annotated* (TSUSA) listed below.

Yarns					
300.6028	310.1135	310.4047	310.5049	310.9140	
Cordage					
Fabric					
320.0002	320.0008	320.0036	320.0058	320.1001	320.1002
320.1008	320.1038	320.1058	320.1092	320.2032	320.2092
322.1008	322.1092	322.3094	322.4028	322.5094	322.6094
323.1092	325.2094	326.0001	326.0058	326.1001	328.2094
328.3028	328.4094	329.1092	336.6451	336.6453	337.2010
338.5008	338.5009	338.5010	338.5012	338.5015	338.5035
338.5065					
Special Construction Fabrics					
345.1040	349.1060	351.6030	353.5052	355.6510	357.9000
358.0290					
Textile Furnishings					
360.1515	360.1520	360.3000	360.4225	360.4825	360.7000
363.5030	363.5130	363.6015	366.2460	367.3428	367.6500

Apparel

373.0500	373.2500	373.2700	374.3550	376.5412	376.5609
376.5612	378.0550	379.0215	379.0220	379.0230	379.0240
379.0260	379.0370	379.0610	379.0615	379.0620	379.0630
379.0640	379.0645	379.0650	379.1710	379.1740	379.2320
379.2360	379.2350	379.2610	379.2620	379.2630	379.3120
379.3130	379.3140	379.3190	379.3310	379.3332	379.3925
379.3930	379.3940	379.4020	379.4030	379.4050	379.4060
379.4330	379.4620	379.4640	379.4650	379.4660	379.4670
379.5510	379.5520	379.5525	379.5530	379.5535	379.5540
379.5545	379.5550	379.5555	379.5560	379.5565	379.5800
379.6210	379.6215	379.6220	379.6230	379.6240	379.6250
379.6260	379.6270	379.6280	379.6470	379.6984	379.6992
379.7620	379.7630	379.7650	379.8318	379.8360	379.8420
379.8906	379.8911	379.8915	379.8930	379.8935	379.8940
379.9010	379.9020	379.9025	379.9030	379.9035	379.9040
379.9250	379.9515	379.9520	379.9530	379.9540	379.9555
379.9575	379.9580	379.9585	379.9605	379.9630	379.9805
383.0205	383.0210	383.0215	383.0221	383.0225	383.0305
383.0335	383.0350	383.0390	383.0505	383.0506	383.0520
383.0610	383.0611	383.0615	383.0616	383.0805	383.0815
383.0856	383.1802	383.1803	383.1807	383.1808	383.1820
383.1841	383.1842	383.1860	383.1910	383.1915	383.1925
383.1930	383.1935	383.1940	383.2013	383.2016	383.2020
383.2035	383.2040	383.2052	383.2056	383.2058	383.2205
383.2225	383.2230	383.2240	383.2245	383.2250	383.2305
383.2320	383.2354	383.2590	383.2706	383.2708	383.2709
383.2720	383.2725	383.2730	383.2731	383.2750	383.2815
383.2820	383.2830	383.2835	383.2836	383.2910	383.2920
383.3030	383.3040	383.3050	383.3060	383.3065	383.3080
383.3085	383.3090	383.3415	383.3430	383.3435	383.3440
383.3445	383.3446	383.3448	383.3450	383.3452	383.3460
383.3465	383.3466	383.4300	383.4702	383.4704	383.4705
383.4709	383.4711	383.4720	383.4730	383.4747	383.4749
383.4753	383.4755	383.4755	383.4761	383.4763	383.4765
383.4818	383.4821	383.4825	383.4900	383.5020	383.5035
383.5036	383.5038	383.5090	383.5045	383.5049	383.5050
383.5052	383.5053	383.5062	383.5067	383.5072	383.5073
383.5082	383.5086	383.5090	383.5304	383.5368	383.5830
383.6200	383.6371	383.6385	383.6395	383.6610	383.6650
383.7210	383.7510	383.7540	383.7550	383.7560	383.7590
383.7768	383.7772	383.8002	383.8003	383.8004	383.8005
383.8006	383.8043	383.8044	383.8045	383.8047	383.8070
383.8073	383.8110	383.8114	383.8115	383.8117	383.8125
383.8126	383.8135	383.8140	383.8145	383.8146	383.8160
383.8605	383.8620	383.8621	383.8622	383.8635	383.8645
383.8650	383.8660	383.8661	383.8663	383.8667	383.8669
383.8670	383.9010	383.9015	383.9020	383.9025	383.9030
383.9035	383.9040	383.9041	383.9050	383.9051	383.9060
383.9065	383.9070	383.9071	383.9210	383.9211	383.9215
383.9225	383.9235	383.9245	383.9246	383.9270	383.9276
383.9290	383.9291				

Miscellaneous

385.1500	385.5000	385.5500	385.6120	386.3000	386.5045
389.6265	389.7000	700.4506	704.4508	704.5015	704.8520
704.8550	706.4121	706.4140	706.4150		

[FR Doc. 84-21537 Filed 8-13-84; 8:45 am]
BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Receipt of Permit Applications

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*)

Send comments on applications to:

Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, or

Send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231-0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council,

Federal Building Room 2115, 300 South New Street, Dover, DE 19901, 302/674–2331

David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571–1366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00818, 809/753–6910

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228–2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW Mill Street, Portland, OR 97201, 503/221–6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, 605 W. Fourth Avenue, Anchorage, AK 99510, 907/271–4064

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 164 Bishop Street, Room 1608, Honolulu, HI 98613, 808/523–1368

For further information contact Shirley Whitted or John D. Kelly (Fees, Permits and Regulations Division, 202–634–7432).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the Federal Register. The National Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1984 have been received between July 25 and August 6, 1984, from the Government(s), shown below.

Dated: August 8, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

Code	Fishery	Regional Fishery Management Councils
ABS	Atlantic Billfishes and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands.	North Pacific.
GOA	Gulf of Alaska	Do.
NWA	Northwest Atlantic Ocean.	New England, Mid-Atlantic.
SMT	Seamount Groundfish	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Pacific Groundfish (Washington, Oregon and California).	Pacific.
PBS	Pacific Billfishes and Sharks.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Activity Code and Fishing Operations

1—Catching, processing and other support
2—Processing and other support only
3—Other support only
4—"Joint venture" in support of U.S. vessels

Nation/Vessel name/vessel type	Application No.	Fishery	Activity
Government of Portugal:			
Sao Rafael, gillnet	PO–84–0002	BSA/GOA	1
Vila Do Conde, stern trawler	PO–84–0008	BSA/GOA	1
Vimieiro, gillnet	PO–84–0013	BSA/GOA	1
Estevao Gomes, side trawler	PO–84–0022	BSA/GOA	1
Fernandes Lavrador, side trawler	PO–84–0023	BSA/GOA	1
S. Gabriel, gillnet	PO–84–0024	BSA/GOA	1
Maria de Ramos Pascoal, gillnet	PO–84–0025	BSA/GOA	1
Santa Maria Madalena, side trawler	PO–84–0026	BSA/GOA	1

[FR Doc. 84–21480 Filed 8–13–84; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limit for Certain Man-Made Fiber Textiles Produced or Manufactured in Brazil

August 9, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 15, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377–4212.

Background

The Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, as amended, between the Governments of the United States and the Federative Republic of Brazil provides for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the category level in the succeeding year and for designated percentage increases during an agreement year (swing). Under the terms of the bilateral agreement, as amended, the level of restraint established for man-made fiber textiles in Category 604 (other yarn, wholly of non-continous filament) is being adjusted for carryforward used during the agreement year which began April 1, 1983 which amounted to 3,383 pounds and for swing which amounts to 35,493 pounds. This will result in an increase in the current-year limit for Category 604 to 387,041 pounds. Although this adjusted limit is greater than the current import restraint limit for Category 604, the category will remain in embargo because of previous overshipments which will be charged to it.

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), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28 1984 (49 FR 26622) and July 16, 1984 (49 FR 287.54).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

August 9, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: On March 28, 1984, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of cotton and man-made fiber textiles and textile products exported during the twelve-month period beginning on April 1, 1984 and extending through March 31, 1985, produced or manufactured in Brazil, in excess of designated levels. The Chairman further advised you that the levels are subject to adjustment.[1]

Effective on August 15, 1984, paragraph 1 of the directive of March 28, 1984 is hereby amended to include an adjusted restraint limit of 387,041 pounds [2] for man-made fiber textile products in Category 604.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, as amended, between the Governments of the United States and the Federative Republic of Brazil which provide, in part, that: (1) Specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limit has not been adjusted to account for any imports exported after March 31, 1984.

The action taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of man-made fiber textile products from Brazil has 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 Commissioner of Customs, which are neessary for the implementation of such actions, fall within the foreign affairs excepton 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. 84-21503 Filed 8-13-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Kenosha Harbor, WI; Intent To Prepare a Draft Environmental Impact Statement

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

ACTION: Notice of intent to prepare a draft environmental impact statement for developing a recreational boat harbor at Kenosha Harbor, Wisconsin. The harbor is located at the City of Kenosha, along the western shore of Lake Michigan in southeastern Wisconsin.

SUMMARY:

Proposed Actions

Two new rubblemound breakwaters would be constructed south of the existing Corps confined disposal facility (CDF). The project includes: (a) A 1,090-foot long east breakwater extending southward from the CDF and a 440-foot long south breakwater extending out into Lake Michigan from the shoreline to provide for access, maneuvering, and launch ramp channels; and (b) development of support facilities, including launching and parking areas to be provided by the local sponsor.

Alternatives

The three potential sites to be considered for development of the boat harbor will be the existing Corps CDF adjacent to the south pier, the offshore and shoreline area south and west of the CDF, and an offshore area east of the Simmons Island Park. A total of 11 alternatives, including no action, will be evaluated to determine which alternative meets the needs of the proposed project. Ten of these alternatives could utilize the three potential sites.

Scoping Process

a. *Public Involvement*—An initial public meeting was held in October 1968 and had been coordinated with State and local interest groups. Two public meetings were held in September 1975 to give local interests an opportunity to express views and desires for improvements. Two public workshops were conducted in November 1977 to initiate a detailed study for a recreational boat harbor. Various alternative plans were presented to local representatives at an August 1979 meeting. A public discussion for further evaluation of the alternatives was held in September 1980.

b. *Significant Issues*—There are no significant issues, at this time, which have not been resolved.

c. *Environmental Review and Consultation Requirements*—This project will be reviewed for compliance with the following rules and regulations: Fish and Wildlife Act of 1956; Fish and Wildlife Coordination Act of 1958; National Historic Preservation Act of 1966; National Environmental Policy Act of 1969; Endangered Species Act of 1973; Water Resources Development Act of 1976; Executive Order 11990, Wetlands Protection, May 1977; Clean Water Act of 1977; and Environmental Quality, Policy and Procedures for Implementing NEPA (Corps Engineering Regulation 200-2-2).

Estimated Date of Release

It is anticipated that the DEIS will be available to the public October 1984.

Address

Questions about the proposed action and DEIS can be answered by: Mrs. Judith Limburg, Environmental Branch, U.S. Army Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231.

Dated: August 6, 1984.

Raymond T. Beurket, Jr.,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84-21470 Filed 8-13-84; 8:45 am]

BILLING CODE 3710-GA-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Filing the Fiscal-Operations Report and Application to Participate in the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs.

SUMMARY: The Secretary give notice to institutions of higher education of the deadline for an institution to apply for fiscal year 1985 funds—for use in the 1985-86 award year—under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the cost of postsecondary education. An institution is not required to establish eligibility prior to applying for funds. Institutions wil be notified of the closing date for establishing institutional eligibility to participate in the NDSL, CWS and SEOG programs through the **Federal Register.**

The Secretary further gives notice that an institution that had a NDSL fund or expended CWS or SEOG funds during the 1983-84 award year is required to report its program expenditures as of June 30, 1984, to the Secretary.

The NDSL, CWS, and SEOG programs are authorized by Parts E, C, and Subpart A-2, of title IV of the Higher Education Act of 1965.

(20 U.S.C. 1087aa-1087ii; 42 U.S.C. 2751-2756b; and 20 U.S.C. 1070b-1070b-3)

Closing date

An institution must submit the Fiscal-Operations Report and Application to Participate in the National Direct Student Loan, Supplemental Educational Opportunity Grant, and College Work-Study Programs (FISAP-OMB No. 1840-0073) by October 5, 1984. Institutions that do not submit the FISAP by the closing date will not be considered for 1985-86 funds.

FISAPs Delivered by Mail

A FISAP sent by mail must be addressed to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus-Based Programs Branch, 400 Maryland Avenue, SW., (Room 4621, Regional Office Building 3), Washington, D.C. 20202.

An institution must show proof of mailing its FISAP. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, or (3) any other proof

of mailing acceptable to the Secretary of Education.

If a FISAP is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

FISAPs Delivered by Hand

A FISAP that is hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus-Based Programs Branch, 7th and D Streets, SW., Room 4621, Regional Office Building 3, Washington, D.C. The Campus-Based Programs Branch will accept hand-delivered FISAPs between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays and Federal Holidays. A FISAP that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

FISAP Information

FISAPs were mailed by the program office in mid-July. An institution shall prepare and submit its FISAP in accordance with the instructions included in the package.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations

The following reguations are applicable to these programs:

National Direct Student Loan—34 CFR Parts 674 and 668.

College Work-Study—34 CFR Parts 675 and 668.

Supplemental Educational Opportunity Grant—34 CFR Parts 676 and 668.

Further Information

For further information, contact Mr. Robert Coates, Chief, Campus-Based Programs Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB-3), Washington, D.C. 20202, Telephone (202) 245-2320.

(20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et. seq.*)

(Catalog of Federal Domestic Assistance Nos. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: August 9, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84-21458 Filed 8-13-84; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Women's Educational Programs; Forum

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Notice of forum.

SUMMARY: This notice sets forth the schedule and proposed agenda of the National Advisory Council on Women's Educational Programs Forum on Women In Agri-Business. This notice also describes the function of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: August 29, 1984, 8:45 a.m. to 11:30 a.m.; and 1:30 p.m. to 4:00 p.m.

ADDRESS: The forum will be held at the Lutheran Brotherhood Fraternal Benefit Society, 625 4th Avenue South, Minneapolis, Minnesota 55415.

FOR FURTHER INFORMATION CONTACT: Sally Todd, Deputy Director, National Advisory Council on Women's Educational Programs, 425 13th Street, NW., Suite 416, Washington, D.C., 20004, (202) 376-1038.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95-561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The National Advisory Council on Women's Educational Programs Forum on Women In Agri-Business will take place from 8:45 a.m. to 11:30 a.m. and 1:30 p.m. to 4:00 p.m.

The meeting of the Council is open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 425 13th Street, NW., Suite 416, Washington, D.C. 20004.

Signed at Washington, D.C., on August 9, 1984.

Patricia A. Jensen,

Executive Director.

[FR Doc. 84-21548 Filed 8-13-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Docket Nos. CE-CP-SPRM-AR006, VA007, FL008, PA009, WI010, SC012, NM013, GA014, RI015, NH016, MA017, CA018, OR199, NY020, MO021, TX022, NJ023, IL024, UT025, IA026, WV027, MN028, WA029, KS030, HI031, TN032]

Energy Conservation Program for Consumer Products; State Petitions for Exemption From Federal Preemption of State Standards for Refrigerators and Refrigerator-Freezers, Freezers, Water Heaters, Room Air Conditioners, Central Air Conditioners, Furnaces, and Kitchen Ranges and Ovens

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice.

SUMMARY: The Department of Energy gives notice that it is extending the period for final action to either grant or deny the petitions received from 26 States requesting, in each case, that one or more State or local energy efficiency standards pertaining to refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditions, furnaces, and kitchen ranges and ovens be exempted from Federal preemption. The Department is extending the period for such final action in this matter to May 13, 1985. The Department cites the large number of petitions submitted and the complexity of the petitions as factors affecting the Department's timetable for this rulemaking action.

DATES: The Department of Energy is extending the period for final action to either grant or deny the petitions

received from the 26 States to May 13, 1985.

ADDRESS: Copies of the State petitions, transcripts of public hearings, and public comments received may be obtained from the DOE Freedom of Information Reading Room: U.S. Department of Energy, Freedom of Information, Public Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6020.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–113, Room GF–217, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–12, Room 6B–128, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9513.

SUPPLEMENTARY INFORMATION: Section 325 of Part B of Title III of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95–619),[1] requires that the Department of Energy prescribe an energy efficiency standard for each of 13 major household appliances unless it determines, by rule, that a standard will not result in significant conservation of energy, is not technologically feasible, or is not economically justified.

Section 327(a)(2) of the Act provides that any Federal standard applicable under Section 325 supersedes any non-identical State or local standard. Section 325(b) requires that a determination by DOE that no federal energy efficiency standard for a particular product is warranted would also supersede any State or local energy efficiency standard. Section 327(b)(3), however, provides that a State may petition for, and DOE may issue, a rule exempting a State or local standard from Federal supersession. Section 327(b)(4) directs the Department to take final action to either grant or deny such a petition within 6 months of the date that the petition is filed, except that the Department may publish a notice in the **Federal Register** extending such period to a date certain. It is further required that such notice shall include the reasons for delay.

On December 22, 1982, DOE published a final rule in which DOE determined that energy efficiency standards for clothes dryers and kitchen ranges and ovens would not result in a significant conservation of energy and would not be economically justified. 47 FR 57198. (Referred to hereafter as the December 1982 rule.) The December 1982 rule also established procedures governing petitions to DOE by States to obtain exemption from preemption of State or local energy efficiency standards. These procedures, which are found at § 430.41(b)(2) of Subpart C of Part 430, Code of Federal Regulations,[2] require a State requesting exemption for an existing State standard to submit a notice of intent to petition within 60 days of publication of a final rule, and to submit a petition within 120 days of publication. Under these procedures, the applicable State standard remains in effect while DOE considers the petition. The procedures also allow a State to request exemption for a State standard after the 120-day period; however, in such a case, the applicable State standard is preempted by the Federal rule until DOE grants the petition.

Further, the December 1982 rule established § 430.48(a) of the Regulation which restates the requirements of section 327(b)(4) of the Act, previously discussed.

On August 30, 1983, DOE published a final rule with respect to refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and furnaces. 48 FR 39376. (Referred to hereafter as the August 1983 rule.) For each product, except central air conditioners, DOE determined that an energy efficiency standard would not result in a significant conservation of energy and would not be economically justified. With respect to central air conditioners, DOE determined that an energy efficiency standard would result in a significant conservation of energy but would not be economically justified.

In response to the August 1983 rule, DOE has received petitions from 26 States requesting, in each case, that one or more States or local energy efficiency standards pertaining to refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners, and furnances be exempted from Federal preemption. One State also requested that its energy efficiency standard pertaining to kitchen ranges and ovens be exempted from Federal preemption. The 26 States, and the products covered by each State's energy efficiency standards for which exemption from Federal preemption is sought, are identified in Table 1.

[1] Part B of Title III of EPCA, as amended by NECPA, 42 U.S.C. 6291–6309, is referred to in this notice as the "Act."

[2] Part 430 of the Code of Federal Regulations is referred to in this notice as the "Regulation."

TABLE I.—STATE PETITIONS

State	State code	Refrigerator Refrigerator-Freezer	Freezer	Water heater	Room air conditioner	Central air conditioner	Furnace	Ranges and ovens
Arkansas	AR006			X	X	X	X	
Virginia	VA007			X	X	X	X	
Florida	FL008			X	X	X	X	
Pennsylvania	PA009			X	X	X	X	
Wisconsin	WI010				X	X	X	
South Caroiina	SC012			X		X	X	
New Mexico	NM013			X	X	X	X	
Georgia	GA014			X		X	X	
Rhode Island	RI015			X	X	X	X	X
New Hampshire	NH016			X	X	X	X	
Massachusetts	MA017			X	X	X	X	
California	CA018	X	X	X	X	X	X	
Oregon	OR019			X	X	X	X	
New York	NY020	X	X	X	X	X	X	
Missouri	MO021			X	X	X	X	
Texas	TX022			X	X	X	X	
New Jersey	NJ023			X	X	X	X	
Illinois	IL024	X	X	X	X	X	X	
Utah	UT025			X	X	X	X	
Iowa	IA026			X	X	X	X	

TABLE I.—STATE PETITIONS—Continued

State	State code	Refrigerator Refrigerator-Freezer	Freezer	Water heater	Room air conditioner	Central air conditioner	Furnace	Ranges and ovens
West Virginia	WV027			X	X	X	X	
Minnesota	MN028			X	X	X	X	
Washington	WA029			X	X	X	X	
Kansas	KS030					X		
Hawaii	HI031			X	X	X	X	
Tennessee	TN032			X	X	X	X	

Pursuant to section 327(b)(4) of the Act and § 430.48(a) of the Regulation, the Department of Energy gives notice that it is extending the period for final action to either grant or deny the petitions received from 26 States requesting, in each case, that one or more State or local energy efficiency standards pertaining to refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners, furnaces, and kitchen ranges and ovens be exempt from Federal preemption. The Department is extending the period for such final action in this matter to May 13, 1985.

It is the complexity of processing the 26 State petitions that has led DOE to extend the period for final action in this matter. Many of the petitions included detailed analyses of the benefits of the State or local energy efficiency standards pertaining to one or more of the products covered by the August 1983 rule or the December 1982 rule. Typically, such analyses addressed the energy savings attributable to each State or local energy efficiency standard for each product, consumer life cycle cost benefits and consumer payback periods. A number of analyses went on to address the further benefits of the lessening of the demand for additional electrical generating capacity, reduction in expenditures to import energy to States without indigenous energy sources sufficient to satisfy the State demands, and other economic and environmental benefits. The Department's review of these analyses has been time consuming because of the amount of information provided and the Department's need to identify the assumptions underlying the analyses and the methodology employed.

For the reasons cited above, and in consideration of the time and level of effort projected to conduct the rulemakings action on the matter of the 26 State petitions, the Department hereby gives notice that it is extending the period to May 13, 1985 for final action to either grant or deny the petitions received from 26 States requesting, in each case, that one or more State or local energy efficiency standards pertaining to refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners, furnances, and kitchen ranges and ovens be exempted from Federal preemption.

Issued in Washington, D.C., July 19, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84-21468 Filed 8-13-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Entitlements Exception Orders

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Rescheduling of public hearing; extension of written comment period; and publication of additional questions.

SUMMARY: The Economic Regulatory Administration (ERA) is announcing the rescheduling of the public hearing on its tentative decision concerning Entitlements exception orders. The public hearing will be held on September 25, 1984 instead of September 11, 1984. In addition, ERA is extending the period for written comments on its tentative decision until September 14, 1984.

ERA also is announcing additional specific questions which interested persons should consider in preparing their written and oral comments on the tentative decision.

FOR FURTHER INFORMATION CONTACT:

Junita Walls [Hearing Procedures], Office of Management Services, Economic Regulatory Administration, U.S. Department of Energy, Room GA-093, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4215

Ben McRae, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 6E-042, Washington, D.C. 20585

SUPPLEMENTARY INFORMATION: On June 28, 1984, ERA issued its tentative decision concerning the treatment of Entitlement exception orders in light of its final decision not to publish any further Entitlements lists. 49 FR 27410 (July 3, 1984). ERA announced that it would receive written comments concerning its tentative decision through August 31, 1984, and would hold a public hearing on September 11, 1984. In order to promote full discussion of the issues and to insure adequate time for addressing the questions propounded in today's notice, ERA has decided to extend the period for submitting written comments until September 14, 1984, and to change the date of the public hearing from September 11, 1984 to September 25, 1984 at 9:30 a.m. The hearing location will be U.S. Department of Energy, Forrestal Building, DOE Auditorium, Room GA-086, 1000 Independence Avenue, SW., Washington, D.C. 20585. Request to speak at the public hearing must be submitted by 4:30 p.m., September 14, 1984. Those selected to be heard at the hearing will be notified before 4:30 p.m., September 19, 1984, and will be required to submit 50 copies of their statement to the Office of Management Services of ERA by 4:30 p.m., September 21, 1984. A list of speakers will be available by 4:00 p.m., September 21, 1984.

The July 3 Notice solicited comments on the tentative decision and directed several specific questions concerning the tentative decision. ERA is announcing additional questions which interested persons should consider in preparing their written and oral comments. These questions are:

1. What should be done about firms with claims for additional exception relief who also have been issued or are in the process of being issued orders requiring them to pay back excessive exception relief?

2. Are exception cases for relief permitting firms to file amended entitlements reports mooted by DOE's final decision not to issue the January 1981 and final Entitlements Adjustments lists?

Issued in Washington, D.C., on August 8, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 84-21477 Filed 8-13-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-172-002]

ANR Pipeline Co.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on July 19, 1984, ANR Pipeline, Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-172-002 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that ANR proposes to amend a transportation service for Bethlehem Steel Corporation (Bethlehem), an eligible end-user, under the authorization issued by the Commission in Docket No. CP82-480-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states the transportation service is being provided pursuant to § 157.209(b) of the Commission's Regulations and a transportation agreement (Agreement) amond ANR, Bethlehem and Caliche Pipeline Company (Caliche) dated October 7, 1983, as amended November 18, 1983, December 22, 1983 February 12, 1984, May 1, 1984, and June 5, 1984. ANR is advised that Bethlehem has entered into a gas purchase contract (Contract) dated June 27, 1983, as amended, on December 13, 1983, with Caliche which provides for the purchase of up to 30,000 dt equivalent of natural gas per day. It is explained that on May 18, 1984, Bethlehem and Caliche amended their Contract to increase the amount of gas that may be purchased per day from 30,000 dt to 65,000 dt. On June 11, 1984, ANR Bethlehem and Caliche had amended their Agreement to provide for the tranportation of up to 65,000 dt of natural gas per day, it is submitted.

ANR hereby seeks the requisite authority from the Commission to amend the transportation service being provided so as to increase the amount of natural gas it is transporting from 30,000 dt to 65,000 dt.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursusnt to § 157.205 of the Regulations under the Natural Gas Act (18 CFR § 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21522 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-570-000]

ANR Pipeline Co.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on June 12, 1984, as supplemented on July 19, and July 30, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-570-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that ANR proposed to transport natural gas on behalf of Lukens Steel Company (Lukens), and eligible end-user, under the authorization issued in Docket No. CP82-480-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request, as supplemented, which is on file with the Commission and open to public inspection.

ANR indicates the Lukens has entered into an April 11, 1984, gas purchase contract with CNG Producing Company/Essex Exploration Company (CNG/Essex) to acquire up to 2 billion Btu of gas per day. It is further indicated that the gas to be sold by CNG/Essex to Lukens is not gas which has been released. ANR explains that it has entered into a gas transportation agreement dated April 9, 1984, with Lukens in order to effectuate delivery of the gas purchased by Lukens to Lukens' Coatesville, Pennsylvania, plant for boiler fuel and to run process equipment.

Specifically, ANR proposes to transport up to 2 billion Btu on an average and peak day basis and up to 730 billion Btu on an annual basis from the interconnection of ANR's facilities with the production facilities of CNG/Essex in Woodward County, Oklahoma, to the interconnection of ANR's facilities with Columbia Gas Transmission Corporation's (Columbia) facilities in Paulding County, Ohio. It is explained that Columbia and Columbia Gas of Pennsylvania, Inc., would provide subsequent transportation for Lukens. ANR states that it would charge Lukens 47.3 cents per million Btu for all gas delivered by ANR to Columbia for Lukens' account plus 2.0 cents per million Btu for all gas metered at Paulding until 28,364 billion Btu's from this and other agreements have been metered; ANR indicates that there is no added incentive charge. ANR further indicates that its 47.3 cents per million Btu rate is based upon ANR's Rate schedule EUT-1 on file with the Commission in its FERC Gas Tariff. It is averred that with the exception of the fees associated with the metering facilities, Lukens did not assume the cost of construction of any facilities necessary to provide the transportation service. ANR states that the subject transportation service commenced on June 6, 1984, pursuant to § 157.209(e)(1) of the Regulations and, subject to approval, would continue beyond the initial 120-day period for a term ending June 30, 1985.

In addition to the request for authority to undertake the specific transportation service, ANR also requests flexible authority to transport gas if Lukens should acquire other sources of gas requiring transportation service by ANR, or obtain gas at other points of receipt or require delivery at other points of delivery, ANR would provide such transportation under the flexible authority requested and would advise the Commission within 30 days of any addition or deletion of any gas suppliers and/or receipt or delivery points. It is stated that such notice to the Commission would include the following information and documentation, where applicable:

(i) A copy of any amendment to the transportation agreement adding or deleting points of receipt or points of delivery;

(ii) A copy of the gas purchase contract between the seller and the end-user;

(iii) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor and if so, identification of the parties, and specification of the current contract price;

(iv) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(v) A statement that the gas is not committed or dedicated within the meaning of NGPA section 2(18);

(iv) The location of the receipt/delivery points being added or deleted and the appropriate transportation charge resulting from the addition or deletion of receipt or delivery points (for deletions, the name of the producer/supplier would be provided);

(vii) Where an intermediary participates in the transaction between the seller and the end-user, the information required by § 157.209(c)(1)(ix);

(viii) The identity of any other pipeline involved in the transportation.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21523 Filed 8-13-84 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-576-000]

ANR Pipeline Co.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on July 16, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-576-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that ANR proposes to transport natural gas on behalf of Anchor Glass Container Corporation (Anchor) under authorization issued in Docket No. CP82-480-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, ANR proposes to transport up to 3.5 billion Btu of gas daily to Ohio Valley Gas Corporation (Ohio Valley) for further transportation to Anchor's Winchester, Indiana, facility on a best efforts basis. ANR is also requesting "flexible authority" to provide transportation on behalf of Anchor, should other sources of gas become available within the maximum daily and annual transportation volumes. ANR states that said transportation commenced April 28, 1984, and is proposed to be extended through June 30, 1985. ANR further states that the gas to be transported would be purchased from ANR Gathering Company (Gathering) by Anchor and that Anchor would use the gas to run process equipment. ANR also states that it would receive the gas at existing interconnections between its facilities and those of Gathering and redeliver such gas to Ohio Valley, the distribution company serving Anchor. ANR states that the gas to be purchased by Anchor is subject to the ceiling price provision of sections 102, 103, and 107 of the Natural Gas Policy Act of 1978.

ANR states it proposes to charge Anchor 53.3 cents per dt equivalent of gas it delivers to Ohio Valley. ANR also states it is charging 1.25 cents per Mcf delivered as remittance to the Gas Research Institute Funding Unit.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21524 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-610-000]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on July 27, 1984, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP84-610-000 an application pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Arkla proposes to construct and operate certain gas sales taps and related facilities at various locations on its pipeline system under the authorization issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Arkla proposes to construct and operate taps and metering facilities at various points on its pipeline system to serve the following retail customers: (1) Henry C. Collins from Line 634-2 in Hughes County, Oklahoma, estimated annual sales of 90 Mct. Arkla proposes a retail rate pursuant to its Rate Schedule No. 1 on file with Oklahoma Corporation Commission. Estimated costs of facilities is $1,330; (2) Ben Hogan Company, Inc., from Line AM-151, Little River County, Arkansas, estimated annual sales are 60,000 Mcf. Arkla proposes a retail rate pursuant to its Rate Schedule No. 3 on file with the Arkansas Public Service Commission. Estimated cost of facilities is $37,180; (3) Big Mac Tank Trucks, Inc., from Line BT-8, Pope County, Arkansas. Estimated annual sales are 3,000 Mcf. Arkla proposes a retail rate pursuant to its Rate Schedule No. 3 on file with the Arkansas Public Service Commission. Estimated cost of facilities is $1,330; (4) Darenco from Line C in Cass County, Texas. Estimated annual sales are 6,000 Mcf. Arkla proposes a retail rate of $3.80 per Mcf plus a purchased gas adjustment (with a take or pay minimum of 500 Mcf per month) pursuant to a gas service agreement dated June 7, 1984, on file with the Texas Railroad Commission. Estimated cost of facilities is $26,035; and (5) Rural Extension No. 1136 of Arkla's distribution system served from Arkla's Line BT-1 in Garland County, Arkansas, from which initially nine retail household customers would attach. Estimated annual sales are 2,200 Mcf and estimated costs of facilities is $3,790.

Arkla states the proposed sales of natural gas would be made from general systems supply which is adequate to provide the proposed service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the

request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21525 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-103-001]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on July 27, 1984, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP84-103-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to continue transporting natural gas on behalf of Goodyear Tire and Rubber Company (Goodyear) through June 30, 1985, under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia explains that it filed, pursuant to 18 CFR 157.205 and 157.209 its original request for authorization to transport up to 850 million Btu of gas per day on behalf of Goodyear for use at Goodyear's plant in Marysville, Ohio, on November 29, 1983. The Commission issued a notice of Columbia's request and, since no protest was filed with the Commission, Columbia was authorized to transport gas on behalf of Goodyear for the term of the gas transportation agreement which is to expire on August 21, 1984, it is further explained.

It is stated that Goodyear has requested that Columbia continue the transportation service through June 30, 1985. Therefore, a new gas transportation agreement is being entered into which would provide that Columbia transport up to 850 million Btu of gas on behalf of Goodyear, it is indicated. It is further indicated that Columbia Gas of Ohio, Inc., the distribution company serving Goodyear, has the capacity to perform the transportation service without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21526 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-190-001]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on July 27, 1984, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP84-190-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to continue transporting natural gas on behalf of Goodyear Tire and Rubber Company (Goodyear) through June 30, 1985, under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia explains that it filed its original request for authorization to transport up to 1.6 billion Btu of gas per day on behalf of Goodyear for use at Goodyear's plant to Apple Grove, West Virginia. The Commission issued a notice of Columbia's request on January 13, 1984, and since no protest to the proposed service was filed, Columbia was authorized to transport gas on behalf of Goodyear for the term of the gas transportation agreement which expires August 21, 1984, it is further explained.

Goodyear has requested that Columbia continue transporting gas on behalf of Goodyear through June 30, 1985, it is averred. Therefore, a new gas transportation agreement is being entered into which would provide that Columbia continue transporting up to 1.6 billion Btu on behalf of Goodyear through June 30, 1985, it is further averred. It is further indicated that Mountaineer Gas Company (successor to Columbia Gas of West Virginia, Inc.), the distribution company serving Goodyear, has capacity to perform the transportation service without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21527 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-602-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on July 25, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP84-602-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Glass Containers Corporation (Glass Containers) under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 1,500 dt equivalent of natural gas per day for Glass Containers

for a term of one year. Columbia states that the gas to be transported would be purchased from POI Energy, Inc. (POI), and would be used primarily as fuel in glass melters in its Glass Container's Knox, Pennsylvania, plant.

It is indicated that Columbia has released certain gas supplies of POI and that these supplies are subject to the ceiling price provisions of sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978. Columbia states that it would receive the gas at existing delivery points on its system in Holmes and Trumbull Counties, Ohio, and redeliver such gas to Columbia Gas of Pennsylvania, Inc. (CPA), the distribution company serving Glass Containers, near Knox, Pennsylvania. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas.

Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas, as set forth in Rate Schedule TS–1 of Columbia's FERC Gas Tariff, Original Volume No. 1–A. Columbia also states that it would collect the GRI funding unit charge of 1.21 cents per dt.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowd therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–21528 Filed 8–13–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–604–000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on July 25, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP84–604–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Chesapeake Park, Inc. (Chesapeake Park), under the authorization issued in Docket No. CP83–76–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 1,004 dt equivalent of natural gas per day for Chesapeake Park for a term of one year. Columbia states that the gas to be transported would be purchased from Liberty Oil & Gas Corporation (Liberty Oil & Gas) and would be used primarily as fuel in boilers and furnaces in its Chesapeake Park's Baltimore, Maryland plant.

It is indicated that Columbia has released certain gas supplies of Liberty Oil & Gas and that these supplies are subject to the ceiling price provision of sections 103, 107, and 108 of the Natural Gas Policy Act of 1978. Columbia states that it would receive the gas at existing delivery points on its system in Meigs and Athens Counties, Ohio, and redeliver the gas to Baltimore Gas & Electric Company (BG&E), the distribution company serving Chesapeake Park, near Baltimore, Maryland. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states tht it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas, as set forth in Rate Schedule TS–1 of Columbia's FERC Gas Tariff, Original Volume No. 1-A. Columbia also states that it would collect the GRI Funding unit charge of 1.21 cents per dt.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385. 214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–21529 Filed 8–13–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–575–000]

Consolidated Gas Transmission Corp.; Request Under Blanket Authorization

August 8, 1984.

Take notice that on July 16, 1984, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP84–575–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Consolidated proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP82–537–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Consolidated proposes to transport up to 343 dt equivalent of natural gas per day for the account of American Refining Group (American) pursuant to a transportation agreement (Agreement) dated July 19, 1984. The proposed transportation service would terminate on June 30, 1985, or upon termination of the contract which initial term expires December 31, 1984, and from month to month thereafter, whichever occurs first, it is indicated.

Consolidated states that the gas is purchased from CNG Development Company (CNG) at mutually agreeable interconnects between the gathering facilities of CNG and facilities of Consolidated and transported to mutually agreeable interconnects between Consolidated and Peoples Natural Gas Company (Peoples) for

further delivery to American's facilities in Allegheny County, Pennsylvania.

It is indicated that American purchases this gas from CNG for $3.30 per million Btu and utilizes it in oil refining. It is explained that American's annual consumption of gas is approximately 150,000 Mcf of which ninety-eight percent of this amount is utilized by refining equipment and the remaining two percent is used for space heating.

Consolidated states that it would charge American the rate stated in Rate Schedule TI of its FERC Gas Tariff, Orignial Volume No. 1, which is currently 30.95 cents per dt. Consolidated states it has determined that it can provide this transportation service without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shal be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21530 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-568-000]

Gulf States Utilities Co.; Filing

August 8, 1984.

The filing Company submits the following:

Take notice that on July 30, 1984, Gulf States Utilities Company (Gulf States) tendered for filing proposed changes in its electric resale rate schedules designated WST and WSD presently on file with the Commission. The changes include increased rates for wholesale electric service which would increase revenues from such service by $28,542,112 or 36.3 percent based upon the twelve (12) month period ended June 30, 1983.

In addition to the proposed modification tariff sheets which reflect the entire $28,542,112 increase, Gulf States submitted alternate interim rate schedules which reflect an increase of $22,834,000 or 29.3 percent above current rates. Should the Commission suspend the modified tariff sheets reflecting the entire proposed increase for more than one day, Gulf States requests that the alternate interim rate schedules be made effective with no more than one day's suspension. Such interim rate schedules would be effective only during the period the higher rate schedules were suspended.

Gulf States estimates its rate of return on its jurisdictional rate base, for sales for resale for the twelve months ended June 30, 1983, was 8.83 percent. Gulf States further states that such return is substantially below its weighted cost of capital, and therefore will not attract the capital for planned construction and expansion programs. The proposed rates are based upon a 13.90 percent overall rate of return. The modified rate schedules and alternate interim rate schedules are based on a cost of service which reflects the inclusion of all pollution control construction work in progress (CWIP) and fifty percent of all remaining CWIP, but the proposed rates reflect the six percent limitation on the effect of CWIP inclusion in rate base required by the Commission's Regulations.

Gulf States has also modified the formula in the tariffs for calculation of the monthly fuel factor in order to reflect accurately those recoverable costs provided for 18 CFR 35.14.

Gulf States proposes an effective date of September 28, 1984.

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 August 20, 1984. 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. 84-21531 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1821-002]

Joan T. Bok; Application

August 9, 1984.

Take notice that on August 2, 1984, Joan T. Bok filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Massachusetts Electric Company
Director—The Narragansett Electric Company
Director—New England Electric Transmission Corporation
Vice Chairman & Director—New England Power 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, 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 August 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21532 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-63-005, et al.]

National Fuel Gas Supply Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

August 8, 1984.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 17 1984. Copies of the respective

filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
July 18, 1984	National Fuel Gas Supply Corp	RP83-63-005	Report.
Do	....do	RP80-135-042	Do.
July 25, 1984	Panhandle Eastern Pipe line Co	RP82-58-009	Do.
July 26, 1984	Mississippi River Transmission Corp	RP83-66-006	Do.
July 30, 1984	Kentucky West Virginia Gas Co	TA84-1-46-006	Do.
July 31, 1984	East Tennessee Natural Gas Co	RP80-97-036	Do.
Aug. 1, 1984	Algonquin Gas Transmission Co	RP72-110-037	Do.
Do	Tennessee Gas Pipeline Co	RP81-38-009	Do.

[FR Doc. 84-21533 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-581-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

August 9, 1984.

Take notice that on July 18, 1984, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP84-581-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest Central proposes to construct and operate a sales tap in Leavenworth County, Kansas, to permit the delivery of natural gas to the Fort Leavenworth Military Reservation owned by the U.S. Department of the Army, an existing customer of Northwest Central, under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central proposes to add a new delivery point for an existing customer, the U.S. Department of the Army. In order to effect delivery of the gas, Northwest Central proposes to tap its 12-inch pipeline and install appurtenant facilities at a new location at the Forth Leavenworth Military Reservation for the delivery of natural gas to a gymnasium, currently under construction. It is explained that the gymnasium would require approximately 240 Mcf per day of natural gas during the heating season. It is further explained that the proposed additional delivery point would not impact on Northwest Central's peak day and annual deliveries. An increase in total deliveries in the area is also not anticipated.

Northwest Central estimates the cost of the proposed facilities to be $1,030, which would be paid from available funds and reimbursed by the U.S. Department of the Army.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21534 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-16-000]

Northwestern Public Service Co.; Application for Authorization To Sell Facilities

August 9, 1984.

The filing company submits the following:

Take notice that on July 31, 1984, Northwestern Public Service Company ("Northwestern") submitted an application pursuant to section 203 of the Federal Power Act for authorization to sell to Otter Tail Power Company ("Otter Tail") and to Montana-Dakota Utilities Co. ("Montana-Dakota") an undivided 9.1% Ownership Interest in the Big Stone Generating Plant Substation and the south 7.1 miles of Applicant's 25.27 miles of 230 KV tranmission line in Grant County and Deuel County, South Dakota, known as the Big Stone-Gary 230 Kv Transmission Line.

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, and 385.214). All such motions or protests should be filed on or before September 3, 1984. 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 invervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21535 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-510-000]

Sun Exploration and Production Co.; Application for Blanket Limited-Term Certificate of Public Convenience and Necessity

August 8, 1984.

Take notice that on July 24, 1984, Sun Exploration and Production Company (Sun), of P.O. Box 2880, Dallas, Texas 75221-2880, filed an application pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717c, 717f, and the provisions of 18 CFR Part 157, for a blanket limited-term certificate of public convenience and necessity authorizing Sun to conduct a short-term spot sales marketing program, hereinafter referred to as the Sun's Spot Marketing Program (SUNSPOT), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Approval would (1) authorize the sale of natural gas by Sun for resale in interstate commerce; (2) permit limited-term, partial abandonment of certain natural gas sales, (3) confer pre-granted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (4) authorize transportation of natural gas by interstate pipeline companies able and willing to participate in SUNSPOT; and (5) confer pre-granted abandonment authorization for the transportation

service allowed under the requested certificate.

Under SUNSPOT Sun proposes to sell on a spot basis natural gas qualifying for the section 102, 103, and 107 rate under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432. Only contractually committed gas will be sold. Sun will seek temporary releases of gas from the purchasers to whom it is committed in order to meet market demand for spot sales. Releasing purchasers will be absolved from take-or-pay liability for any volumes of gas released and sold under the program. Arrangements for transporting the released gas will be made on a case-by-case basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before *August 22, 1984*, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21536 Filed 8-13-84 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-624-000]

Transcontinental Gas Pipe Line Corp.; Request Under Blanket Authorization

August 8, 1984.

Take notice that on July 30, 1984, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP84-624-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Transco proposes to transport end-user gas on behalf of BASF Wyandotte Corporation (BASF), Ball Corporation (Ball), C.P. Chemical Company (C.P.), FMC Corporation (FMC), Jersey Central Power & Light (Jersey Central), Merck & Company, Inc. (Merck), Millen Industries (Millen), Riegel Products Corporation (Riegel) and U.S. Gypsum Company (U.S. Gypsum) (collectively referred to as the End-Uses), all of whom are being represented by Energy Marketing Exchange, Inc. (EME), with "flexible authority" to add and/or delete sources of gas and/or receipt/delivery points, under the authorization issued in Docket No. CP82-426-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that Transco would receive the gas at an interconnection with GHR Transmission Company, in the Agua Dulce Field, Nueces County, Texas, and would redeliver, on an interruptible basis, equivalent quantities (less quantities retained for compressor fuel and line loss make-up) to the existing points of delivery between Transco and Elizabethtown Gas Company (Elizabethtown). In turn, it is explained, Elizabethtown would deliver such gas to the End-Users as follows:

To BASF at its plant in Washington, New Jersey—on a peak day 600 dt equivalent; on an average day 600 dt equivalent; and on an annual basis 220,063 dt equivalent.

To Ball at its plant in Carteret, New Jersey—on a peak day 1,250 dt equivalent; on an average day 1,000 dt equivalent; and on an annual basis 360,000 dt equivalent.

To C.P. at its plant in Sewaren, New Jersey—on a peak day 840 dt equivalent; on an average day 840 dt equivalent; and on an annual basis 308,087 dt equivalent.

To FMC at its plant in Carteret, New Jersey—on a peak day 1,450 dt equivalent; on an average day 770 dt equivalent; and on an annual basis 281,000 dt equivalent.

To Jersey Central at its Gilbert Generating Station, Milford, New Jersey—on a peak day 30,000 dt equivalent; on an average day 30,000 dt equivalent; and on an annual basis 10,950,000 dt equivalent.

To Merck at its plant in Rahway, New Jersey—on a peak day 13,440 dt equivalent; on an average day 3,000 dt equivalent; and on an annual basis 1,100,000 dt equivalent.

To Millen at its plant in Garwood, New Jersey—on a peak day 1,440 dt equivalent; on an average day 670 dt equivalent; and on an annual basis 240,000 dt equivalent.

To Riegel at its plants in Milford and Warren, New Jersey—on a peak day 3,000 dt equivalent; on an average day 3,000 dt equivalent; and on an annual basis 1,095,000 dt equivalent.

To U.S. Gypsum at its plant in Clark, New Jersey—on a peak day 2,700 dt equivalent; on an average day 1,835 dt equivalent; and on an annual basis 660,000 dt equivalent.

"(All the above plants are collectively referred to as the End-Users' Plants.)

It is stated that the total volume of gas to be transported to the End-Users' plants on a peak day is 80,000 dt equivalent; on an average day is 41,718 dt equivalent; and on an average basis is 15,214,150 dt equivalent. Such transportation would continue through June 30, 1985.

It is stated that the transportation service for each of the End-Users would be arranged through EME. It is explained that EME is an affiliate of Elizabethtown and EME functions as a buyer and seller of natural gas volumes. In addition, Transco states, EME acts as agent for the End-Users in arranging for the interstate transportation of their gas and for making payment for such transportation. Transco submits that EME receives reimbursement only for "out of pocket" costs incurred in connection with such transportation services and does not charge agency or handling fees and that, as seller of the gas, EME has title to it. Title to the gas passes from EME to each of the End-Users at Transco's receipt point in the Agua Dulce Field, it is submitted.

Transco states that EME is considering alternatives in the sources of supply of natural gas for the End-Users' requirements. Transco further states that such modifications may involve different suppliers and/or changes in receipt/delivery points, but would not involve any increase in peak day, average day or annual volumes to be transported by Transco. Consequently, Transco requests "flexible authority" whereby Transco would undertake certain filing requirements to advise the Commission in the event EME arranges for different sources of supply or if additions or deletions of receipt and/or delivery points are required in furtherance of the end-user, the end-use locations or the daily maximum and annual transportation volumes.

Upon implementation of "flexible authority", Transco states it would, within 30 days of the addition or deletion of any gas sources and/or receipt/delivery points, file with the Commission a report which would include

(i) A copy of any resulting modifications in the gas sales agreements between the End-Users and EME and a copy of any resulting

modifications in the transportation agreement between Transco and EME;

(ii) A statement as to whether the supply is attributable to gas under contract to, and released by, a pipeline or distributor and, if so, identification of the parties and specification of the current contract price;

(iii) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(iv) If the supplier is a "producer or other seller in a first sale", a statement that the gas was not "committed or dedicated to interstate commerce on November 8, 1978," as such terms are used in § 157.209(e)(1)(i)(A) of the Regulations;

(v) Location of the receipt/delivery points being added or deleted and the transportation rate changes, if any, resulting from the addition or deletion of receipt/delivery points (for deletions the name of the producer/supplier being deleted will be provided);

(vi) Where an intermediary participates in the transaction between the End-User and EME, the information required by § 157.209(c)(1)(ix) of the Regulations, and

(vii) Identity of any other pipeline involved in the transportation.

It is stated that Transco's transportation hereunder, including the rates to be charged the End-Users, would be pursant to Transco's Rate Schedule T-11.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn after 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21518 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-571-000]

Utah Power & Light Co.; Filing

August 8, 1984.

The filing Company submits the following:

Take notice that on July 30, 1984, Utah Power & Light Company (Utah) tendered for filing proposed changes in eight of its wheeling contracts which would increase rates and charges for transmissions service (wheeling) to customers in Utah, Idaho and Wyoming. Based on estimated levels of wheeling for the year 1984, proposed rates would increase revenues by $8,781,115 per year.

The requested increase for each wheeling is as follows:

Customer	Annual increase
U.S. Dept. of Energy (WAPA):	
Contract No. 2436	$9,754,827
Contract No. 3817	(390,322)
Contract No. 2470	(425,400)
Contract No. 3963	(7,050)
U.S. Dept. of Defense (Ogden Supply Depot)	(30,336)
City of Hurricane	(48,360)
Deseret Generation and Transmission Coop	(197,826)
Provo City	125,582
Total	$8,781,115

Copies of the filing were served upon Utah's wheeling customers, and upon the regulatory commissions of Utah, Idaho and Wyoming.

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 August 23, 1984. 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. 84-21519 Filed 8-13-84; 8:45 am]

BILLING CODE 6717-01-M

Southwestern Power Administration

[Rate Order No. SWPA-15]

Order Confirming and Approving on an Interim Basis Extension of Existing System Rates

AGENCY: Southwest Power Administration, Energy.

ACTION: Notice of rate order.

SUMMARY: The Deputy Secretary, under Delegation Order No. 0204-108, has confirmed and approved on an interim basis an extension of the existing Southwestern Power Administration System Rates. The extension becomes effective August 1, 1984, and continues in effect until September 30, 1984.

DATES: Extension of rates on an interim basis effective August 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581-7529.

Fred A. Sheap, Office of Power Marketing Coordination, Department of Energy—CE-91, James Forrestal Building, Room 6B-104, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252-1040.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (FERC), by order issued August 1, 1983, confirmed and approved Southwestern's System rates for a period ending July 31, 1984.

A proposed extension of the present Southwestern System rates for the period ending September 30, 1986, is currently being reviewed at the departmental level.

The extension of rates hereby approved is subject to approval on a final basis by the FERC.

Issued in Washington, DC, August 3, 1984.

Danny J. Boggs,

Deputy Secretary.

[Rate Order No. SWPA-15]

In the matter of Southwestern Power Administration—System Rates; Order Confirming and Approving Extension of System Rates on an Interim Basis, August 3, 1984.

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act

of 1944, 16 U.S.C. 825s, for the Southwestern Power Administration were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978) the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve and place into effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the Delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. By Delegation Order No. 0204–108, effective December 14, 1983, 48 FR 55664 (December 14, 1983) the Secretary of Energy delegated to the Deputy Secretary of Energy on a non-exclusive basis the authority to confirm, approve and place into effect on an interim basis power and transmission rates, and delegated to the Federal Energy Regulatory Commission on an exclusive basis the authority to confirm, approve and place in effect on a final basis or to disapprove power and transmission rates. This rate order is issued pursuant to the delegation to the Deputy Secretary of Energy.

Background and Discussion

Service from the Southwestern System is presently provided under rates which were confirmed and approved by the Federal Energy Regulatory Commission in Docket No. 83–4011–000 by order issued August 1, 1983, for a period ending July 31, 1984. Southwestern has proposed an extension of that rate through September 30, 1986. To allow time for the departmental review process, an extension is being granted for the period August 1, 1984, through September 30, 1984.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective August 1, 1984, an extension of existing Southwestern System rates through September 30, 1984.

Issued at Washington, DC, this 3rd day of August 1984.

Danny J. Boggs,

Deputy Secretary.

[FR Doc. 84–21476 Filed 8–13–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[A–4–FRL 2652–8]

Public Comment Period on Extension of PSD Permit Commencement of Construction Deadline

Notice is hereby given that on June 25, 1984, the Kentucky Utilities Company (KU) requested an extension of the Prevention of Significant Deterioration (PSD) permit 18-month commencement of construction period. That permit was issued by the Environmental Protection Agency on April 15, 1982, under § 165 of the Clean Air Act, 42 U.S.C. 7475. The PSD permit authorized construction, under certain conditions, of a two-unit, 1300-megawatt (MW) power plant in Hancock County, Kentucky. KU, Hancock County, and Willamette Industries filed administrative appeals of that permit, and all three appeals were denied on December 21, 1982. The effective date of the permit was January 21, 1983, which began the 18-month period during which KU must commence construction. See 40 CFR 52.21(r)(2). The deadline for commencement of construction was thus July 21, 1984. Expiration of the permit is now stayed pending resolution of KU's PSD commencement of construction period extension request. In February and March of 1983, KU, Hancock County, and Willamette Industries filed petitions for review of the final agency action on the permit, in the United States Court of Appeals for the Sixth Circuit. The petition of KU concerned only the nitrogen oxides limit for the auxiliary boiler, and upon stipulated remand to EPA, that limit was revised on January 17, 1984, and KU did not appeal the revised limit. A Motion to Dismiss the KU appeal as moot, has been filed by EPA in the U.S. Court of Appeals. Oral argument was held on the other petitions for review, on May 11, 1984, and a ruling is pending on those petitions. The KU request asks for an extension of the commencement of construction deadline for three (3) years until July 21, 1987, or 18 months after the Court of Appeals litigation is finally resolved, whichever is later. Major issues raised by the request are: (1) Whether an extension should be granted on the basis of revised load growth forecasting, resulting in a currently-scheduled commercial operating date for Unit 1, of October 1, 1993 (no date was given for Unit 2, in the extension request); (2) whether an extension should be granted on the basis of pendency of the above-mentioned Court of Appeals suit; and (3) if an extension is granted, whether it should be for three years.

Public Comment Period

Comments must be submitted by August 29, 1984.

Addresses: Copies of the (39-page) request may be inspected and copied at the following locations:

Kentucky Natural Resources and Environmental Protection Cabinet, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Hancock County Courthouse, Hawesville, Kentucky 42348.

Copies may be obtained by mail by writing to the Freedom of Information Officer at the above address for the Environmental Protection Agency, Region IV. All comments submitted on or before August 29, 1984, or next working day thereafter will be considered and should be submitted to Mr. Roger Pfaff at the Region IV address stated above.

For Further Information Contact: Roger Pfaff at 404/881–7654.

Dated: August 7, 1984.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 84–21498 Filed 8–13–84; 8:45 am]

BILLING CODE 6560–50–M

[Docket No. ECAO–CD–81–1; ORD–FRL 2647–1]

Draft Air Quality Criteria Document for Ozone and Other Photochemical Oxidants

Correction

In FR Doc. 84–20693, beginning on page 31337, in the issue of Monday, August 6, 1984, on page 31338, in the first column, in the **"ADDRESSES"** paragraph, in the tenth line, the phone number should read "(513) 684–7562".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

[File Nos. BPH-830429AE and BPH-830808AJ; MM Docket Nos. 84-736 and 84-737]

New FM Stations; Applications for Consolidated Hearing; Borealis Broadcasting, Inc. and Empire Communications, Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Borealis Broadcasting, Inc., Fairbanks, AL.	BPH-830429AE	84-736
B. Empire Communications, Inc., Fairbanks, AL.	BPH-830808AJ	84-737

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-21445 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

[Files Nos. BPH 8306-03AB, et al.; MM Docket Nos. 84-724, et al.]

New FM Stations; Applications for Consolidated Hearing; Jerrico Broadcasting, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Jerrico Broadcasting, Inc., Lubbock, TX.	BPH-83063AB	84-724
B. Lee Stafford and McKinley Shephard, Lubbock, TX.	BPH-830823AC	84-725
C. Mican Corportion of Texas, Lubbock, TX.	BPH-831026AI	84-726
D. Julio Torres, Lubbock, TX.	BPH-831027AE	84-727
E. Ernest F. and Manuela M. Barton d/b/a/ Barton Broadcasting Co., Lubbock, TX.	BPH-831027AL	84-728
F. Frankie Paul Rodriquez and Hortencia Lilia Rodriquez d/b/a/ FHT Broadcasting, Lubbock, TX.	BPH-831027AM	84-729
G. Lela M. Officer, Lubbock, TX.	BPH-831027AT	84-730
H. Guadelupe Sáenz d/b/a Lubbock Radio, Lubbock, TX.	BPH-831028BA	84-731
I. South Plains Broadcasting Co., Inc., Lubbock, TX.	BPH-831028BC	84-732

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designed for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. City Coverage, D, E, F, H
2. Comparative, A, B, C, D, E, F, G, H, I
3. Ultimate, A, B, C, D, E, F, G, H, I

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceedings may be obtained by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-21444 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

[File Nos. BPH-830505AC, et al.; MM Docket Nos. 84-745, et al.]

New FM Station; Application for Consolidated Hearing; Campbell Houser Corp. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Campbell Hauser Corp., Washington, NC.	BPH-830505AC	84-745
B. James Eugene Hodges, Washington, NC.	BPH-830830AB	84-746
C. Robart A. Manning, Washington, NC.	BPH-830830AC	84-747
D. JJB, Inc., Washington, NC.	BPH-830812AI	84-748

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), B
2. Comparative, A, B, C, D
3. Ultimate, A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may

be obtained by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue

1. If a final environmental impact statement is issued with respect to B (Hodges) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR DOc. 84–21447 Filed 8–13–84 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–830111AF, et al.; MM Docket Nos. 84–753, et al.]

New FM Stations; Applications for Consolidated Hearing; Stanley G. Emert, Jr., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Stanley G. Emert, Jr., St. Johnsbury, VT.	BPH–830111AF	84–753
B. Northeast Kingdom Broadcasters, Inc., St. Johnsbury, VT.	BPH–830408AB	84–754
C. Kathleen Pena Drown, d/b/a Northern Vermont Broadcasters, St. Johnsbury, VT.	BPH–830427AA	84–755
D. Marlin Broadcasting, Inc., St. Johnsbury, VT.	BPH–821202AB	84–756
E. Interstate Communications Co., St. Johnsbury, VT.	BPH–821217AF	84–757

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. City Coverage, E
2. Comparative, A, B, C, D, E
3. Ultimate, A, B, C, D, E

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix of this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc 84–21446 Filed 8–13–84; 8:45 am]

BILLING CODE 6712–01–M

[File Nos. BPH–830630AA, et al.; MM Docket Nos. 84–733, et al.]

New FM Stations; Applications for Consolidated Hearing; John M. McKenzie, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. John M. Mckenzie, Oxford, MS.	BPH–830630AA	84–733
B. Russel A. Lamb and David W. Kellum, d/b/a Oxford Radio, Oxford, MS.	BPH–830718AB	84–734
C. Colom Communications Corp., Oxford, MS.	BPH–830729AE	84–735

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issuer has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A
2. Comparative, A, B, C
3. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84–21442 Filed 8–13–84; 8:45 am]

BILLING CODE 6712–01–M

[File Nos. BPH–830913AA, et al.; MM Docket Nos. 84–738, et al.]

New FM Stations; Applications for Consolidated Hearing; Mercury Broadcasting Co., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
Dr. Kenneth E. Brown et al. d/b/a Mercury Broadcasting Co., Maurice, LA.	BPH–830913AA	84–738
B. Simla B. Ellis d/b/a Maurice Broadcasting, Maurice, LA.	BPH–830923AE	84–739
C. Contemporary Communications, Inc., Maurice, LA.	BPH–851114AG	84–740
D. Vector Enterprises, Inc., Maurice, LA.	BPH–831215AI	84–741
E. JMJ Communications, Inc., Maurice, LA.	BPH–840104AD	84–742
F. Walton Broadcasting, Inc., Maurice, LA.	BPH–840105AC	84–743
G. Melissa Horne and Frances Tyson d/b/a T & H Broadcasting, Maurice, LA.	BPH–840105BA	84–744

Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A, C, D, F
2. (See Appendix), D
3. Air Hazard, A, C, D, E, F, G

4. Comparative, A, B, C, D, E, F, G
5. Ultimate, A, B, C, D, E, F, G

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

1. If a final environmental impact statement is issued with respect to A (Mercury), C (Contemporary), D (Vector) and/or F (Walton) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

2. To determine with respect to D (Vector), whether common ownership, operation, or control of the proposed FM station and the proposed television station to serve New Iberia, Louisiana would be consistent with the public interest.

[FR Doc. 84-21443 Filed 8-13-84; 8:45 am]
BILLING CODE 6712-01-M

[MM Docket Nos 84-783; File Nos. BPCT-840221KJ. et al.]

Contemporary Communications of Georgia, Inc., et al.; Hearing

Hearing Designation Order

In re applications of Contemporary Communications of Georgia, Inc.; MM Docket No. 84-783, File No. BPCT-840221KJ; Albany Television Company, Ltd.; MM Docket No. 84-784, File No. BPCT-840424KE; for construction permit, Albany, Georgia.

Adopted: July 31, 1984.
Released: August 6, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 19, Albany, Georgia; informal objections filed by The Association of Maximum Service Telecasters, Inc. (AMST) and The Georgia Public Telecommunications Commission (WABW-TV), licensee of noncommercial educational Station WABW-TV, Pelham, Georgia; and a petition to dismiss application, filed by Coastal Plains Area Arts, Inc. (WKUD-(TV)), permittee of Station WKUD(TV), Valdosta, Georgia, each filed against Albany Television Company, Ltd.[1]

2. The transmitter site proposed by Albany Television Company, Ltd. (Albany TV) is 53 miles from the site of Station WKUD(TV), Channel 33, Valdosta, Georgia, whereas 73.610 of the Commission's Rules requires a minimum separation of 60 miles between UHF television stations operating on channels 14 channels apart. Albany TV would, therefore, be short-spaced 7 miles to station WKUD(TV). Albany TV's site would also be 18 miles from the site of Station WABW-TV, Channel 14, Pelham, Georgia, whereas the Rules require a minimum separation of 20 miles between stations on channels 5 channels apart. Albany TV would, therefore, be short-spaced 2 miles to Station WABW-TV. AMST, WABW-TV and WKUD(TV) each filed an objection to Albany TV's application on the grounds of the short-spacing. Albany TV has not filed any response to the objections. An issue will be specified with respect to Albany TV to determine whether circumstances exist which would warrant a waiver of the rules. In assessing those circumstances, the presiding Administrative Law Judge should consider the fact that the other applicant in this proceeding has specified a fully-spaced site.

3. Albany TV has not submitted the scale of miles required by Section V-C, item 10(d), FCC Form 301. Also, Albany TV has not submitted the figures for the area and population within its predicted Grade B contour as required by Section V-C, item 10(e). Since we do not have the information required by item 10(e), we are unable to determine whether there would be a significant difference in the size of the areas and populations that the applicants propose to serve. Albany TV will be required to submit an amendment providing the information called for in item 10 (d) and (e), within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

4. No determination has been reached that the tower height and location proposed by Albany TV would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Albany Television Company, Ltd. whether its proposal is consistent with the minimum mileage separation requirements of § 73.610 of the Commission's Rules, and if not, whether circumstances exist which would warrant waiver of the rule.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Albany Television Company, Ltd. would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the petition to deny filed by Coastal Plains Area Arts, Inc. is dismissed, and when considered as an informal objection filed pursuant to § 73.3587 of the Commission's Rules, is granted to the extent indicated herein and is denied in all other respect.

8. It is further ordered, That the informal objections filed by The Association of Maximum Service Telecasters, Inc., and The Georgia Public Telecommunications Commission are granted.

9. It is further ordered, That The Association of Maximum Service Telecasters, Inc., The Georgia Public

[1] Section 309(d) of the Communications Act of 1934, as amended, provides that petitions to deny an application must be supported by an affidavit of a person with personal knowledge of the facts therein. WKUD(TV)'s petition is not supported by an affidavit. Therefore, the petition will be dismissed. Nevertheless, it will be considered on its merits as an informal objection filed pursuant to § 73.3587 of the Commission's Rules.

Telecommunications Commission and Coastal Plains Area Arts, Inc. are made parties respondent to this proceeding with respect to issue 1.

10. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 2.

11. It is further ordered, That Albany Television Company, Ltd. shall submit an amendment providing the information called for in FCC Form 301, Section V–C, item 10 (d) and (e), to the presiding Administrative Law Judge, within 20 days after this Order is released.

12. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the parties respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant in section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84–21450 Filed 8–13–84; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket Nos. 84–772, et al; File Nos. BPCT–840106KF, et al.]

Delta Telecasters, et al; Hearing

Hearing Designation Order

In re applications of Delta Telecasters; MM Docket No. 84–772, File No. BPCT–840106KF; Chester Smith; MM Docket No. 84–773, File No. BPCT–840306KI; for construction permit for new television station, Greenville, Mississippi.

Adopted: July 30, 1984.
Released: August 6, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Delta Telecasters (Delta) and Chester Smith (Smith) for authority to construct a new commercial television station on Channel 44, Greenville, Mississippi.

2. The Commission is not in receipt of a determination from the Fedeal Aviation Administration that the tower height and location proposed by Smith would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. Section 76.501(a)(2) of the Commission's Rules states that no cable system (including all parties under common control) shall carry the signal of any television broadcast station if such system directly or indirectly owns, operates, controls, or has an interest in a television broadcast station whose predicted Grade B contour overlaps in whole or in part the service area of the cable system. Note 2 to the rule defines the word "interest" as used therein, as including, in the case of corporations, common officers or directors, and partial (as well as total) ownership interests represented by ownership of voting stock. Chester Smith is an officer and director of Action Communications Co., Inc., and is an officer of Action's 75 percent shareholder, Delta Capital Corporations. Action Communications Co., Inc. owns the following cable television systems: Mound Bayou Cable Television, Inc., which provides service to Mound Bayou, Merigold, and Winstonville, Mississippi; and Cable Television of Tchula, Inc., which provides service to Tchula, Mississippi. Both cable systems are within the Grade B contour of the proposed television station. However, Smith has represented to the Commission that, in the event of a grant of the television application, he will divest himself of all interest in, and connection with Action Communications Co., Inc. and Delta Capital Corporations, prior to the commencement of operation of the Greenville, Mississippi, station. Accordingly, any grant of a construction permit to Chester Smith will be conditioned accordingly.

4. Although both applicants fix the population to be covered by the respective proposals to be approximately 265,000 persons, there is a substantially difference in the areas that will be served by the proposed stations. Chester Smith states that his proposal will cover approximately 3850 square miles while Delta Telecasters states that its proposal will cover 6368 square miles. Our review of the coverage maps submitted by the applicants verifies the proposed coverages areas. Since neither application shows coverage to substantially unpopulated areas, it appears, that at least one of the applicants, erred in computing the population figures. Accordingly, each applicant will be required to reexamine its area and population data. If there are corrections or modifications to be made to the area and population data submitted, such information should be submitted to the presiding Administrative Law Judge within twenty (20) days from the release of this Order. If there is a substantial difference in the areas and populations to be served by the applicants, the presiding Administrative Law Judge will consider it under the standard comparative issue.

5. Except as indicated by the issues specified below the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine with respect to Chester Smith, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

(b) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That, in the event of a grant of Chester Smith's application, it will be conditioned as follows: Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that he has divested himself of all interest in and connection with Action Communications Co., Inc. and Delta Capital Corporations.

8. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

9. It is further ordered, That both applicants shall verify the data described in paragraph four (4) above, and submitted any necessary amendments to the presiding Administrative Law Judge within twenty (20) days after the release of this Order.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3694(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services, Division, Mass Media Bureau.

[FR Doc. 84-21449 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 84-761 et al.; File Nos. BPCT-84206KF, et al.]

Powell Community Television et al.; Hearing

Hearing Designation Order

In re applications of Harry C. Powell d/b/a Powell Community Television; MM Docket No. 84-761; File No. BPCT-840206KF; Horizon Broadcasting, Inc., MM Docket No. 84-762; File No. BPCT-840323KH; Loyd A. Allen; MM Docket No. 84-763; File No. BPCT-840413KJ; Fleur de Lis TV Broadcasting, Inc., MM Docket No. 84-764; File No. BPCT-840413KM; Mary Ann S. Bohl; MM Docket No. 84-765; File No. BPCT-840413KO; Albert, Inc., MM Docket No. 84-766; File No. BPCT-840413KU; RBJ Broadcasting Co., and Evelyn Leal, d/b/a Channel 49, joint venture; MM Docket No. 84-767; File No. BPCT-840413KV; Hispanic Communications Corporation; MM Docket No. 84-768; File No. BPCT-840413KW; Cresent City Communications Company, Inc.; MM Docket No. 84-769; File No. BPCT-840413KX; Nola TV; MM Docket No. 84-770; File No. BPCT-840413KY; Mandeville Communications Company of New Orleans; MM Docket No. 84-771; File No. BPCT-840413KZ; for construction permit, New Orleans, Louisiana.

Adopted: July 30, 1984.

Released: August 7, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 49, New Orleans, Louisiana, and a petition to deny filed by Horizon Broadcasting, Inc., against Harry C. Powell d/b/a Powell Community Television.

2. Horizon filed a petition to deny the Powell application. In part, the pleading is essentially a petition to add issues and, as such, should be addressed to the presiding Administrative Law Judge. *Revised Processing of Broadcast Applications*, 72 F.C.C. 2d 202 (1979). In part, however, the petition goes to the acceptability for filing of the Powell application and is properly submitted for our consideration. Horizon points out that Powell's application is one of five applications filed on the same date for Channel 49, New Orleans, all of which were prepared by the same consultant.[1] Four of those applicants, but not Powell, work for the consultant, according to Horizon, and four of them specified the same transmitter location. Finally, although the engineering section of Powell's application (Section V) is signed by Mr. Dwight R. Magnuson, Horizon states that Section V may have been prepared by Mr. Edward M. Johnson, based on testimony taken in hearing conducted on July 11, 1983. Mr. Johnson is not competent to engage in engineering consulting in Tennessee, according to a letter from the Tennessee Division of Regulatory Boards dated August 4, 1983, and that Mr. Johnson could not prepare Section V for Powell. Horizon concludes from these allegations that Section V of Powell's application was not properly executed, that the other applicants filed on the same day had an identity of interest with Powell, and that they conspired to avoid the requirements of §§ 73.3514, 73.3518 and 73.3520 of the Commission's Rules. Section 73.3514 requires applicants to include all information called for by the application form, which includes all parties to the application. Sections 73.3518 and 73.3520 prohibit the filing of inconsistent an multiple applications, respectively, for the same class of station by the same or related parties. Horizon concludes that Powell's application should be dismissed.

3. Section 309 of the Communications Act of 1934, as amended, requires that a petition contain allegations of specific facts, not conclusions, to establish a substantial and material question of fact. Parties hiring the same consulting firm may well submit similar applications. The specification of the same transmitter site by some ot the applicants is completely consistent with an option to buy or lease, contingent upon obtaining a construction permit from the Commission. The petition contains no specific facts to establish a conspiracy between Powell and the other applicants in question, or that those applicants did not, when filing their applications, intend to pursue their own interests independently. Finally, the petition offers noting but speculation that the applications, prepared in 1984, might have been prepared by Mr. Johnson, but signed by Mr. Magnuson. The latter is apparently competent to provide engineering consulting services in Tennessee. Thus, we conclude that Horizon has failed to meet its burden of pleading. Accordingly, Horizon's petition will be dismissed, to the extent that it seeks to add issues, and will be denied, to the extent that it seeks to dismiss Powell's application as unacceptable for filing.

4. The effective radiated visual power, antenna height above average terrain and other technical data submitted by each applicant indicates that there would be a significant difference in the size of the areas and populations which would be served by each of the proposals. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contours, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Section II, question 9, FCC Form 301, requires an applicant giving a positive response to attach an exhibit which provides the particulars. RBJ gave a positive answer to question 9 but did not include the required exhibit. RBJ will be required to submit the appropriate exhibit in response to question 9 to the presiding Administrative Law Judge within 20 days after this Order is released.

6. Section 73.2080(c) of the Commission's Rules requires applicants employing at least five persons full-time to file with the Commission program designed to provide equal employment opportunities. RBJ indicates that it will employ five or more full-time employees. However, RBJ has not submitted an EEO program. Accordingly, RBJ will be required to submit a copy of its EEO program to the presiding Administrative Law Judge within 20 days after this Order is released.

7. No determination has been reached that the tower height and location

[1] The other applications filed on the same date that Powell filed its application were subsequently dismissed at the request of the applicants.

proposed by each of the applicants [2] would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

8. Powell Community Television's proposed tower is to be located 0.84 miles from the directional array of AM station WGSO, New Orleans, Louisiana. Because of the proximity of the applicant's propose tower to WGSO, any grant of a construction permit to the applicant will be conditioned to ensure that WGSO's radiation pattern is not adversely affected by the construction of the proposed station.

9. Mary Ann S. Bohi's proposed tower is to be located 1.74 miles from the directional array of AM station WTIX, New Orleans, Louisiana; RBJ Broadcasting Co.'s proposed tower is 1.45 miles from WTIX; and Crescent City Communications Co., Inc.'s tower is to be located 1.60 miles from WTIX. Because of the proximity of each of these proposed towers to WTIX, any grant of a construction permit to any of these applicants will be conditioned to ensure that WTIX's radiation pattern is not adversely affected by the construction of the proposed station.

10. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True north and tabulated at least every 10° plus any minima or maxima. RBJ Broadcasting Co. has not supplied this data. Accordingly, the applicant will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy of the TV Branch, Mass Media Bureau, within 20 days after this Order is released.

11. Since grant of RBJ Broadcasting Co's application would constitute a major environmental action as defined in Section 1.1305(a) of the Commission's Rules, RBJ is required to submit the environmental impact information described in § 1.1311. Accordingly, RBJ will be required to file, within 20 days of the release of this Order, its environmental narrative statement with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Video Services Division, who will then proceed in accordance with the provisions of § 1.1313(b). Accordingly, § 1.1317 of the Rules will be waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 F.C.C. 2d 229(1979) *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 F.C.C. 2d 337(1980).

12. Loyd A. Allen's proposed tower is to be located 1.18 miles from a site proposed by Vand Broadcasting Service, an applicant (BP–820301AP) for a new AM station in Norco, Louisiana. In the event of a grant, and the AM station begins operating prior to the start of the tower structure erection of the TV station, any grant of a construction permit to the TV applicant will be conditioned to ensure that the AM station's radiation pattern is not adversely affected by the construction of the proposed TV station.

13. Loyd A. Allen's proposed site is 5 miles short-spaced (out of a required 20 miles) to the site proposed by Louisiana Super Comm. Limited Partners, applicant for Channel 44 in Baton Rouge, Louisiana (BPCT–830602KK). In addition, Albert, Inc. is 6 miles short-spaced (out of a required 20 miles) to the same applicant in Baton Rouge, Louisiana. Neither Loyd Allen nor Albert, Inc. requested a waiver of §.73.610 of the Commission's Rules. An issue will be specified to determine whether circumstances exist warranting a waiver. In assessing the circumstances to determine whether a waiver is warranted, the Administrative Law Judge should consider the fact that the other nine competing applicants in this proceeding have specified fully-spaced sites.

14. Hispanic Communications Corporation's proposed tower is to be located 1.18 miles from the directional array of AM station WQUE, New Orleans, Louisiana. Because of the proximity of the applicant's proposed tower to WQUE, any grant of a construction permit to the applicant will be conditioned to ensure that WQUE's radiation pattern is not adversely affected by the construction of the proposed station.

15. Mandeville Communications Company of New Orleans' proposed tower is to be located 1.37 mile from the directional array of AM station WSHO, and 0.04 miles from AM station WWL, both in New Orleans, Louisiana. Because of the proximity of the applicant's proposed tower to WSHO and WWL, any grant of a construction permit to the applicant will be conditioned to ensure that WSHO and WWL's radiation patterns are not adversely affected by the construction of the proposed station.

16. Section 73.685(a) of the Commission's Rules requires that transmitter locations be selected so that, on the basis of the effective radiated power and antenna height above average terrain employed, an 80 dBu contour (city grade contour) will cover the entire principal community. Albert, Inc. notes that it is not in compliance with the rule and requests a waiver of § 73.685(a). All of the other applicants certified compliance with § 73.685(a). Accordingly, an issue will be specified to determine whether circumstances exist to warrant a waiver of § 73.685(a) of the Rules. In assessing the circumstances to determine whether a waiver is warranted, the Administrative Law Judge should consider the fact that the other 10 competing applicants in this proceeding have complied with § 73.685(a) of the Commission's Rules.

17. Section 73.3555(a)(3) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party, if such party directly or indirectly owns, operates, or controls one or more broadcast stations in the same service and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed TV stations computed in accordance with § 73.684. Charles Gremillion, Jr., President and 100% stockholder of Albert, Inc., holds a 20% limited partnership interest in Parish Family Television-Limited Partnership, an applicant for Channel 44, Baton Rouge, Louisiana. That application is now in a comparative hearing in MM Docket No. 84–44. In the event both applications were granted, Albert Inc.'s proposed Grade B contour would envelop Baton Rouge. However, Mr. Gremillion has stated that he would divest all his interest in Parish Family Television-Limited Partnership, Baton Rouge, Louisiana, prior to the commencement of operation of the New Orleans station. Accordingly, any grant of a construction permit to Albert, Inc. will be conditioned upon Mr. Gremillion's divestiture of all his interest in, and connection with Parish Family Television-Limited Partnership.

18. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

19. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are

[2] The Commission is not in receipt of FAA's determination for the tower proposed by any of the applicants.

designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. If a final environmental impact statement is issued with respect to RBJ Broadcasting Co. which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment:

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

3. To determine, with respect to Loyd A. Allen and Albert Inc., whether each proposed site is consistent with the minimum mileage separation requirements of § 73.610 of the Commission's Rules, and if not, whether circumstances exist which would warrant a waiver of the rule.

4. To determine with respect to Albert, Inc. whether circumstances exist which would warrant a waiver of § 73.685(a) of the Commission's Rules.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

20. It is further ordered, That RBJ Broadcasting Co., shall submit the appropriate exhibit to Section II, question 9, FCC Form 301, to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

21. It is further ordered, That RBJ Broadcasting Co., shall file its Equal Employment Opportunity Program with the presiding Administrative Law Judge within 20 days after this Order is released.

22. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

23. It is further ordered, That the petition to deny filed by Horizon Broadcasting, Inc., to the extent that it seeks to add issues, is dismissed, and to the extent that it seeks to dismiss Powell's application as unacceptable for filing, is denied.

24. It is further ordered, That any grant of a construction permit to Harry C. Powell d/b/a/ Powell Commmunity Television will be subject to the following condition:

Prior to construction of the tower authorized herein, permittee shall notify AM station WGSO so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

25. It is further ordered, That any grant of a construction permit to Mary Ann S. Bohi, RBJ Broadcasting Co. or Crescent City Communications Comppany, Inc. will be subject to the following condition:

Prior to construction of the tower authorized herein, permittee shall notify AM station WTIX so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

26. It is further ordered, That RBJ Broadcasting Co. shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

27. It is further ordered, That § 1.1317 of the Commission's Rules is WAIVED to the extent indicated herein. Within 20 days of the release of this Order, RBJ Broadcasting Co., shall submit an environmental narrative statement required by § 1.1311 of the Rules to the presiding Administrative Law Judge, with a copy to the Chief, Video Services Division.

28. It is further ordered, That any grant of a construction permit to Lloyd A. Allen will be subject to the following condition:

In the event that the AM station requested by application BP–820301AP (830 kHz, Norco, La.) is authorized and begins operating prior to the start of the tower structure erection authorized herein, permittee must comply with the following condition. Prior to construction of the tower authorized herein, permittee shall notify the AM station so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

29. It is further ordered, That any grant of a construction permit to Hispanic Communications Corporation will be subject to the following condition:

Prior to construction of the tower authorized herein, permittee shall notify AM station WQUE so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the result submitted to the Commission.

30. It is further ordered, That any grant of a construction permit to Mandeville Communication Company of New Orleans will be subject to the following condition:

Prior to construction of the tower authorized herein, permittee shall notify AM

station WSHO and WWL so that, if necessary, the AM stations may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation patterns of the AM stations. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, partial proofs of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM arrays have not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

31. It is further ordered, That, in the event of a grant of Albert, Inc.'s application, the construction permit shall contain the following condition:

Prior to the commencement of operation of the television station authorized herein, Albert, Inc. shall certify to the Commission that Charles Gremilion, Jr. has divested himself of all interest in, and connection with Parish Family Television-Limited Partnership.

32. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

33. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-21448 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 84-776 et al.; File No. 50140-CM-P-82, et al.]

Telecrafter Corp., et al.; Hearing

Memorandum Opinion and Order

In re applications of Telecrafter Corporation; CC Docket No. 84-776, File No. 50140-CM-P-82; for construction permit in the Multipoint Distribution Service for a new station at Prosser, Nebraska; and Mid-Nebraska Telecommunications, Inc. CC Docket No. 84-777, File No. 50281-CM-P-82; for construction permit in the Multipoint Distribution Service for a new station at Doniphan, Nebraska.

Adopted July 26, 1984.
Released August 3, 1984.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Prosser, Nebraska and Doniphan, Nebraska. Each station's primary service area will be Grand Island, Nebraska. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

4. It is further ordered, That Telecrafter Corporation, Mid-Nebraska Telecommunications, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the Federal Register.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 84-21451 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 84-778; File No. 50180-CM-P-82 et al.]

Telecrafter Corp. et al.; Hearing

Memorandum Opinion and Order

In re applications of Telecrafter Corporation; CC Docket No. 84-778, File No. 50180-CM-P-82; and Raleigh Microwave Communications; CC Docket No. 84-779, File No. 50203-CM-P-82; for construction permits in the Multipoint Distribution Service for a new station at Minot, North Dakota.

Adopted July 26, 1984.
Released August 3, 1984.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Minot, North Dakota. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis,

which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Telecrafter Corporation Raleigh Microwave Communications and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 84-21452 Filed 8-13-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Barnett Banks of Florida, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 4, 1984.

A. Federal Reserve Bank of Altanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida; to engage *de nove* through its subsidiary, Barnett Banks Insurance, Inc., Jacksonville, Florida, in underwriting credit life and accident and health insurance that is directly related to an extension of credit by the bank holding company system. These activities would be conducted in the state of Florida.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Sharp Bancshares, Inc.*, Cave City, Arkansas; to engage *de novo* through its subsidiary, Sharp Insurance Agency, Inc., Cave City, Arkansas, in the activities of selling as agent, insurance directly related to extensions of credit from offices in Cave City and Evening Shade, Arkansas, towns whose populations do not exceed 5,000.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cache Bancshares, Inc.*, Cache, Oklahoma; to engage *de novo* through its subsidiary, Cache Insurance Agency, Inc., Cache, Oklahoma, in the activities of selling credit-related life, health and accident insurance in connection with extensions of credit by Applicant's subsidiaries. These activities would be conducted in a portion of Comanche County, Oklahoma, limited to the city of Cache, subsidiary bank's proposed branch north of Lawton, Oklahoma, and its surrounding market area.

2. *Cache Bancshares, Inc.*, Cache, Oklahoma; to engage *de novo* through its subsidiary, Cash Financial Services, Inc., Cache, Oklahoma, in making, selling, and servicing loans in the city of Cache and its surrounding market area.

Board of Governors of the Federal Reserve System, August 8, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21464 Filed 8-13-84; 8:45 am]

BILLING CODE 6210-01-M

Cache Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 5, 1984.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cache Bancshares, Inc.*, Cache, Oklahoma; to acquire Moore Insurance Agency of Cache, Oklahoma, Inc., Cache, Oklahoma, and thereby engage in general insurance activities (selling life, property and casualty insurance) in a town with a population not exceeding 5,000. These activities would be conducted in the town of Cache, Oklahoma and surrounding market area.

Board of Governors of the Federal Reserve System, August 8, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21463 Filed 8-13-84; 8:45 am]

BILLING CODE 6210-01-M

Cumberland Valley Financial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 C.F.R. 225.14) to become a bank holding company or to acquire a bank or bank holding company. 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 is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. 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.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 5, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Cumberland Valley Financial Corporation*, London, Kentucky; to acquire at least 81.65 percent of the voting shares of Corbin Deposit Bank & Trust Company, Corbin, Kentucky.

2. *First-Knox Banc Corp*, Mount Vernon, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The first Knox Bank of Mount Vernon, Ohio, Mount Vernon, Ohio.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First National Bancorp*, Gainesville Georgia; to acquire 100 percent of the voting shares of Bank of Clayton, Clayton, Georgia.

2. *Greensboro Bancshares, Inc.*, Greensboro, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Poples Bank of Greensboro, Greensboro, Alabama.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinios 60690:

1. *Ambanc Financial Services, Inc.*, Beaver Dam, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of The American National Bank of Beaver Dam, Beaver Dam, Wisconsin.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *FBL Bancshares, Inc.*, Liberty, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Farmers Bank of Liberty, Liberty, Illinois.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesoa 55480:

1. *S.B.E. Corp.*, Escanaba, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Escanaba, Escanaba, Michigan.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice Presideant) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *New Mexico Bank Investors, Inc.*, Raton, New Mexico; to become a bank holding company by acquiring 97 percent of the voting shares of International State Bank, Raton, New Mexico.

2. *Snow Bankcorp, Inc.*, Dillon, Colorado; to become a bank holding company by acquiring 84 percent of the voting shares of Snow Bank, N.A., Dillon, Colorado.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Coastal Bend Bancshares, Inc.*, Corpus Christi, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Coastal Bend National Bank, Corpus Christi, Texas.

2. *WNB Resources, Inc.*, Kerrville, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Kerrville, Kerrville, Texas.

Board of Governors of the Federal Reserve System, August 8, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21462 Filed 8-13-84; 8:45 am]

BILLING CODE 6210-01-M

First Virginia Banks, Inc.; Application To Engage de novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)), to engage *de novo* through a national bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed national bank subsidiary has been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that

outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than September 5, 1984.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to engage through a national subsidiary bank, First Virginia Bank, N.A., Gaithersburg, Maryland, in deposit-taking, consumer and mortgage (1–4 family dwellings only) lending, trust, investment advisory and other banking services, but not in making commercial loans. These activities would be conducted in Montgomery, Prince Georges, and Baltimore counties, Maryland.

Board of Governors of the Federal Reserve System, August 8, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21461 Filed 8-13-84; 8:45 am]

BILLING CODE 6210-01-M

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer will meet during the period October 10–12, 1984, at The Bellevue Hotel, Washington, D.C.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Anyone who wishes to attend should notify the Administrative Librarian, Library Programs Service, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, Virginia 22304 (Telephone: (703) 557–3892).

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chair.

William J. Barrett,

Acting Public Printer.

[FR Doc. 84-21520 Filed 8-13-84; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84P-0253]

Canned Tuna Deviating From Identity Standard; Temporary Permit for Market Testing; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice announcing that a temporary permit has been issued to Ralston Purina Co. to market test canned tuna in vegetable oil and canned tuna in water which contain a blend of sodium tripolyphosphate and sodium hexametaphosphate. Docket No. 84P-0253 was inadvertently written as Docket No. 84P-0224. This document corrects the error.

FOR FURTHER INFORMATION CONTACT: Agnes B. Black, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-18677 appearing at page 28769 in the issue of Monday, July 16, 1984, the following correction is made:

(1) On page 28769, "Docket No. 84P-0224" is corrected to read "Docket No. 84P-0253" in the heading of the document.

Dated: August 6, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-21441 Filed 8-13-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0254]

M&T Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that M&T Chemicals, Inc., has filed a petition proposing to amend the food additive regulations by revising the specifications for di(*n*-octyl)tin dichloride, (*n*-octyl)tin trichloride, and di(*n*-octyl)tin oxide intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (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 4B3810) has been filed by M&T Chemical, Inc., P.O. Box 1104, Rahway, NJ 07065, proposing to amend the food additive regulations by revising the specifications listed in 21 CFR 178.2650 for di(*n*-octyl)tin dichloride, (*n*-octyl)tin trichloride, and di(*n*-octyl)tin oxide to the following: (1) di(*n*-octyl)tin dichloride has an organotin composition that is not less than 95 percent by weight di(*n*-octyl)tin dichloride and not more than 5 percent by weight total of tri(*n*-octyl)tin chloride, (2) (*n*-octyl)tin trichloride has an organotin composition that is not less than 95 percent by weight (*n*-octyl)tin trichloride and not more than 5 percent by weigth total of tri(*n*-octyl)tin chloride, and (3) di(*n*-octyl)tin oxide has an organotin composition that is not less than 95 percent by weight di(*n*-octyl)tin oxide and not more than 5 percent by weight of bis[tri(*n*-octyl)tin] oxide, and/or mono *n*-octyltin oxide.

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: August 3, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-21440 Filed 8-13-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the

proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer and the Office of Management and Budget, Interior Department Desk Officer, Washington, D.C. 20503, telephone (202) 395–7313.

Title: Nondiscrimination on the Basis of Race, Color, or National Origin in Federally-Assisted Programs of the Department of the Interior, 43 CFR Part 17, Subpart A

Abstract: The Department of the Interior's Title VI regulation provides authority for the Department to require recipients to keep and report civil rights information. The regulation also requires recipients to provide assurances or certification as to their civil rights compliance status. In addition, the regulation provides for written complaints from persons who believe unlawful discrimination has occurred in a Federal assistance program of the Department.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: State and local governments receiving Federal financial assistance from the Department of the Interior, and any person who believes unlawful discrimination has occurred in a Federal Assistance Program of the Department.

Annual Responses: 102.

Annual Burden Hours: 408.

Bureau Clearance Officer: Alfred R. Gordon, (202) 343–4331.

Date: July 20, 1984.

Edward E. Shelton,

Director, Office for Equal Opportunity.

[FR Doc. 84–21514 Filed 8–13–84; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Roseburg District Advisory Council; Meeting

Notice is hereby given that in accordance with section 309 of the Federal Land Policy and Management Act (as amended), the Roseburg District Advisory Council will meet September 21, 1984. The meeting will convene at 9:30 a.m. in the conference room at the Roseburg District Office, 777 NW. Garden Valley Blvd., Roseburg, Oregon. Agenda items will include a report on the minerals program in the Roseburg District and an update on land parcels scheduled to be sold on September 19, 1984.

All Council meetings are open to the public. Interested persons or organizations may make oral statements to the Council at 11:15 a.m., or they may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager by September 14, 1984. Depending on the number of persons wishing to speak, a per person time limit may be established by the District Manager.

Summary minutes of each Council meeting will be maintained in the Roseburg District Office and will be available for public inspection and photocopying during regular business hours within 30 days following the meeting.

For additional information, contact Melvin D. Berg, Associate District Manager, telephone (503) 672–4491.

Dated: August 6, 1984.

Bruce P. Chambers,

Acting District Manager.

[FR Doc. 84–21471 Filed 8–13–84; 8:45 am]

BILLING CODE 4310–33–M

[OR–34795, OR–36609, OR–37054]

Realty Action, Sale Public Land in Malheur County, OR

Correction

In FR Doc. 84–19325, beginning on page 29684, in the issue of Monday, July 23, 1984, make the following corrections in the table in column three on page 29684:

1. In the second table head, the first word should read "Legal";

2. Under OR–36609 in Parcel Nos. 4 through 10, "Se." should read "Sec.";

3. Under OR–36609 in Parcel No. 2, the Legal Description for Sec. 26 should read "SE¼SE¼";

4. Under OR–36609 in Parcel No. 6, the Legal Description for Sec. 27 should read "S½";

5. Remove the first entry, both lines, for OR–37054;

6. In the second entry for OR–37054 in Parcel No. 1, the Legal Description for Sec. 19 should read "NW¼NE¼";

7. Also in the second entry for OR–37054 add a figure "2" under the column "Parcel No." just before the Legal Description which begins "T. 20", also on the line beginning with "T. 20," "rw" should read "42".

BILLING CODE 1505–01–M

[AA–50379–20]

Alaska Native Claims Selection; Chugach Natives, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d) (1983) (amended 1984), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of sections 12(c), 14(h)(8), and 22(f) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), will be issued to Chugach Natives, Inc., for approximately 9,388 acres. The lands involved are within the Copper River Meridian, Alaska:

T. 22 S., R. 24 E.
T. 22 S., R. 25 E.

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in the *Cordova Times*. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until September 13, 1984, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file and appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983)(amended 1984) shall be deemed to have waived their rights.

Barbara Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84–21490 Filed 8–13–84; 8:45 am]

BILLING CODE 4310–JA–M

[F–14869–A]

Alaska Native Claims Selection; Diomede Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision is issue conveyance under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), will be issued to Diomede Native Corporation for approximately 0.64 acre. The lands involved are:

Kateel River Meridian, Alaska

T. 4 N., R. 49 W.

The decision of issue conveyance will be published once a week, for four (4) consecutive weeks, in the *Nome Nugget* upon issuance of the decision. For information on how to obtain copies,

contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 13, 1984, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is:

Bureau of Indian Affairs, P.O. Box 1108, Nome, Alaska 99762

Diomede Native Corporation, Diomede, Alaska 99762

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-21492 Filed 8-13-84 8:45 am]

BILLING CODE 4310-JA-M

[F-19155-22]

Alaska Native Claims Selection; Doyon, Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance to Doyon, Limited, notice of which was published in the Federal Register (48 FR 33753) on July 25, 1983, is modified by amending, adding and deleting certain easements.

Any party, known or unknown, who may claim a property interest which is adversely affected by the decision shall have until September 13, 1984 to file an appeal on the issue in the modified decision. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management office identified below, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (as revised) shall be deemed to have waived their rights.

Copies of the modified decision can be obtained by contacting the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

Except as modified, the decision, notice of which was given July 25, 1983, is final.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-21493 Filed 8-13-84; 8:45 am]

BILLING CODE 4310-JA-M

[F-14861-A]

Alaska Native Claims Selection; Golovin Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d) (1983) (Amended 1984), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976) (ANCSA), will be issued to Golovin Native Corporation, for approximately 0.43 acre. The lands involved are within Tract B of U.S. Survey No. 2251, Alaska.

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in THE NOME NUGGET. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until September 13, 1984 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (amended 1984) shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc 84-21491 Filed 8-13-84; 8:45 am]

BILLING CODE 4310-JA-M

[N-38983]

Issuance of Disclaimer of Interest to Lands in Nevada

August 3, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of disclaimer.

SUMMARY: Notice is hereby given that the United States of America, pursuant to the provisions of section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), does hereby give notice of its intention to disclaim and release all its interest to the State of Nevada for the following described property, to-wit: The bed of Washoe Lake, a meandered lake, to the existing mean high water makr, which lies within Mount Diablo Meridian, Township 16 North, Ranges 19 and 20 East, in Washoe County, Nevada.

After review of the official records and the original public land survey, it is the position of the Bureau of Land Management that all the riparian uplands to the mean high water mark have been patented by the United States and that the actual mean high water mark forms the natural boundary of these riparian lots; not the meander lie as shown on the master title plat.

Any person wishing to submit a protest or comments on the above

disclaimer should do so in writing before the expiration of 90 days from the date of publication of this notice. If no protest(s) is received, the disclaimer will be effective on the date set out below.

EFFECTIVE DATE: Disclaimer of title and release of all interests of the United States shall issue November 13, 1984.

ADDRESS: Information concerning these lands and the proposed disclaimer may be obtained from: State Director (NV–943.2), Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, (702) 784–5703.

Robert E. Stewart,

Acting State Director, Nevada.

[FR Doc. 84–21516 Filed 8–13–84; 8:45 am]

BILLING CODE 4310–84–M

Butte District, MT; Grazing Advisory Board Meeting

The Butte District Grazing Advisory Board will meet on Monday, September 10, 1984, in the conference room of the Dillon Resource Area Office at 730 North Montana, Dillon, Montana. The meeting will begin at 9:00 a.m.

The meeting will open with a short discussion session and proceed to a field trip. The field trip will take an intensive look at the Savory method of grazing on the Reservoir Creek allotment.

The meeting and field trip is open to the public. Interested persons may make oral statements or file written statements for the board's consideration. Persons wishing to make oral statements should make prior arrangements with the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction within 30 days following the meeting.

Dated: August 6, 1984.

Paul E. Peek,

Acting District Manager.

[FR Doc. 84–21515 Filed 8–13–84; 8:45 am]

BILLING COCE 4310–DN–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 3, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 29, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Autauga County

Prattville, *Daniel Pratt Historic District,* Roughly bounded by Northington Rd., 1st, 6th, Bridge, and Court Sts.

Calhoun County

Anniston, *McKleroy-Wilson-Kirby House,* 1604 Quintard Ave.

Colbert County

Sheffied, *Nitrate Village No. 1 Historic District,* Roughly bounded by Wilson Dam Circle, Wheeler and Wison Dam Aves., Fontana, and Pickwick Sts.

Covington County

Andalusia, *Central of Georgia Depot,* 125 Central St.

Cullman County

Cullman, *Cullman Historic District,* Roughly bounded by 1st and 8th Aves, 3rd and 9th Sts.

Jefferson County

Birmingham, *Age-Herald Building,* 2107 5th Ave. N.

Birmingham, *Exclusive Furniture Shop,* 704 29th St. S.

Birmingham, *Glen Iris Park Historic District,* 1–20 Glen Iris Park

Lee County

Opelike, *Railroad Avenue Historic District,* Rougly bounded by 7th and 10th Sts., 1st Ave. and Ave. B

Limestone County

Athens, *Robert Beaty Historic District,* Roughly bounded by Louisville and Nashville R R, Forrest, East, and Washington Sts.

Mobile County

Mobile, *Old Dauphin Way Historic District,* Roughly bounded by Springhill Ave., Broad, Government, and Houston Sts.

Montgomery County

Montgomery, *Court Square-Dexter Avenue Historic District,* Roughly Dexter Ave., Perry, Court, and Monroe Sts.

Montgomery, *North Lawrence-Monroe Street Historic District,* 132–148, 220 Monroe St. and 14, 22, 28–40, 56 N. Lawrence St.

Montgomery, *South Perry Street Historic District,* Rougly Perry St. between Washington St. and Dexter Ave.

Morgan County

Decatur, *Rhea-McEntire House,* 1105 Sycamore St.

Pike County

Troy, *Troy High School,* 436 Elm St.

Tuscaloosa County

Tuscaloosa, *Bama Threatre-City Hall Building,* 600 Greensboro Ave.

CALIFORNIA

Contra Costa County

Clayton, *Clayton Vineyards-De Martini Winery,* 5919 Clayton Rd.

IDAHO

Bonneville County

Idaho Falls, *Bonneville Hotel (Idaho Falls Downtown MRA),* 400 Blk W. C St.

Idaho Falls, *Douglas-Farr Building (Idaho Falls Downtown MRA),* 493 N. Capital Ave.

Idaho Falls, *Farmers and Merchants Bank Building (Idaho Falls Downtown MRA),* 383 W. A St.

Idaho Falls, *Hasbrouck Building (Idaho Falls Downtown MRA),* 362 Park Ave.

Idaho Falls, *Hotel Idaho (Idaho Falls Downtown MRA),* 482 W. C St.

Idaho Falls, *I.O.O.F. Building (Idaho Falls Downtown MRA),* 393 N. Park Ave.

Idaho Falls, *Idaho Falls City Building (Idaho Falls Downtown MRA),* 308 W. C St.

Idaho Falls, *Idaho Falls Public Library (Idaho Falls Downtown MRA),* Elm and Eastern Sts.

Idaho Falls, *Kress Building (Idaho Falls Downtown MRA),* 451 N. Park Ave.

Idaho Falls, *Mongomery Ward Building (Idaho Falls Downtown MRA),* 504 Shoup Ave.

Idaho Falls, *Rocky Mountain Bell Telephone Company Building (Idaho Falls Downtown MRA),* 246 W. Broadway Ave.

Idaho Falls, *Shane Building (Idaho Falls Downtown MRA),* 381 N. Shoup Ave.

Idaho Falls, *Underwood Hotel (Idaho Falls Downtown MRA),* 343–349 W. C St.

INDIANA

Madison County

Anderson, *Anderson Bank Building,* 931 Meridan St.

Wabash County

Wabash, *Amoss, James M., Building,* 110 S. Wabash St.

Wabash, *Wilson, Solomon, Building,* 102 S. Wabash St.

MISSISSIPPI

Oktibbeha County

Starkville, *Magruder-Newsom House,* 306 S. Jackson St.

NEW JERSEY

Morris County

Florham Park, *Hancock, Rev. John, House, Cider Mill and Cemetery,* 45 Ridgedale Ave.

NEW MEXICO

Sante Fe County

Sante Fe, *Alarid, Ricardo, House,* 534 Alarid St.

OHIO

Geauga County

Lost Lane Farm,

Lake County

Kirtland, *Whitney, Newel K., Store,* 8881 Chilicothe Rd.

Summit County

Akron, *Carkhuff, Stacy G., House,* 1225 W. Market St.

TENNESSEE

DeKalb County

Smithville, *Evans Block,* 101 and 103 N. 4th St.

Marshall County

Berlin, *Berlin Historic District,* U.S. 431

Maury County

Columbia, *First United Methodist Church of Columbia,* 222 W. 7th St.

TEXAS

Galveston County

Galveston, *Reedy Chapel AME Church,* 2013 Broadway

WASHINGTON

King County

Enumclaw, *Enumclaw High School,* 2222 Porter St.
Enumclaw, *Olson Louis and Ellen, House,* 1513 Griffin Ave.
Seattle, *Cobb Building,* 1301–09 4th Ave.

Pierce County

Ashford, *Ashford House,* Off WA5
Tacoma, *Nihon Go Gakko,* 1715 S. Tacoma Ave.

[FR Doc. 84–21483 Filed 8–13–84; 8:45 am]
BILLING CODE 4310–70–M

Proposed 1985 United States World Heritage Nominations

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The Department of the Interior, through the National Park Service, announces the identification of the three properties listed herein as proposed 1985 U.S. nominations to the World Heritage List. These properties were selected from among the potential 1985 nominations that were published in the **Federal Register** on June 11, 1984 (49 FR 24086), with a request for public comment. A draft nomination document will be prepared for each property listed herein, and will serve as the basis for determining later this calendar year whether to formally nominate the properties for World Heritage status.

In addition, the June 11, 1984, **Federal Register** notice referenced public comment suggesting the examination of specific properties not presently included on the U.S. Indicative Inventory of Potential Future Nominations with regard to their possible inclusion on the Indicative Inventory this year. The Federal Interagency Panel for World Heritage accomplished this examination at its July 10, 1984, meeting. Based upon submitted justifications, and other available information, the Panel did not recommend the addition of properties to the U.S. Indicative Inventory in 1984.

DATES: The Federal Interagency Panel for World Heritage will meet in November 1984 to review the accuracy and completeness of the draft nomination documents, and to make recommendations to the Department of the Interior. Subject to this review and necessary approvals, the Assistant Secretary for Fish and Wildlife and Parks will transmit nomination(s) to the World Heritage Committee, through the Department of State, so that they are received no later than December 31, 1984, for evaluation during 1985. If approved and formally submitted, notice of U.S. World Heritage nominations will be published in the **Federal Register** in December 1984.

FOR FURTHER INFORMATION CONTACT: Mr. David G. Wright, Associate Director, Planning and Development, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, now ratified by the United States and 81 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 165 cultural and natural properties. The World Heritage Committee judges all nominations against established criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, and rehabilitation of World Heritage properties situated within its borders.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515; 16 U.S.C. 470 a–1, a–2). On May 27, 1982, the Interior Department published in the **Federal Register** the policies and procedures that will be used to carry out this legislative mandate (47 FR 23392). These rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks, and includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; National Oceanic and Atmospheric Administration, Department of Commerce; Forest Service, Department of Agriculture; and the Department of State.

Proposed 1985 United States World Heritage Nominations

The two cultural properties and one natural property listed below have been identified as proposed 1985 U.S. nominations to the World Heritage List. The identification of these properties as proposed nominations indicates that a draft nomination document will be prepared for each property. This document will subsequently be evaluated by the Federal Interagency Panel for World Heritage when it convenes in November 1984, at which time a decision on whether to formally nominate the properties to the World Heritage List will be made.

The following cultural properties, indicated by major theme, and natural property, indicated by natural region, have been identified as proposed 1985 U.S. World Heritage nominations. Also

listed are the World Heritage criteria that the properties appear most nearly to satisfy:

I. Cultural Properties

Developed Agriculture

CHACO CULTURE NATIONAL HISTORICAL PARK, New Mexico. (36°4′ N, 108°0′ W) Bears testimony to a complex prehistoric culture that administered a socioeconomic network of widespread outlying communities linked by roads. No system of this character was developed elsewhere in North America by socially and politically equivalent societies. The people responsible for this accomplishment are known as the Chaco Anasazi. Chaco Canyon is a broad canyon that contains approximately 2,400 sites including 13 major pueblo ruins. These major ruins consist of 1–5 story buildings, the largest of which contains up to 650 rooms. The development of the Chaco phenomenon began as early as AD 900–950 and enjoyed success until its collapse, resulting in the ultimate extinction of the Chaco Anasazi sometime after AD 1150. *Criteria*: (ii) Exerted great influence over a span of time and within a cultural area of the world on developments in townplanning and (iii) bears a unique testimony to a civilization which has disappeared.

Hawaiian

PU'UHONUA O HONAUNAU NATIONAL HISTORICAL PARK, Hawaii. (19°25′ N; 155°55′ W) This area (formerly known as City of Refuge National Historical Park) includes sacred ground, were vanquished Hawaiian warriors, noncombatants, and kapu breakers were granted refuge from secular authority. Prehistoric housesites, royal fishponds, and spectacular shore scenery are features of the park. *Criteria*: (iii) Bears a unique or exceptional testimony to a civilization which has disappeared; (iv) an outstanding example of a type of building or architectural ensemble which illustrates a significant stage in history; and (vi) directly or tangibly associated with ideas or beliefs of outstanding universal significance.

II. Natural Property

Rocky Mountain

GLACIER NATIONAL PARK, Montana. (48°40′ N; 113°50′ W). With mountain peaks exceeding 10,000 feet, this site includes nearly 50 glaciers, many lakes and streams and a wide variety of wild flowers and wildlife, including bighorn sheep, bald eagles, and grizzly bears. The area has been designated as a Biosphere Reserve. *Criteria*: (i) An outstanding example of the earth's evolutionary history; (ii) an outstanding example of significant geological processes and man's interaction with his natural environment; and (iii) contains superlative natural phenomena, formations, and areas of exceptional natural beauty.

Dated: August 1, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-21486 Filed 8-13-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 109)]

Seaboard System Railroad, Inc.; Abandonment in Coffee County, AL; Findings

The Commission has issued a certificate authorizing the Seaboard System Railroad, Inc., to abandon its 13.96-mile rail line between Enterprise, AL (milepost ANG–823.2) and Elba, AL (milepost ANG–837.16) in Coffee County, AL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower-left hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 84-21485 Filed 8-13-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Final Judgment (On Consent) Pursuant to Clean Air Act; Duralab Equipment, Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 25, 1984 a proposed Final Judgment (On Consent) in *United States* v. *Duralab Equipment Corporation*, Civ. No. 83–4163, was lodged with the United States District Court for the Eastern District of New York. The complaint alleged that Duralab failed to achieve compliance with the New York State Implementation Plan, relating to emissions of volatile organic compounds (VOC) from its Brooklyn, New York metal furniture manufacturing plant. The proposed Final Judgment (On Consent) requires Duralab to reduce its emission of VOC in stages as of August 1, 1984, and February 28, 1985, and to achieve final compliance not later than February 15, 1986. Duralab is also required to pay civil penalties of $11,000 for past violations of the Clean Air Act. The Final Judgment (On Consent) also provides for stipulated civil penalties of up to $2,000 per day in the event that Duralab fails to comply with the injunctive provisions of the Final Judgment (On Consent).

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Final Judgment (On Consent). Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Duralab Equipment Corporation*, D.J. Ref. 90–5–2–1–626.

The proposed Final Judgment (On Consent) may be examined at the office of the United States Attorney, Eastern District of New York, United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11202 and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the Final Judgment (On Consent) may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. Copies of the proposed Final Judgment (On Consent) may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.10 (10 cents

per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-21475 Filed 8-13-84; 8:45 am]

BILLING CODE 4410-01-M

Information Collection(s) Under Review

August 9, 1984.

The Office of Management and Budget (OMD) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available;

(2) The office of the agency issuing the form;

(3) The title of the form;

(4) The agency form number, if applicable;

(5) How often the form must be filled out;

(6) Who will be required or asked to report;

(7) An estimate of the number of responses;

(8) An estimate of the total number of hours needed to fill out the form;

(9) An indication of whether section 3504(h) of Pub. L. 96-511 applies; and,

(10) The name and telephone number of the person or office responsible for the OMB review.

(11) Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the items contained in this list should be directed to the review listed at the end of each entry *AND* to the Agency clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

● Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, 202/633-4312

(2) Bureau of Justice Statistics, Office of Justice Assistance, Research, and Statistics, Department of Justice

(3) National Crime Survey (NCS)

(4) NCS-1, NCS-2, NCS-7, NCS-500

(5) On occasion

(6) Individuals or households. The National Crime Survey is a program for gathering, analyzing, publishing and disseminating statistics on the kinds and amount of crime committed against households and individuals throughout the United States. Respondents include persons twelve years of age or older living in 72,000 designated households.

(7) 335,400 respondents

(8) 61,800 burden hours

(9) Not applicable under 3504(h)

(10) Robert Veeder—395-4814

Larry E. Miesse,

Agency Clearance Officer.

[FR Doc. 84-21474 Filed 8-13-84; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Aerojet Strategic Propulsion Co.; Registration

On March 9, 1984, the Drug Enforcement Administration published in the **Federal Register** (49 FR 9032), Notice that Aerojet Strategic Propulsion Company, Highway 50 at Hazel Avenue, P.O. Box 15699C, Sacramento, California 95813, had applied for registration as a bulk manufacturer of Tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I. The Notice advised that any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of a registration.

Sigma Chemical Company filed comments advising the Drug Enforcement Administration that Sigma Chemical Company imports pure tetrahydrocannabinols from a subsidiary company and markets it domestically. Therefore, Sigma asserted, there is no need to register Aerojet Strategic Propulstion Company as a bulk manufacturer to make synthetic tetrahydrocannabinols. Section 1002(2) of the Controlled Substances Import and Export Act forbids the importation of controlled substances in Schedule I or II or any narcotic in Schedules III, IV and V except such amounts that the Attorney General finds to be necessary to provide for the medical, scientific or other legitimate purposes of the United States. The corollary of this section of the Act is that domestic manufacture of controlled substances must take precedence over the importation of such controlled substances, unless some valid reason is advanced for holding otherwise in a particular instance. Accordingly, the Drug Enforcement Administration rejects Sigma Chemical Company's movement on this matter. No other comments were received pursuant to the Notice of Application.

Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of a controlled substance listed above is granted.

Dated: August 3, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-21499 Filed 8-13-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

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 collections, revisions, extensions, or reinstatements. 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 OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations 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 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.

Revision

Employment and Training Administration
Survey of Work Experience of Young Women
1205–0044; LGT 4121 and LGT 4123
Annually or biennially
Individuals or households
20,000 respondents; 13,434 hours

The Department of Labor will use this information to determine the employment and training needs and develop policies designed to ease the employment and unemployment problems faced by women aged 33–43. These women were 14–24 years of age when this longitudinal survey began in 1968.

Signed at Washington, D.C., this 9th day of August 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84–21557 Filed 8–13–84; 8:45 am]

BILLING CODE 4510–30–M

[Order No. 6–84]

Secretary's Order

July 23, 1984.

Subject: Delegation of Authority and Assignment of Responsibilities for Employment Standards Programs

1. *Purpose.* To update the delegation of authority and the assignment of responsibilities to the Deputy Under Secretary for Employment Standards.

2. *Directives Affected.* Secretary's Orders 4–69, 16–75, 1–81, and 5–83 are canceled and superseded by this Order.

3. *Background.* Secretary's Order 13–71 established the Employment Standards Administration in the Department of Labor and delegated authority and assigned responsibility to an Assistant Secretary for Employment Standards. Subsequently organizational changes and additional assigned statutory responsibilities necessitated the issuance of an updated delegation of authority, which was accomplished through Secretary's Order 16–75. When the Deputy Under Secretary for Employment Standards position was established to replace the position of Assistant Secretary for Employment Standards, the authority was transferred to the Deputy Under Secretary through Secretary's Order 1–81. This Order consolidates the delegations and incorporates changes made since Secretary's Order 4–69 was issued.

4. *Delegation of Authority and Assignment of Responsibilities.*

a. *The Deputy Under Secretary for Employment Standards* is hereby delegated authority and assigned responsibility, except as hereinafter provided, for carrying out the employment standards policies, programs and activities of the Department of Labor, including those functions to be performed by the Secretary of Labor under:

(1) The Fair Labor Standards Act of 1938 (FLSA), as amended, 29 U.S.C. 201 et seq., including the issuance of child labor hazardous occupation orders and other regulations concerning child labor standards. Authority and responsibility for the Equal Pay Act, section 6d of the FLSA, were transferred to the Equal Employment Opportunity Commission (EEOC) on July 1, 1979, pursuant to the President's Reorganization Plan #1 of February 1978.

(2) The Walsh-Healey Public Contracts Act of 1936, as amended 41 U.S.C. 35 et seq., except those provisions relating to safety and health delegated to the Assistant Secretaries for Occupational Safety and Health and Mine Safety and Health.

(3) The Service Contract Act of 1965, as amended, 41 U.S.C. 351 et seq., except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(4) The Davis-Bacon Act, as amended, and any laws now existing or subsequently enacted, providing for prevailing wage findings by the Secretary in accordance with or pursuant to the Davis-Bacon Act, as amended, 40 U.S.C. 276a–F; the Copeland Act, 40 U.S.C. 276c; Reorganization Plan No. 14 of 1950; and the Tennessee Valley Authority Act, 16 U.S.C. 831.

(5) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 et seq., except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(6) Title III of the Consumer Credit Protection Act, 15 U.S.C. 1671 et seq.

(7) The State and Local Fiscal Assistance Act (Revenue Sharing), as amended, 31 U.S.C. 1221 et seq., as it pertains to prevailing wage rates under the Davis-Bacon Act, as amended, 40 U.S.C. 276a–f.

(8) The labor standards provisions contained in sections 5(i), 5(j), and 7(g) of the National Foundation of the Arts and Humanities Act, as amended, 20 U.S.C. 954(i), 954(j) and 956(g), except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(9) The Migrant and Seasonal Agricultural Worker Protection Act of 1983, Pub. L. 97–470, 29 U.S.C. 1801 et seq.

(10) Any remaining activity under the Farm Labor Contractor Registration Act of 1963, as amended and repealed, Pub. L. 88–583, 78 Stat. 920.

(11) Section 3 (relating to education and research) and section 5 (relating to studies) of the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. 621 et seq. Authority and responsibility for the remaining provisions of ADEA were transferred to the EEOC on July 1, 1979, pursuant to the President's Reorganization Plan #1 of February 1978.

(12) Section 1450(i) of the Safe Drinking Water Act, Pub. L. 93–523, 42 U.S.C. 300 j-9 (i).

(13) Section 507 of the Federal Water Pollution Prevention and Control Act, Pub. L. 89–234, 33 U.S.C. 1367.

(14) Section 23 of the Toxic Substances Control Act, 15 U.S.C. 2622.

(15) Section 7001 of the Solid Waste Disposal Act, 42 U.S.C. 6971.

(16) Section 322 of the Clean Air Act, 42 U.S.C. 7622.

(17) Section 210 of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851.

(18) Section 110 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9610.

(19) Such additional Federal Acts as may from time to time confer upon the Secretary of Labor duties and responsibilities similar to: The Fair Labor Standards Act, 29 U.S.C. 201 et seq.; or the Davis-Bacon Act, as amended, 40 U.S.C. 276a-f, and related Acts; or employee protection responsibilities similar to those listed under 4a(12)–(18) above.

(20) The Federal Employees' Compensation Act, as amended and extended, 5 U.S.C. 8101 et seq., except 8149 as it pertains to the Employees' Compensation Appeals Board.

(21) The Longshoremen's and Harbor Workers' Compensation Act, as amended and extended, 33 U.S.C. 901 et seq., except: 33 U.S.C. 921(b) as it applies to the Benefits Review Board; 33 U.S.C. 941 relating to activities assigned to the Assistant Secretary for Occupational Safety and Health; and 33 U.S.C. 919(d) with respect to hearing examiners in the Office of Administrative Law Judges.

(22) Title IV, of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. 901 et seq.

(23) Title 38, U.S.C. 2012, except for supervision of the Federal contractor job listing activities under section 2012(a) and of the annual Federal congractor reporting obligations under 2012(d) delegated to the Assistant Secretary for Veterans Employment and Training.

(24) Sections 501(a), 501(f), 502, and 503 of the Rehabilitation Act of 1973, as amended, Pub. L. 93–112, and Executive Order 11758.

(25) Executive Order 11246, as amended by Executive Order 11375 and Executive Order 12086—Federal Contract compliance.

b. *The Solicitor of Labor* shall have the responsibility for providing legal advice and assistance to all officers of the Department relating to the administration of the statutes and Executive Orders listed in paragraph 4a above. The bringing of legal proceedings under the statutes and Executive Orders listed in paragraph 4a above, the representation of the Secretary of Labor and/or other officials of the Department of Labor, and the determination of whether such proceedings or representation is appropriate in a given case are delegated exclusively to the Solicitor of Labor.

5. *Reservation of Authority.*

a. Submission of reports and recommendations to the President and the Congress concerning the administration of statutes and executive Orders listed in paragraph 4a above is reserved to the Secretary.

b. The jurisdiction of the Wage Appeals Board, as presently described in Secretary's Order 24–70 (36 FR 306) and its rules of practice (29 CFR Part 7), is reserved, and the Board shall be authorized to review decisions under this Order relating to the Davis-Bacon Act and related laws within the scope of its jurisdication, and relating to the contract Work Hours and Safety Standards Act (except under contracts subject to the Service Contract Act).

c. The jurisdiction of the Board of Service Contract Appeals, as presently described in 29 CFR Part 8 and its rules of practice is reserved, and the Board shall be authorized to review decisions under this Order relating to the Service Contract Act and to the Contract Work Hours and Safety Standards Act under contracts subject to the Service Contract Act.

d. The determination of the application of the ineligible list provisions of section 3 of the Walsh-Healey Public Contracts Act, 41 U.S.C. S 37, is reserved to the Secretary.

e. The determination of the application of the ineligible list provisions of section 5 of the Service Contract Act, 41 U.S.C. 354, is reserved to the Secretary, with respect to all cases in which recommendations of administrative law judges were issued prior to March 21, 1984.

f. Decisions under sections 103(b)(2) and 503(b)(2) of the Migrant and Seasonal Agricultural Worker Protection Act which permit the Secretary to modify or vacate the decision of an administrative law judge shall also be reserved to the Secretary.

g. Final decisions under paragraphs 4(a) (12)–(18), and related final decisions which may be made under paragraph 4(a)(19) are reserved to the Secretary.

6. *Effective Date.* This Order is effective immediately.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84–21558 Filed 8–13–84; 8:45 am]

BILLING CODE 4510–23–M

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: September 11, 1984, 9:30 a.m., Rm. S4215 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523–6565.

August 6, 1984.

Signed at Washington, D.C. this 6th day of August 1984.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 84–21556 Filed 8–13–84; 8:45 am]

BILLING CODE 4510–28–M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84–121; Exemption Application No. D–3277 et al.]

Grant of Individual Exemptions; The Banks & Campbell Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a

public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, Oct. 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, Apr. 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Banks & Campbell Profit Sharing Plan for Self Employed Individuals (the Plan) Located in Knoxville, Tennessee [Prohibited Transaction Exemption 84–121;

[Exemption Application No. D–3277]

Exemption

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 by the Plan of an unimproved parcel of real property located in Knox County, Tennessee and the subsequent extension of credit pursuant to the sale to Mr. Jess D. Campbell, an owner-employee with regard to the Plan as defined in section 401(c)(3) of the Code, provided that the terms of the transactions were not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 6, 1984 at 49 FR 27844.

Effective Date: This exemption is effective from May 11, 1979 through July 6, 1981.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Langdon Barber Groves Employee's Profit Sharing Plan (the Plan) Located in McAllen, Texas

[Prohibited Transaction Exemption 84–122; Exemption Application No. D–4955]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of two parcels of adjacent real property by the Plan to Langdon Barber Groves, Inc., the sponsor of the Plan, provided that the Plan does not receive less than the fair market value of the properties on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 15, 1984 at 49 FR 24827.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

R.A. Flucke, D.D.S., J.E. Malcolm, D.D.S. & Associates, P.C. Retirement Plan (the Plan) Located in Three Rivers, Michigan

[Prohibited Transaction Exemption 84–123; Exemption Application No. D–5210]

Exemption

The restrictions of section 406(a), and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale to Dr. J.E. Malcolm (Dr. Malcolm), a party in interest with respect to the Plan, of a certain parcel of improved real property (the Property) by the individually directed account of Dr. Malcolm in the Plan, for cash in the amount of $125,000, provided that such amount is not less than the fair market value of the Property at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 6, 1984 at 49 FR 27856.

For Further Information Contact: Katherine D. Lewis of the Department, telephone (202) 523–6972. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 9th day of August 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84–21547 Filed 8–13–84; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–4997, et al.]

Proposed Exemptions; Bee Line Cooling, Ltd., et al.

AGENCY: 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 exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 3200 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) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, Apr. 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, Oct. 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.

Bee Line Cooling, Ltd. Employees Pension Plan (the Plan) Located in Bronx, New York

[Application No. D–4997]

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, Apr. 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 leases (the 1984 Leases) of certain properties (the Bee Line Stores) by the Plan to Bee Line Cooling, Ltd. (the Employer), the sponsor of the Plan, provided the terms of the transaction are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

Effective Date: The effective date of this proposed exemption, if granted, shall be March 9, 1984.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with four participants and total assets, as of December 31, 1983, of $329,638.88. The Employer is in the business of sales, installation and servicing commercial refrigeration and air conditioning equipment. The trustees of the Plan, Robert Katz and Frank Zawel, are employees of the Employer.

2. On December 22, 1975, the Plan purchased certain real properties (the Properties) for $62,500 from Samuel and Celia Rosenblatt (the Rosenblatts), parties unrelated with respect to the Plan. The Properties consist of eight contiguous buildings used as small retail stores. Two buildings of the Properties, the Bee Line Stores, were leased to the Employer. The remaining six buildings were leased to tenants unrelated to the Employer. Upon acquisition by the Plan of the Properties, the leases of the Properties remained in effect. The leases for all of the Properties, including the Bee Line Stores, were for renewable terms of two years.

3. In August of 1980, the Employer applied to the Department for an exemption, to be effective December 22, 1975, for the leases by the Plan of the Bee Line Stores to the Employer. In January of 1981, the Department denied the exemption request. The applicant represents that the Employer paid all applicable excise taxes as imposed by the Internal Revenue Code by reason of the leases of the Bee Line Stores from December 22, 1975, until January 1, 1981.

4. On April 2, 1982, the Department granted Prohibited Transaction Exemption 82–52 (47 FR 14247) exempting the leases of the Bee Line Stores by the Plan to the Employer for the period January 1, 1981 through December 31, 1982. In January of 1983, the Plan entered into new leases (the 1983 Leases) with the Employer covering the Bee Line Stores with an initial three year term and a two year renewal option exercisable by the Employer. On November 21, 1983, the Employer applied to the Department for an exemption for the 1983 Leases. On December 28, 1983, the Department tentatively denied the exemption request. As a result of the Department's tentative denial, on March 9, 1984, the Plan and the Employer entered into the 1984 Leases, which are effective January 1, 1984.

5. The applicant is now seeking an exemption for the 1984 Leases. The 1984 Leases are each for a three year term, expiring on December 31, 1986. The 1984 Lease covering the Bee Line Store located at 1857 Westchester Avenue, Bronx, New York, provides for an initial $400 a month rent rising to $420 on January 1, 1985 and $440 on January 1, 1986. The 1984 Lease covering the Bee Line Store located at 1849 Westchester Avenue, provides for an initial rent of $235 a month rising to $250 on January 1, 1985 and $265 on January 1, 1986. The 1984 Leases are triple net. The applicant represents that the Employer will pay all applicable excise taxes as imposed by the Internal Revenue Code by reason of the 1983 Leases within 90 days of the publication of the grant of this exemption. The applicant further represents that for the period in which the 1983 Leases were in effect, the Employer will pay the Plan the difference between the rent paid under the 1983 Leases and the rental rate under the 1984 Leases plus interest at a rate established by the Plan's independent fiduciary (as discussed below).

6. Thomas Romero, the Plan's independent fiduciary negotiated the terms and conditions of the 1984 Leases on behalf of the Plan. Romero is a licensed real estate broker located at 1840 Westchester Avenue, Bronx, New York. Romero has been practicing in the area since 1951 and is familiar with the property values, commercial lease rates and real estate management practices

customary in the area. Romero represents that he is independent of the parties to the transaction. Romero further represents that he reviewed the 1984 Leases and an appraisal dated June 24, 1982, performed by Andrew P. Mantovani, a licensed real estate agent unrelated with respect to the Plan, who determined that the Properties had a fair market value of $107,000 as of that date. The Bee Line Stores constitute approximately 23% of the total rentable space of the Properties.

7. Romero represents that the rentals charged and the other terms and conditions of the 1984 Leases are fair market value rent and terms. Romero further represents that the 1984 Leases are in the best interests of the Plan and its participants and beneficiaries. Romero represents that he will monitor the terms and conditions of the 1984 Leases on behalf of the Plan. Romero will further monitor the payments by the Employer of all excise taxes assessed in connection with the 1983 Leases. In addition Romero will monitor the payment by the Employer to the Plan of the difference between the rent paid under the 1983 Leases and the rent that he has determined to be the fair market value rent for that period plus interest at the rate of 15½%, which he has determined to be an appropriate rate of interest.

8. In summary, the applicant represents that the transactions meet the statutory criteria of section 408(a) of the Act because: (1) Romero, a party unrelated with respect to the Plan, negotiated the 1984 Leases and determined that they are fair market value leases and that they are in the best interest of the participants and beneficiaries of the Plan; (2) Romero will monitor the terms and conditions of the 1984 Leases; and (3) the Employer will pay all applicable excise taxes imposed by the Internal Revenue Service by reason of the 1983 Leases within 90 days of the grant of an exemption.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

John G. Beck Agency, Inc. Employees' Profit Sharing Retirement Trust (the Plan) Located in Pittsburgh, Pennsylvania

[Application No. D–5141]

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, Apr. 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 sale, on April 1, 1977, by the Plan of certain common stock (the Superior Stock) to Mr. and Mrs. Robert A. Beck (the Becks) and Mr. and Mrs. Paul C. Miller (the Millers), provided the consideration given for the Superior Stock was not less than its fair market value at the time the sale was executed.

Effective Date: If the proposed exemption is granted, the exemption will be effective April 1, 1977.

Summary of Fact and Representations

1. The John G. Beck Agency, Inc. (the Employer), which is engaged in the insurance business, maintains its principal place of business in Pittsburgh, Pennsylvania. Since June 30, 1966, the Employer has sponsored the Plan which is a defined contribution profit sharing plan. As of June 30, 1983, the Plan had fourteen participants. The trustees of the Plan (the Trustees) are Messrs. John R. Morrow, Paul B. Miller and Paul C. Miller. Mr Paul B Miller succeeded Mr. Bobert A Beck as Trustee on October 3, 1982. The Trustees make investment decisons for the plan.

2. On or about November 25, 1970, the Plan purchased 1,000 shares of the Superior Stock from the Estate of W.A. Siegfried, a former president of Superior Valve Company (Superior Valve). The Plan paid $17,500 for the Superior Stock and it subsequently received dividends totaling $5,100. Because the Employer maintained a business relationship with Superior Valve which commenced before November 1970, the Trustees believed it would be appropriate for the Plan to divest itself of the Superior Stock. Additionally, in reviewing the investments of the Plan, the Trustees decided it would be advantageous to place all of the Plan's assets with Connecticut General Life Insurance Company. Thus, on April 1, 1977, the Plan sold the Superior Stock to the Millers and the Becks for the total cash consideration of $17,500. Each couple acquired 500 shares of such stock and no commissions or fees were charged to the Plan in connection with the sale. At the time of the transaction, the Plan had $307,241 in total assets and eleven participants.

3. Superior Stock is not publicly traded. In an effort to ascertain the fair market value of the Superior Stock, the Trustees wrote to Union National Bank (Union) located in Pittsburgh, Pennsylvania. Union was familiar with the financial affairs of Superior inasmuch as it had the most complete history of the trading activity in the Superior Stock. Union is an unrelated entity. In a February 14, 1977 letter from Union to one of the Trustees, Union concluded that based on a number of previous transactions, the fair market value of the Superior Stock would be less than $15 per share. The purchasers subsequently paid the Plan $17.50 per share which was th Plan's original cost.

4. In summary, it is represented that the transaction satisfied the statutory criteria of section 408(a) of the Act because: (a) The sale was a one-time transaction for cash; (b) the applicants represent that the price paid for the Superior Stock was in excess of its fair market value; and (c) the Plan was not required to pay any fees or commissions in connection with the sale.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

MJM Investments, Inc. Money Purchase Pension Plan and Defined Benefit Trust (the Plans) Located in Los Altos, California

[Application No. D–5232]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the sale by the Plans of a parcel of real property (the Property) located in Los Altos Hills, California, to John and Susan J. Barbour (the Barbours) for $330,000, provided that amount is not less than the fair market value of the Property at the time of the sale; and (2) the extension of credit by the Plans to the Barbours in connection with the sale, under the terms described in this notice of proposed exemption, provided such terms are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrealated party at the time of the transaction.[1]

[1] Since Susan J. Barbour is the sole stockholder of MJM Investments, Inc. (the Employer) and the only participant in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Summary of Facts and Representations

1. The Plans are a money purchase pension plan and a defined benefit plan each having one participant, Susan J. Barbour. As of March 31, 1984, the Plans had assets, which are held together in one trust, of approximately $381,520. Ms. Barbour, who is also the sole shareholder of the Employer, is also the trustee of the Plans. Ms. Barbour represents that in the event any other eligible employee is subsequently retained by the Employer, separate and equivalent plans will be established for such employee so that Ms. Barbour will be the only participant ever affected by the subject transactions.

2. The Property consists of a parcel of residential real property located at Lot #4, Story Hill Lane, Los Altos, California. The Property consists of the unimproved land only. The Plans purchased the Property on September 15, 1982 for a total cash purchase price of $300,000 from Parness Corporation, an unrelated party. The Plans had intended to improve the Property by constructing a residence upon it and selling the Property at a profit.

3. The Plans propose now to sell the Property to the Barbours, who plan to construct a residence on the Property. The proposed sales price is $330,00, which is the amount determined by an independent appraisal conducted by Ms. Judy W. Bogard of Seville Properties, Inc., Menlo Park, California, and the higher of two independent appraisals conducted in February 1984.

4. The applicant proposes that the Plans will receive $235,000 in cash and that the Barbours will give the Plans a promissory note in the amount of $95,000. The note will carry an interest rate of 13½% per annum. The note provides for a 15 year amortization schedule, with a balloon payment of all remaining interest and principal payable after two years. The note will be secured by a mortgage on the Property. Such mortgage would be subordinated to a bank loan to be arranged to finance the residence to be built on the Property. However, Ms. Barbour as trustee believes that the Plans will be well protected in the event of any default because the aggregate total of all loans, including the first loan and the loan to the Plans, are amply secured by the value of the Property. The amount of the loan to the Plans represents less than 29% of the value of the land, and the amount of the first loan to be obtained for the dwelling will represent substantially less than the fair market value of the dwelling. Thus, Ms. Barbour represents that in the unlikely event of a default and sale by her as trustee under the deed of trust (which will be recorded by the Plans), there will be more than sufficient value to pay both the first loan to the bank as well as the loan from the Plans. California Business Bank, N.A., of San Jose, California (the Bank), an independent bank, has represented that it would make the loan of $95,000 to the Barbours under the same terms being proposed by the Plans.

5. In summary, the applicant represents that the proposed transactions meet the statutory criteria of section 4975(c)(2) of the Code because: (1) The sale will be for a price determined by the higher of two independent appraisals; (2) the loan transaction will represent less than 25% of the Plans' assets; (3) the Bank has represented that it would make the loan to the Barbours at the same terms; and (4) Ms. Barbour is the only participant of the Plans to be affected by these transactions, and as Plan trustee she has determined that they are appropriate for the Plans and in the Plans' best interests.

Notice to Interested Persons: Because Ms. Barbour is the sole stockholder of the Employer and the sole participant in the Plans, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days after the publication of this notice in the **Federal Register.**

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Clark, Partington, Hart & Hart Employees Profit Sharing Plan (the Plan) Located in Pensacola, Florida

[Application No. D-5343]

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 (1) the proposed loan (the Loan) of $40,000 by the Plan to Clark, Partington, Hart, Hart & Johnson, P.A. (the Employer), a party in interest with respect to the Plan; and (2) the joint and several guarantees of the proposed Loan by the six principals of the Employer, also parties in interest with respect to the Plan, provided that the terms and conditions of the Loan and guarantees are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 19 participants. As of April 30, 1984, the Plan had net assets of approximately $464,198. Messrs. William H. Clark, Donald H. Partington, Robert D. Hart, Jr. and W. Christopher Hart serve as the trustees (the Trustees) of the Plan, and are also officers, directors, shareholders and employees of the Employer. The Trustees constitute the Plan's investment and administrative committee which is responsible for making decisions regarding Plan investments. The Employer is a Florida professional association engaged in the practice of law.

2. The amount of the proposed Loan represents approximately 8.6% of the Plan's current assets. The Loan proceeds will be used by the Employer to either purchase office equiment, leasehold improvements, furniture and fixtures for its existing offices, or to repay the balance of certain outstanding loans from commercial banks for loans previously obtained to purchase office equipment. The applicants represent that the loans extended to the Employer by commercial banks, which may be repaid with the Loan proceeds, bear a lower rate of interest than that which will be received by the Plan with respect to the proposed Loan.

3. The Loan will be represented by a promissory note having a seven year term and payable in eighty-four monthy installments of principal and interest, with interest adjusted annually on the unpaid principal balance at 1½ percent above the prime rate charged by the Citizens and Peoples National Bank, Pensacola, Florida, on the date of the execution of the Loan and each anniversary date thereafter. The Loan will be secured by a perfected first security interest in the office equipment, leasehold improvements, furniture and fixtures owned by the Employer, including any such equipment purchased with the proceeds of the Loan (all such office equipment, leasehold improvements furniture and fixtures hereinafter referred to as the Collateral). Except for the Plan's proposed security interest, the Collateral is totally unencumbered. All Collateral will be insured by the Employer against fire and other hazards with the Plan named as a beneficiary of the insurance policy. The Collateral was appraised on June 15, 1984 by Mr. M.O. McCraney, vice

president and sales representative of Pensacola Office Equipment Company. Mr. McCarney and Pensacola Office Equipment Company are independent of the Employer. Mr. McCraney has had more than 20 years of experience in buying, selling and trading used office equipment and furniture. The appraisal indicates that the Collateral had a fair market value of $116,000 as of June 15, 1984.

4. The Loan will be jointly and severally guaranteed through the personal guarantees of Messrs. William H. Clark, Donald H. Partington, W. Christopher Hart, Robert D. Hart, William E. Bond, Jr. and Dennis K. Larry (collectively, the Guarantors), all of whom are principals of the Employer. Each of the Guarantors represents that he has both a net worth and an annual income substantially in excess of the amount of the proposed Loan.

5. The Citizens and Peoples National Bank (the Bank), located in Pensacola, Florida, has been appointed to serve as an independent fiduciary for the Plan with respect to the Loan. The Employer has deposits and loans with the Bank; however, its deposits constitute less than .026% of the Bank's total deposits and its loans constitute less than .066% of the Bank's total loan portfolio. The Employer represents that none of the Loan proceeds will be used to pay off any indebtedness to the Bank. The Bank has examined the terms and conditions of the Loan and the appraisal of the Collateral and has initially determined that the Loan is appropriate and suitable for the Plan and its participants and beneficiaries. With respect to the Loan's terms, the Bank represents that it would make an identical loan to the Employer at a lesser rate of interest. The Bank believes the Plan will be receiving a higher than market yield from the Loan, and thus it is an appropriate and profitable investment for the Plan. The Bank considered the overall investment portfolio of the Plan and the diversification of its assets in rendering this determination. This same determination will be made immediately prior to, and as a condition of, the consummation of the Loan.

6. Pursuant to the Bank's appointment as independent fiduciary, the Bank has the authority to require the Employer to pledge additional collateral to insure that the Collateral pledged will at all times remain at or exceed 200% of the balance due under the promissory note. The Bank will require the Employer to maintain fire and hazard insurance on the Collateral with the Plan named as beneficiary of the insurance policies. The Bank will monitor all terms and conditions of the Loan and will be empowered to enforce the terms of the Loan, including making demand for timely payment, demanding appropriate adjustment of the interest rate, acceleration of the amount due under the note in the event of default, bringing suit, or other appropriate process against the Employer in the event of default.

7. In summary, the applicant represents that the proposed Loan will satisfy the statutory criteria of section 408 of the Act because (a) the Loan will be secured by a perfected first security interest in insured collateral which will at all times throughout the term of the Loan have a value of not less than 200% of the Loan's outstanding balance; (b) the Bank, an independent qualified party, will serve as the fiduciary of the Plan with regard to the Loan, and has determined that the Loan is an appropriate and suitable investment for the Plan; (c) the Bank will monitor the Loan and enforce performance of the Employer's obligations under the applicable Loan documents; and (d) the Loan will be jointly and severally guaranteed through the personal guarantees of the six principals of the Employer.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

A.H. Peters Funeral Home of Grosse Pointe, Inc., Employees Profit Sharing Trust (the Plan) Located in Grosse Pointe, Michigan

[Application No. D-55701]

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 proposed cash sale (the Sale) by the Plan of a parcel of improved real property (the Property) of A.H.P. Building Company (the Company), a party in interest with respect to the Plan, provided that the sales price is not less than the fair market value of the Property at the time the sale is consummated.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 19 participants. As of June 30, 1983, the Plan had total assets of $1,179,393. George K. Goins, CPA is the trustee of the Plan. A.H. Peters Funeral Home of Grosse Pointe, Inc. (the Employer), the Plan sponsor, operates a funeral home.

2. Among the assets of the Plan is the Property. The Property consists of a one-story building divided into five retail stores with a parking lot in the rear. The Plan purchased the Property in February, 1964, for $83,747 from parties unrelated with respect to the Plan. The applicant represents that the Plan purchased the Property for income and capital appreciation. The Property is adjacent to the Employer's funeral home. Since its purchase by the Plan, the Property has always been leased to parties unrelated with respect to the Plan.

3. The Company, all of whose stock is owned by Roy A. Peters, the president of the Employer, seeks to purchase the Property from the Plan for $330,000 in cash. The Plan will incur no expenses with respect to the Sale. On April 3, 1984, Robert R. Sfire, MAI, appraised the Property and determined that it had a fair market value of $330,000 as of that date. In a letter dated July 3, 1984, Mr. Sfire states that the Property does not have a premium value to the Employer's adjacent funeral home for the following reasons: (a) There is a strong demand for this type of commercial property on the street on which the Property is located; (b) there is no use for which the funeral home could functionally utilize the Property which would enhance its value over and above its present value as a multi-tenant commercial strip building; (c) although the Employer might use the Property for storage, the Employer could never functionally utilize it as part of its operation; (d) the value of the Property as vacant land or for future expansion or parking would not exceed its present value; and (e) the Property and the Employer's funeral home are perpendicular to each other which diminishes the functional utility of the combined property.

4. The applicant represents that the proposed Sale is in the best interests of the Plan and its participants and beneficiaries because the Sale will produce a gain for the Plan and permit the Plan to invest the cash proceeds in higher yielding investments. The applicant further represents that many of the participants are close to retirement age creating a need for greater Plan liquidity and the proposed

Sale will allow the Plan to meet this need.

5. In summary, the applicant represents that the proposed Sale satisfies the statutory criteria of section 408(a) of the Act because (a) this is a one-time transaction for cash; (b) the sales price was determined by a qualified independent appraiser; and (c) the Sale will allow the Plan to invest the proceeds in higher yielding and more liquid investments.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (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 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 9th day of August, 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84–21546 Filed 8–13–84; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84–68]

Meeting; NASA Advisory Committee on Minority Graduate Researchers

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Committee on Minority Graduate Researchers.

DATE AND TIME: August 16–17, 1984, 9 a.m. to 4:30 p.m.

ADDRESS: NASA Headquarters, 400 Maryland Avenue, SW, Room 6004, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Harriett G. Jenkins, Code U, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–2167).

SUPPLEMENTARY INFORMATION: The NASA Advisory Committee on Minority Graduate Researchers was established to advise senior management on the most desirable approaches, strategies or systems which will help expand the resource pool of talented minorities who can carry out significant scientific and engineering research related to NASA objectives. The Committee is chaired by Dr. John Hernandez and is composed of eight members. It is imperative that the Committee meet at this time to establish its recommendations in preparation for NASA's response to Congress.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 50 persons including Committee members and other participants. Visitors will be requested to sign a visitor's register.

Type of Meeting

Open.

Agenda

August 16, 1984

9 a.m.—Welcome and Housekeeping Items.

9:15 a.m.—Feedback and Discussion on the Committee's Options for NASA Minority Graduate Research Programs.

Members will prepare to meet with NASA's Deputy Associate Administrators and Deputy Center Directors.

4:30 p.m.—Adjourn.

August 17, 1984

9 a.m.—Introductions and Welcome.

9:15 a.m.—NASA's Deputy Associate Administrators and Deputy Center Directors will meet with the Committee to discuss various models which might be implemented most effectively at individual installations to expand the resource pool of talented minorities who can carry out significant scientific and engineering research related to NASA objectives.

4:30 p.m.—Adjourn.

Dated: August 9, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84–21607 Filed 8–13–84; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

Public Service Electric and Gas; Correction; Order Confirming TMI Commitments

On June 22, 1984 (49 FR 25719), an Order issued by the U.S. Nuclear Regulatory Commission (NRC) was published in the **Federal Register.** This Order confirms commitments made by the Public Service Electric and Gas Company for Post-TMI related issues involving the Salem Nuclear Generating Station Units 1 and 2, which are located in Salem County, New Jersey.

The "Complete" status indicated for

the Technical Support Center, appearing in Page 2 of the Attachment to the Order was incorrect and the correct date of December, 1986 has been substituted.

For additional details, see NRC's letter to the licensee dated July 26, 1984.

Dated at Bethesda, Maryland, this 26th day of July 1984.

For the Nuclear Regulatory Commission.

Steven A. Varga, Chief,

Operating Reactors Branch #1, Division of Licensing.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
4. Upgrade Emergency Operating	4a. Submit a Procedures Generation Package to the NRC	Complete.
	4b. Implement the upgrade EOPs	(1) Without SPDS 3/85. (2) With SPDS 12/86.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	December 1986.
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	December 1986.

[FR Doc. 84-21554 Filed 8-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-166]

University of Maryland; Renewal of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. R-70 for the University of Maryland (the licensee) which renews the license for operation of the training and research reactor located in College Park, Maryland. The facility is a non-power reactor that has been operating at steady-state power levels not in excess of 250 kilowatts (thermal). Facility Operating License No. R-70 will expire at midnight on June 29, 2000.

The amended license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. Those findings are set forth in the license amendment. Opportunity for hearing was afforded in the notice of the proposed issuance of this renewal in the **Federal Register** on August 20, 1930 at 45 FR 55553. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared a Safety Evaluation Report (NUREG-1043) for the renewal of the Facility Operating License and has, based on that report, concluded that the facility can continue to be operated by the licensee without endangering the health and safety of the public.

The Commission also has prepared an Environmental Assessment for the renewal of Facility Operating License No. R-70 and has concluded that this action will not have a significant effect on the quality of the human environment. The Notice of Final Finding of No Significant Environmental Impact was published in the **Federal Register** on August 6, 1984, 49 FR 31350.

For further details with respect to this action, see (1) the application for amendment dated May 23, 1980, as supplemented, (2) the Final No Significant Impact Finding, (3) Amendment No. 7 to License R-70, (4) the Commission's related Safety Evaluation Report (NUREG-1043), and (5) Environmental Assessment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Copies of NUREG-1043 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Bethesda, Maryland, this 7th day of August 1984.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 84-21555 Filed 8-13-84; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Coal Options Task Force; Regular Meeting

AGENCY: Coal Options Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Approval of minutes of the third meeting
- Status Report: Assessing the implications of The Clean Air Act and Clean Water Act
- Discuss draft NEPA memorandum and preparation of a coal specific supplement
- Status Report: Assessment of coal options (Creston, Wyodak, Boardman, Salem)
- Status Report: Assessment of site availability
- Review Thermal Resource Data Base generic cost and performance data development
- Discuss format and schedule of Task Force report
- Other business
- Public comment

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Coal Options Task Force.

DATE: Friday, August 17, 1984, 9:00 a.m.

ADDRESS: The meeting will be held at the Council Conference Room at 700 SW. Taylor; Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Jeff King, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-21434 Filed 8-13-84; 8:45 am]

BILLING CODE 0000-00-M

Options Evaluation Task Force; Regular Meeting

AGENCY: Options Evaluation Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Presentation and discussion of SAM studies on additional DSI interruptibility
- Public comment

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Options Evaluation Task Force.

DATE: Friday, August 24, 1984, 10:00 a.m.

ADDRESS: The meeting will be held at the Council Hearing Room at 700 SW. Taylor; Suite 200, in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Wally Gibson (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–21435 Filed 8–13–84; 8:45 am]

BILLING CODE 0000–00–M

SMALL BUSINESS ADMINISTRATION

[Application No. 06/06–0285]

Application for a License To Operate as a Small Business Investment Company; Future Money Corp.

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Future Money Corporation.

Address: Suite 500, Two Energy Square, 4849 Greenville Avenue, Dallas, Texas 95206.

The proposed officers, directors and 10 or more percent stockholders of the Applicant are as follows:

Name and Position

Michael R. Lewis, 9609 Cheswell Road, Dallas, Texas 75238—President and Director

Jon Webber, 8162 San Leandro Drive, Dallas, Texas 75218—Vice President, Secretary and Treasurer

David E. Wise, 5505 Windmier, Dallas, Texas 75243—Chairman of the Board and Director

Charles R. Gary, 5818 Windmier, Dallas, Texas 75252—Director

William C. Kennedy, Jr., 3515 Brown # 108, Dallas, Texas 75219—20.976 percent direct plus 7.323 percent indirect

The Energy Bank, N.A., 4849 Greenville Avenue, Dallas, Texas 75206—19.512 percent

Executive Center Bank, N.A., 8390 LBJ Freeway, Dallas, Texas 75243—14.634 percent

Financial Center Bank, N.A., 18333 Preston Road, Dallas, Texas 75252—14.634 percent

Part West Bank, N.A., 1601 LBJ Freeway, Dallas, Texas 75234—14.634 percent

The applicant, a Texas corporation, will begin operations with $1,025,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Dallas, Texas area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 6, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–21460 Filed 8–13–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP84–6; Notice 2]

General Motors Corp.; Grant of Petition for Exemption From and Remedy for Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warren, Michigan ("GM" herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 7, 1984, and an opportunity afforded for comment (49 FR 19430).

Paragraph S4.1.3.1(c) of Standard No. 208 requires that each rear designated seating position in a passenger car shall have a Type 1 (lap belt) seat belt assembly that conforms to 49 CFR 571.209, Motor Vehicle Safety Standard No. 209, *Seat Belt Assemblies*. Paragraph S4.1(i) of Standard No. 209 requires each seat belt assembly to "be permanently and legibly marked or labeled with year of manufacture . . . ." GM has discovered that the rear seat belt assemblies in "approximately 0.2 percent of over 58,000 1984 model Chevrolet Chevettes and Pontiac T1000 passenger cars may have omitted the year of manufacture. The company argued that the noncompliance is inconsequential on the approximately 116 vehicles as the seat belt assemblies comply in all other respects. Further, since traceability of the seat belts can be accomplished through the VIN or the manufacturer's lot control numbers, the vehicles can be identified in the event of any notification and remedy campaign. The year of manufacture of the vehicle is correctly stated on the certification label.

No comments were received on the petition.

The primary purpose of requiring belt assemblies to be labeled with the year of manufacture is to enable those who purchase them as replacements in the aftermarket to obtain the proper belts for their vehicles. As the assemblies in issue are already in a vehicle when it is purchased, this informational requirement in essence becomes unnecessary. NHTSA concurs with GM's argument that traceability for recall purposes can be accomplished through the VIN or manufacturer's lot control numbers.

Accordingly, it is hereby found that the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 8, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84–21551 Filed 8–13–84; 8:45 am]

BILLING CODE 4910–59–M

Urban Mass Transportation Administration

Recommended Fire Safety Practices for Rail Transit Materials Selection

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: The Urban Mass Transportation Administration is issuing recommendations for testing flammability and smoke emission characteristics of materials used in the construction of rapid rail transit and light rail transit vehicles. These recommendations are based on the Transportation Systems Center's "Proposed Guidelines for Flammability and Smoke Emission Specifications," which the transit industry, in general, uses on a voluntary basis.

EFFECTIVE DATE: August 14, 1984.

FOR FURTHER INFORMATION CONTACT: Lloyd G. Murphy, U.S. Department of Transportation, Urban Mass Transportation Administration Director, Safety and Security Staff, (202) 426–2896.

SUPPLEMENTARY INFORMATION:

Background

On November 26, 1982, the Urban Mass Transportation Administration (UMTA) published a Notice and Request for Public Comment on "Recommended Fire Safety Practices for Rail Transit Materials Selection," Vol. 47 FR 53559. That Notice proposed recommendations for testing the flammability and smoke emission characteristics of materials used in the construction of rapid rail transit (RRT) and light rail transit (LRT) vehicles. Like the "Proposed Guidelines for Flammability and Smoke Emission Specifications" on which they are based, these Recommended practices are not regulatory in nature. Rather, these Recommended Practices are intended to be used to assess the fire risk of materials used in RRT and LRT vehicles. They do not duplicate actual fire conditions. However, their use will result in the selection of more fire resistant materials, which will minimize the fire threat in RRT and LRT vehicles and thereby reduce the injuries and property damage resulting from transit vehicle fires. Moreover, issuance of the Notice at this time is consistent with the Department of Transportation's position on promoting safety in transportion.

In response to comments, UMTA has made one major substantive change to the Recommended Practices, as well as various editorial and minor substance revisions. The major change was to delete all references to National Fire Protection Association (NFPA) standards. This change is discussed more fully below.

Approximately 25 organizations responded to the November 26, 1982 Notice. The majority of these, including all but one of the commenting transit agencies, generally supported the Recommended Practices. For the most part, these comments suggested only minor changes, such as correcting various typographical errors, and clarifying the list of referenced standards and the notes to Table 1. Most of these comments have been incorporated in this Notice. After careful review, UMTA has chosen not to adopt some comments. UMTA's goal in issuing the Recommended Practices is to suggest a means for providing the highest practical level of safety. It is UMTA's opinion that the comments not adopted would not further this goal.

The major substantive comments that were not adopted concerned: using small scale tests, most notably the American Society for Testing Materials (ASTM) E–162 test method; modifying certain aspects of the performance criteria; substituting tests; addressing toxicity; and expanding the scope of the Recommended Practices.

In regard to using small scale tests, several commenters questioned whether such tests, which test component materials separately, can adequately simulate the synergistic effects of burning the various vehicle assemblies, as may occur in an actual fire. UMTA has determined that small scale tests are the best method to test for the most practical level of safety feasible. Small scale tests are especially useful as a screening device to select materials. As such, they have the advantage of allowing a transit authority to choose its own preferred combination of materials in making up specifications for RRT and LRT vehicles. The fact that there is sufficient correlation between the results of full scale tests and those in the Recommended Practices to support use of those small scale tests has been borne out by full scale tests conducted by the Bay Area Rapid Transit District. Furthermore, there are disadvantages to the use of full scale tests. There are 18 different categories of materials application that require individual testing in a vehicle. A full scale fire test that would determine the merits of combinations of materials would require a series of such tests that would be prohibitive in cost and impossible to perform in a manner that would satisfy all parties. In addition, they would eliminate the small manufacturer who would be unable to compete in such testing. Moreover, one noted expert has stated that full scale tests do not provide basic information on individual components or allow extrapolation to conditions other than those reached in that test.

Also in connection with small scale tests, several commenters referred to the fact that the NFPA states that several of its standards are intended only for use as research and development tools, not for regulatory purposes. Although the Recommended Practices are not regulatory, UMTA recognizes that they will be used for more than research and development. Accordingly, NFPA standards have been deleted from the Recommended Practices. ASTM tests E–662 and E–648 have been substituted for these tests.

Another commenter suggested that a "disclaimer" for the use of the flame spread rating required under a Federal Trade Commission consent order be included in the Recommended Practices. When read in its entirety, however, the disclaimer would not affect the use of the flame spread test as suggested in the Recommended Practices. Given that fact, as well as the fact that the context differs from that of the FTC Consent order, repeating the disclaimer is considered unnecessary.

Several commenters suggested modifying the performance criteria of the tests. Most of these comments suggested relaxing various performance criteria. The most common argument for doing so was that materials are not available that will meet the performance criteria. However, a review of the UMTA materials data bank revealed that in all cases there are sufficient materials to meet the criteria of the Recommended Practices. Moreover, a recent UMTA study, "Assessment of the Benefits and Costs Associated with the Adoption of the Recommended Fire Safety Practices for Rail Transit Materials Selection," Transportation Systems Center, Report UMTA–MA–06–0098–81–3, December, 1982, found that the cost of implementing the Recommended Practices would be minimal for new vehicle construction. In addition, several transit agencies recently have used the Recommended Practices successfully in purchasing rail transit vehicles. Again, UMTA believes that relaxing any of the criteria as suggested by the commenters would result in an unacceptable decrease in safety.

Another comment concerning relaxing performance criteria was that the same criteria should not be used for both LRT and RRT vehicles. It is UMTA's position that there is not sufficient difference between the environments on LRT and RRT vehicles to warrant separate tests for their materials. An additional comment was that the restrictions on flammability are such that the restrictions on smoke emissions and, for carpets, critical radiant flux, are unnecessary. UMTA disagrees. There is not necessarily a relationship between

flammability and smoke emission, so that the flammability test alone does not adequately test for those two characteristics. For example, some situations may result in very little flame spread, but a great deal of smoke. The low flammability will not indicate the smoke emission characteristics of such material.

Several commenters suggested making certain performance criteria more restrictive, for example by requiring additional vehicle materials categories to meet specific optical density requirements for smoke emission. For the most part, these greater restrictions would eliminate otherwise useful materials without a corresponding increase in safety. In the case of electrical cable used for rail transit purposes, there is not at this time enough information available to develop Recommended Practices.

In regard to substituting tests, several commenters objected to the use of the ASTM E-162 test method. UMTA did not adopt these comments because the ASTM E-162 is widely accepted both in the United States and abroad as a means of determining the flame spread of materials that may be used in RRT and LRT vehicles. For example, it is used to test materials for commercial aircraft. On the other hand, although the ASTM E-84, the suggested substitute test, is widely used in the construction industry, it is not necessarily suitable for testing materials for use in LRT and RRT vehicles. For instance, many materials that melt and sag cannot adequately be measured using the ASTM E-84. In addition, the ASTM E-84 is a larger scale test that the ASTM E-162 and therefore more costly. A related issue is whether the Recommended Practices will exist in addition to NFPA Standard 130, or be adopted by the NFPA to replace NFPA Standard 130. One commenter expressed concern over the possible existence of two industry standards. There in fact will be two test protocols if the NFPA does not fully adopt the Recommended Practices, in which case users will choose the best method. UMTA believes that the Recommended Practices reflect the state of the art.

Commenters also requested that UMTA address the issue of toxicity of the products of combustion of these materials in the Recommended Practices. UMTA recognizes the need to address this issue, but because of its complexity, is not able to do so in the Recommended Practices. Instead, in an effort to respond to transit industry needs UMTA has initiated a program to develop guidelines for asessing the combustion toxicity of materials. Recognizing the scope and extreme complexity of this issue, UMTA has requested the National Research Council's (NRC) Transportation Research Board and National Materials Advisory Board of the Commission on Engineering and Technical Systems to assist in addressing this issue. In response to this request, the NRC has established a Committee on Toxicity Hazards of Materials Used in Rail Transit Vehicles. This committee, consisting of representatives of industry and academia, will review the present state of knowledge of combustion toxicity, identify specific toxicity hazards related to the use of polymeric materials in transit vehicles, and recommend a plan of action for developing guidelines for testing materials. A workshop will be convened to review the preliminary findings of the study group, with interested parties representing government, mass transit agencies, user groups, and industry in attendance.

Commenters also raised questions about the scope of the Recommended Practices, and their relation to the July, 1979, "Proposed Guidelines for Flammability and Smoke Emissions Specifications." The Recommended Practices supersede those 1979 proposed guidelines. The Recommended Practices are intended for use in selecting rail transit vehicle materials. UMTA does not have jurisdiction over such modes as trucks and mobile homes. Accordingly, it would be inappropriate for UMTA to recommend fire safety tests for selecting materials for those vehicles. Beacuse buses operate in a different environment than RRT and LRT vehicles, UMTA believes it would be inappropriate to use RRT and LRT safety tests for buses. However, UMTA intends to develop similar fire safety materials guidelines for transit bus vehicles in the future.

In addition to suggesting changes to the Recommended Practices, commenters raised several questions that require clarification. One commenter expressed concern that the cost of retrofitting RRT and LRT vehicles would be prohibitively expensive. The Recommended Practices are guidelines, not requirememnt or regulations. UMTA believes that maintenance of safety on transit systems is a local responsibility and that the application of the guidelines by individual transit systems is a local decision reflecting operating conditions and vehicles in each system. It is not UMTA's intention to direct when and how the guidelines are used, but rather to make them available for use as safety technical assistance to operating and planned rail transit systems.

Another commenter raised a series of technical questions. The first was whether the materials presented in Table 1 are the only components that require testing. They are. The tests usually prescribe the appropriate specimen geometry for testing the material specimens. If not, the tests should be to the most appropriate geometry. The second was whether Fed-Std. 191A and AATCC-86 are indicative of what will happen to fabrics over their predicted lives. These tests are merely meant to determine whether flame retardant is removed by cleaning the fabrics. The third question was why the Dmax value recommendation for NFPA 258 was deleted. This value was deleted because UMTA determined that measuring smoke obscuration by time was preferable to measuring total maxium smoke obscuration. Therefore, the Dmax value was deemed unnecessary. The final question was when there is more than one material that can be used for a function, to which does the test apply. The answer is that the test applies to all materials that can be used for a particular function.

Recommended Fire Safety Practices for Rail Transit Materials Selection

Scope

The Recommended Fire Safety Practices for Rail Transit Materials Selection are directed at improving the vehicle interior materials selection practices for the procurement of new vehicles and the retrofit of existing RRT and LRT vechicles. Adoption of these recommended fire safety practices will help to minimize the fire threat in rail transit vehicles and, thereby, reduce the injuries and damage resulting from vehicle fires.

Recommended Fire Safety Practices for Rail Transit Materials Selection Application

This document provides recommended fire safety practices for testing the flammability and smoke emission characteristics of materials used in the construction of RRT and LRT vehicles.

Referenced Fire Standards

The source of test procedures listed in Table 1 are as follows:

(1) Leaching Resistance of Cloth, FED-STD-191A-Textile Test Method 5830.

Available from: General Services Administration Specifications Division, Building 197 Washington Navy Yard, Washington, DC 20407.

(2) Federal Aviation Administration Vertical Burn Test, FAR–25.853.

Available from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(3) American Society for Testing Materials (ASTM)

(a) Specification for Gaskets, ASTM C–542;

(b) Surface Flammability for Flexible Cellular Materials Using a Radiant Heat Energy Source, ASTM D–3675;

(c) Fire Tests of Building Construction and Materials, ASTM E–119;

(d) Surface Flammability of Materials Using a Radiant Heat Energy Source, ASTM E–162;

(e) Bonded and Laminated Apparel Fabrics, ASTM D–2724;

(f) Critical radiant flux of floor covering systems using a radiant heat energy source, ASTM E–648;

(g) Specific optical density of smoke generated by solid materials, ASTM E–662.

Available from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

In all instances, the most recent issue of the document or the revision in effect at the time of request should be employed in the evaluation of the material specified herein.

Definition of Terms

1. Critical radiant flux (CRF) as defined in ASTM E–648 is the level of incident radiant heat energy on the floor covering system at the most distant flame-out point. It is reported as W/cm^2.

2. Flame spread index (I_s) as defined in ASTM E–162 is a factor derived from the rate of progress of the flame front (F_s) and the rate of heat liberation by the material under test (Q), such that $I_s = F_s \times Q$.

3. Specific optical density (D_s) is the optical density measured over unit path length within a chamber of unit volume, produced from a specimen of unit surface area, that is irradiated by a heat flux of 2.5 watts/cm^2 for a specified period of time.

4. Surface flammability denotes the rate at which flames will travel along surfaces.

5. Flaming running denotes continuous flaming material leaving the site of material burning or material installation.

6. Flaming dripping denotes periodic dripping flaming material from the site of material burning or material installation.

7. Light rail transit (LRT) vehicle means a streetcar-type transit vehicle operated on city streets, semi-private rights-of-way, or exclusive private rights-of-way.

8. Rapid rail transit (RRT) vehicle means a subway-type transit vehicle operated on exclusive private rights-of-way with high-level platform stations.

Recommended Test Procedures and Performance Criteria

(a) The materials used in RRT and LRT vehicles should be tested according to the procedures and performance criteria set forth in Table 1.

(b) Transit agencies should require certification that combustible materials to be used in the construction of vehicles have been tested by a recognized testing laboratory, and that the results are within the recommended limits.

(c) Although, at present, there are no Recommended Fire Safety Practices for electrical insulation materials, information pertinent to the selection and specification of electrical insulation for use in the rail transit environment is contained in the following UMTA reports:

1. Electrical Insulation Fire Characteristics, Volume I, Flammability Tests, December, 1978. UMTA–MA–06–0025–79–1. PB294 840/4GA

2. Electrical Insulation Fire Characteristics, Volume II, Toxicity, December, 1978. UMTA–MA–06–0025–79–2. PB294 841/2GA

3. Combustibility of Electrical wire and Cable for Rail Transit Systems, Volume I, Flammability, May 1983. UMTA–MA–06–0025–83–7. PB83–233742

4. Combustibility of Electrical Wire

and Cable for Rail Transit Systems, Volume II, Toxicity, May 1983. UMTA-MA-06-0025-83-7. PB83 233759

Available from: The National Technical Information Service, Springfield, VA 22161.

TABLE 1. RECOMMENDATIONS FOR TESTING THE FLAMMABILITY AND SMOKE EMISSION CHARACTERISTICS OF RAIL TRANSIT VEHICLE MATERIALS

Category	Function of Material	Test Procedure	Performance Criteria
Seating	Cushion[1;2;5;9*]	ASTM D-3675	$I_s \leq 25$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Frame[1;5;8]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Shroud[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Upholstery[1;2;3;5]	FAR 25.853 (Vertical)	Flame Time $\leq$ 10 sec; burn length $\leq$ 6 inch
		ASTM E-662	$D_s(4.0) \leq 250$ coated $D_s(4.0) \leq 100$ uncoated
Panels	Wall[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Ceiling[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Partition[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Windscreen[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	HVAC Ducting[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(4.0) \leq 100$
	Window[4;5]	ASTM E-162	$I_s \leq 100$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Light Diffuser[5]	ASTM E-162	$I_s \leq 100$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
Flooring	Structural[6]	ASTM E-119	Pass
	Covering[7]	ASTM E-648	C.R.F. $\geq 0.5 w/cm^2$
Insulation	Thermal[1;2;5]	ASTM E-162	$I_s \leq 25$
		ASTM E-662	$D_s(4.0) \leq 100$
	Acoustic[1;2;5]	ASTM E-162	$I_s \leq 25$
		ASTM E-662	$D_s(4.0) \leq 100$
Miscellaneous	Elastomers[1]	ASTM C-542	Pass
	Exterior Shell[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Component Box covers[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$

*Refers to Notes on Table 1.

Notes

1. Materials tested for surface flammability should not exhibit any flaming running, or flaming dripping.

2. The surface flammability and smoke emission characteristics of a material should be demonstrated to be permanent by washing, if appropriate, according to FED-STD-191A Textile Test Method 5830.

3. The surface flammability and smoke emission characteristics of a material should be demonstrated to be permanent by dry-cleaning, if appropriate, according to ASTM D-2724. Materials that cannot be washed or dry cleaned should be so labeled and should meet the applicable performance criteria after being cleaned as recommended by the manufacturer.

4. For double window glazing, only the interior glazing should meet the material requirements specified herein; the exterior need not meet those requirements.

5. ASTM E-662 maximum test limits for smoke emission (specific optical density) should be measured in either the flaming or non-flaming mode, depending on which mode generates the most smoke.

6. Structural flooring assemblies should meet the performance criteria during a nominal test period determined by the transit agency. The nominal test period should be twice the maximum expected period of time, under normal circumstances, for a vehicle to come to a complete, safe stop from maximum speed, plus the time necessary to evacuate all passengers from a vehicle to a safe area. The nomimal test period should not be less than 15 minutes. Only one specimen need be tested. A proportional reduction may be made in dimensions of the specimen provided that it represents a true test of its ability to perform as a barrier against undercar fires. Penetrations (ducts, etc.) should be designed against acting as conduits for fire and smoke.

7. Carpeting should be tested in accordance with ASTM E-648 with its padding, if the padding is used in actual installation.

8. Arm rests, if foamed plastic, are tested as cushions.

9. Testing is performed without upholstery.

Issued on: August 8, 1984.

Ralph L. Stanley,

Administrator.

[FR Doc. 84-21478 Filed 8-13-84; 8:45 am]

BILLING CODE 4910-57-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; List of Articles Eligible for Duty-Free Treatment

Trade Policy Staff Committee Review: Review and Solicitation of Public Comment Regarding the Proposed Modification of the List of Articles Eligible for Duty-Free Treatment Under the U.S. Generalized System of Preferences for the Purpose of Determining an Eligible Article as Not

Like or Directly Competitive with any Article Produced in the United States on January 3, 1965, in Order to Avoid Loss of GSP Duty-Free Treatment Under the Provisions of section 504(c)(1)(B) of the Trade Act of 1974.

I. Initiation of Review

Notice is hereby given of initiation of a review for possible modification of the list of articles eligible to receive duty-free treatment under the U.S. Generalized System of Preferences (GSP), as provided for in Title V of the Trade Act of 1974 (19 U.S.C. 2461–2465). The Trade Policy Staff Committee (TPSC) has initiated a review to determine if hot air popcorn poppers classified under TSUS 684.20 part of the Tariff Schedules of the United States Annotated may be considered by the President for an exemption of the 50 percent competitive need limit in section 504(c), pursuant to section 504(d) pertaining to articles for which no like or directly competitive article was being produced in the United States on the date of enactment of the Trade Act of 1974, January 3, 1975. TSUS 684.20 is currently eligible for duty-free treatment when imported from any GSP eligible designated beneficiary. This review is undertaken pursuant to an order from the U.S. Court of International Trade and relates only to popcorn poppers classified under TSUS 684.20 part imported from Hong Kong which were denied duty-free treatment from March 30, 1980 to March 30, 1981. The TPSC is initiating this review pursuant to regulations of the U.S. Trade representative pertaining to eligibility of articles for the GSP 15 CFR 2007.0(a)3 and will be completed not later than six months from the date of publication of this notice.

1. USTR Request for Advice From the U.S. International Trade Commission

Notice is also given that the Trade Representative, at the direction of the President, pursuant to section 332(g) of the Tariff Act of 1930, has requested the U.S. International Trade Commission to provide advice with respect to whether products like or directly competitive with the subject popcorn poppers were being produced in the United States on January 3, 1975.

2. Public Hearing

The proposed modification will be considered during the public hearings for the 1984 annual product review as announced in the **Federal Register** on July 16, 1984.

A hearing will be held October 2, beginning at 10:00 a.m., in the Amphitheater of the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. The hearing will be open to the public and the transcript will be made available for public inspection or purchase from the reporting company.

3. Information Subject to Public Inspection

Information submitted in connection with the hearing will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and on each page within the document, where appropriate, that confidential material is included. Non-confidential summaries of all confidential material must be submitted in twenty copies at the same time that confidential submissions are filed.

4. Communications

All communications with regard to this hearing should be addressed to: GSP Subcommittee, Office of the United States Trade Representative, 600 Seventeenth Street, NW., Room 316, Washington, D.C. 20506. The telephone number of the Secretary of the GSP Subcommittee is (202) 395–6971. Questions may be directed to any member of the staff of the GSP Information Center.

II. Deadline for Receipt of Requests To Participate in the Public Hearing

The GSP Subcommittee of the Trade Policy Staff Committee invites submissions in support of or in opposition to the proposed modification. All such submissions should conform to 15 CFR Part 2007, particularly 2007.0, 2007.1(a), 2007.1(a)(2), and 2007.1(a)(3).

Requests to present oral testimony in connection with the public hearing should be accompanied by twenty copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommittee no later than the close of business Friday, September 21, 1984. Oral testimony before the GSP Subcommittee will be limited to five minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs, or statements will be accepted if submitted in twenty copies, in English, no later than close of business Friday, October 19, 1984. Rebuttal briefs should be submitted in twenty copies, in English, by close of business Friday, November 2.

Parties not wishing to appear may submit written briefs or statements in twenty copies, in English, in connection with the article under consideration in the public hearing, provided that such submissions are filed by October 19 and conform with the regulations cited above.

Federick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 84–21467 Filed 8–13–84; 8:45 am]

BILLING CODE 3190–01–M

Intergovernmental Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Intergovernmental Policy Advisory Committee (the Advisory Committee) to be held Monday, September 10, 1984, from 2:00 p.m. to 5:00 p.m. in Washington, D.C., will involve a review and discussion of current trade issues relating to state and local governments of the United States. Pursuant to section 2155 (f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 84–21466 Filed 8–13–84; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 7, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each

bureau's listing and to the Treasury Department Clearance Officer, Room 7316, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0535
Form Number: IRS Form RC–C–Gen 1–1023 (01/80)
Type of Review: Extension
Title: Telephone Contacts
OMB Number: 1545–0143
Form Number: IRS Form 2290
Type of Review: Revision
Title: Heavy Vehicle Use Tax Return
OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Office of the Secretary

OMB Number: New
Form Number: Form BL–3
Type of Review: New
Title: Treasury International Capital Form BL–3
OMB Reviewer: Judy McIntosh, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph Maty,

Departmental Reports, Management Office.

[FR Doc. 84–21489 Filed 8–13–84; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 158
Tuesday, August 14, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 29695.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., Friday, September 7, 1984.

PREVIOUSLY ANNOUNCED PLACE: Board Room, 712 Jackson Place, NW., Washington, D.C. 20006.

CHANGE IN TIME AND PLACE: 1:00 p.m. Friday, September 7, 1984 at LaSalle Salon, L'Enfant Plaza Hotel, L'Enfant Plaza, Washington, D.C. 20024.

CONTACT PERSON FOR MORE INFORMATION: Malcolm C. McCormack, Executive Secretary, telephone: 202/395-4831.

Malcolm C. McCormack,
Executive Secretary.

[FR Doc. 84-21619 Filed 8-10-84; 10:58 am]
BILLING CODE 9500-01-M

2

NUCLEAR REGULATORY COMMISSION

DATE: Week of August 13, 1984, Week of August 20, 1984 and Week of August 27, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Week of August 13

Wednesday, August 15

10:00 a.m.
Oral Presentations by Parties on TMI-1 Restart (Public Meeting) (as announced)

Thursday, August 16

10:00 a.m.
Discussion/Possible Vote on Final Rulemaking on Financial Qualifications (Public Meeting) (as announced)
2:00 p.m.
Continuation of 7/23 Discussion of Indian Point Adjudicatory Proceeding (Public Meeting) (as announced)
3:30 p.m.
Affirmation Meeting (Public Meeting) (as announced) (if needed)

Week of August 20

No Commission meetings scheduled.
Affirmation meeting (Public Meeting)—Wednesday, August 22, 2:00 p.m., if needed.

Week of August 27

No Commission meetings scheduled.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording) 202-634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado, 202-634-1410.

Dated: August 10, 1984.
John C. Hoyle,
Office of the Secretary.

[FR Doc. 84-21678 Filed 8-10-84; 3:47 pm]
BILLING CODE 7590-01-M

3

POSTAL RATE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 31798 Wednesday, August 8, 1984.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Thursday, August 16, 1984, 10:00 a.m.

PLACE: Conference Room, Room 500, 2000 L Street, N.W., Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, (202) 254-3880.

CHANGE IN MEETING: Meeting rescheduled for 2:00 p.m. on Thursday, August 16, 1984.

Charles L. Clapp,
Secretary.

[FR Doc. 84-21620 Filed 8-10-84; 10:58 am]
BILLING CODE 7715-01-M

4

POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting.

At its meeting on August 6, 1984, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting, scheduled for September 10, 1984, in Washington, D.C. The meeting will involve: (1) A continuation of the discussion of strategies and positions in connection with possible continued collective bargaining negotiations, pursuant to chapter 12 of title 39 United States Code, involving parties to the 1981 National Agreements, between the Postal Service and four labor organizations representing certain postal employees, which expired in July 1984; and (2) consideration of an anticipated recommended decision of the Postal Rate Commission in Docket No. R84-1, the omnibus rate case.

The meeting is expected to be attended by the following persons: Governors Babcock, Camp, McKean, Peters, Ryan, Sullivan, Voss and Waldman; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmasters General Coughlin and Morris; and Counsel to the Governors Califano.

As to the first of these agenda items, the Board is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting

is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)], because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

As to the second agenda item, the Board is of the opinion that public access to the discussions would be likely to disclose information that will become involved in future rate or classification litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirements of the Government in the Sunshine Act, because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board has determined further, pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after oppportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B) and (10) of title 5 and sections 410(c)(3) and (4) of title 39, United States Code, and § 7.3(c), (i) and (j) of title 39, Code of Federal Regulations.

David F. Harris,
Secretary.

[FR Doc. 84–21667 Filed 8–10–84; 3:32 pm]
BILLING CODE 7710–12–M

5

SECURITIES AND EXCHANGE COMMISSION
"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, July 31, 1984.

CHANGE IN THE MEETING: Deletion/ additional item.

The following item was not considered at a closed meeting held on Tuesday, August 7, 1984, at 10:00 a.m.

Litigation matter.

The following item was considered at a closed meeting held on Tuesday, August 7, 1984, at 10:00 a.m.

Amendment to injunctive action.

Chairman Shad and Commissioners Treadway, Cox and Peters determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Kohn at (202) 272–3195.

Dated: August 9, 1984.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84–21685 Filed 8–10–84; 3:58 pm]
BILLING CODE 8010–01–M

federal register

Tuesday
August 14, 1984

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 34 et al.

Revisions to Public Utility and Natural Gas Company Classification Criteria, Uniform Systems of Accounts, Form Nos. 1, 1-F, 2 and 2-A and Related Regulations; Final Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 34, 41, 101, 104, 116, 141, 154, 158, 159, 201, 204, 216, 260, and 389

[Docket No. RM83-66-000; Order No. 390]

Revisions to Public Utility and Natural Gas Company Classification Criteria, Uniform Systems of Accounts, Form Nos. 1, 1-F, 2 and 2-A and Related Regulations

Issued: August 3, 1984.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its Uniform Systems of Accounts (Uniform Systems) for public utilities, licensees, and natural gas companies (regulated companies). Briefly, the Commission is: (1) Reorganizing the Uniform Systems to eliminate separate systems for large and small regulated companies; (2) changing the nomenclature for referring to regulated companies from "Class A and Class B" and "Class C and Class D" to "Major" and "Nonmajor," respectively; (3) revising the Commission's criteria for classifying regulated companies as Major or Nonmajor for the purposes of the Uniform Systems and certain reporting and filing requirements; (4) amending its Uniform Systems to recognize recent changes in the application of Generally Accepted Accounting Principles to regulated companies; and (5) making various other minor changes to clarify and update the Uniform Systems.

This rule is part of the Commission's ongoing program to reduce and eliminate burdensome and unnecessary requirements and will reduce by about four percent the burden on electric utilities and licensees and about ten percent the burden on gas companies of maintaining accounts and filing or reporting information.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph Hartsoe, Rulemaking and Legislative Analysis Division, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before commissioners: Raymond J. O'Connor, Chairman; J. David Hughes, A. G. Sousa and Oliver G. Richard III.*

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its Uniform System of Accounts (Uniform Systems) for public utilities, licensees and natural gas companies (hereinafter collectively referred to as "regulated companies")[1] that are subject to Commission jurisdiction under the Federal Power Act, 16 U.S.C. section 791a–828c (1982) and the Natural Gas Act, 15 U.S.C. sections 717–717z (1982). These amendments:

(1) Reorganize the Uniform Systems by merging the four separate accounting systems for regulated companies into two;

(2) Change the nomenclature for classifying regulated companies from "Class A and Class B" and "Class C and Class D" to "Major" and "Nonmajor," respectively;

(3) Revise the Commission's criteria for classifying regulated companies for the purposes of the Uniform Systems and for certain reporting and filing requirements;

(4) Revise the Uniform Systems to recognize recent changes in the application of Generally Accepted Accounting Principles (GAAP) to regulated companies; and

(5) Make various editorial and technical changes to clarify and update the Uniform Systems.

This rule is part of the Commission's ongoing program to reduce and eliminate burdensome and unnecessary requirements. It reduces the burden of maintaining accounts and filing or reporting information by about four percent for electric utilities and licensees and by about ten percent for gas companies.

II. Background

The Commission developed a system of accounting for regulated companies to facilitate the Commission's ratemaking responsibilities under the authority of the Federal Power Act and the Natural Gas Act.[2] In 1960, the Commission generally revised this system to establish the current Uniform Systems and to establish the existing classification criteria for regulated companies.[3]

The organization of the four separate Uniform Systems is similar. Each begins with a section containing definitions, followed by three sets of instructions (General, Electric [or Gas] Plant, and Operating Expenses), and ending with six groups of accounts (Balance Sheet, Electric [or Gas] Plant, Income, Retained Earnings, Operating Revenue, and Operation and Maintenance). In addition, the Uniform Systems classified regulated companies as Class A, Class B, Class C, Class D, and exempt[4] based on a regulated company's annual operating revenues. A regulated company's classification determines its accounting and reporting obligations and certain rate filing requirements.

Since the promulgation of the Uniform Systems in 1960, Congress enacted the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982). This Act expressed the intent of Congress to minimize the public's reporting burden. The General Accounting Office (GAO) reviewed the progress of five Federal independent regulatory agencies, including this Commission, in minimizing the public's reporting burden under the Paperwork Reduction Act, and concluded that the independent agencies could further reduce the paperwork burden on the industry.[5] The rule follows GAO's recommendation that independent agencies make better use of graduated reporting by addressing the effects of inflation on class size and by basing class size on the agency's need for information rather than on more arbitrary standards.

Generally Accepted Accounting Principles are established by the Financial Accounting Standards Board (FASB). The FASB is the successor of the Accounting Principles Board (APB)

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* Commissioner Hughes resigned effective July 13, 1984. His vote on this item occurred before that date.

[1] The rule also amends Form Nos. 1, 1-F, 2, and 2-A to reflect the reorganization of the Uniform Systems, the changes in terminology, and the other changes made in this rule. These changes are purely technical, conforming and clarifying. These forms are not being printed in the **Federal Register**, but are available through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426; telephone (202) 357-8118.

[2] Section 301 of the FPA, 16 U.S.C. 825 (1982), section 8 of the NGA, 15 U.S.C. 717g (1982). Section 402(a)(2) of the Department of Energy Organization Act transferred these Federal Power Act and Natural Gas Act responsibilities from the Federal Power Commission to the Federal Energy Regulatory Commission. 42 U.S.C. 7171(a)(2) (Supp. V 1981).

[3] These revisions were devised by the Commission is coordination with the National Association of Regulatory Utility Commissioners (NARUC).

[4] A portion or all of the operations of certain natural gas pipeline companies are exempted from Commission jurisdiction under provisions of section 1(c) of the Natural Gas Act (exemption is also referred to as the Hinshaw Amendment), 15 U.S.C. 717(c) (1982).

[5] Report to Director, Office of Management and Budget, "Independent Regulatory Agencies Can Reduce Paperwork Burden on Industry," No. B-182087 (July 7, 1981).

of the American Institute of Certified Public Accountants. Pronouncements of the APB made and in effect prior to establishment of the FASB remain in effect unless subsequently modified by the FASB. As a general rule, the Commission has maintained consistency between its Uniform Systems and the standards announced by the APB and now by FASB. The Uniform Systems generally differ from FASB standards only to reflect special ratemaking considerations.[6]

In December of 1982, FASB issued Financial Accounting Standards Board Statement of Financial Accounting Standards No. 71, *Accounting for the Effects of Certain Types of Regulation* (FASB 71). FASB 71 addresses many of the differences that may arise in the application of GAAP to regulated companies because of the regulatory ratemaking process. This rule amends the Uniform Systems to ensure that regulated companies implement the FASB 71 changes in a uniform and consistent manner. These changes are generally effective for fiscal years beginning after December 15, 1983, with a transition period for implementing the capital lease provisions.

III. Discussion

A. Overview and Effective Date

On September 27, 1983, the Commission issued a Notice of Proposed Rulemaking (NOPR) in this docket (48 FR 46,361 (October 12, 1983)). In response to the NOPR, the Commission received seventy comments. Of these, forty-six were from electric utilities, eleven were from natural gas companies,three were from state commissions, five were from associations and CPA firms, and two were from Federal agencies.

Although one commenter opposes the rulemaking, most generally support it. Three commenters recommend implementing this rule in 1984. However, several commenters suggest postponing implementation of the rule until January 1, 1985, to prevent hardship and unnecessary burdens, to provide adequate time to modify existing systems, and to permit the regulated companies to implement these changes to coincide with the transition period for capital lease provisions allowed by FASB 71 (even though FASB 71 generally became effective for fiscal years beginning on or after December 15, 1983).

The Commission recognizes these concerns but has decided to make this rule effective for fiscal years beginning on or after January 1, 1984, except for a transition period for capital leases.[7] The Commission believes that regulated companies will have adequate time during the rest of 1984 to modify their existing system without undue burden or hardship. Some regulated companies have already begun to do so. In addition, the actual modifications needed will be small for two key reasons. First, no companies now classified as Class C or Class D are reclassified as Major and, thus, no company is subject to an increased burden. Second, those Class A or Class B regulated companies whose classification are changed to Nonmajor may continue to maintain their accounting and file reports as Major companies (previous Class A and Class B). This option will allow these particular companies latitude in deciding whether to maintain their current accounting classification or adopt the lesser Nonmajor Uniform System requirements. For these reasons, the Commission finds good cause under section 553(d)(3) of the APA, 5 U.S.C. 553(d)(3), to make this rule effective for fiscal years beginning on or after January 1, 1984, except for the transition period for implementing capital leases as permitted by FASB 71.

B. Five Questions Asked in the NOPR

The Commission sought comments on five specific questions. First, the Commission asked whether the proposed changes would affect any Commission or state regulatory functions; and second, whether state agencies would revise their regulations if the proposed changes were implemented. Some commenters complained of insufficient time to explore these issues with their state commissions, but most commenters did not believe that the proposed changes would substantially affect any Commission or state regulatory functions. In addition, five commenters expected most state regulatory agencies to adopt any changes to the Uniform Systems approved by the Commission.

A copy of the NOPR in this docket was mailed to each state commission. Since only one state commission responded negatively, the Commission believes that the states will be able, with no significant difficulty, to adjust their requirements to track the Commission's changes or develop their own changes which are consistent with this rule.

One state commission suggests that the Commission should have developed these changes by working with the National Association of Regulatory Utility Commissioners (NARUC). Another commenter urges the Commission to attempt, through the NARUC, to encourage state regulatory agencies to conform to the changes adopted by the Commission in this rule.

The Commission sought assistance from the NARUC prior to issuing the NOPR. The NARUC Accounting Committee, the accounting group within NARUC, is a small group of state regulators working on a voluntary basis to review and update the NARUC interpretations and the Uniform Systems. The task of analyzing NARUC's needs and coordinating with the Commission would have involved resources which the Accounting Committee does not have available to them. Therefore, the Commission used the proposed rulemaking procedures to request directly the state commissioners' comments and suggestions. However, the Commission will work with NARUC to encourage conformity by state regulatory agencies to the changes that are adopted.

Third, the Commission sought comments on the amount of savings in company costs likely to result from the proposed changes. Most commenters characterize the savings in company costs as insignificant, or offset by implementation costs. One commenter estimates that the time spent by its personnel in complying with regulatory requirements may be reduced by approximately 20 percent. Other commenters state that savings should accrue from reclassifications, but could not estimate the amount.

Fourth, the Commission sought comments on the estimated burden, in dollars or hours, associated with the proposed accounting, filing, and reporting versus the actual or estimated burden under current accounting, filing, and reporting requirements. Most commenters project no significant cost increase from the adoption of these changes. Other commenters complain that the burden cannot be estimated until the companies know how the state commissions and NARUC will treat the Commission's changes.

The Commission agrees that there may be implementation costs, but believes that the long-term advantages of the reorganization, simplification, and clarifications made to the Uniform Systems by this rule outweigh any short-term disadvantages. Specifically, each regulated industry will have only one Uniform System with which to comply, accounting practices will become more uniform, and each company's prescribed system of accounts will conform in

[6] *See* 59 F.P.C. 591 (1977) (Order No. 505–B) (Docket No. R–424).

[7] *See* FASB 71 ¶ 22.

basically the same way to the Generally Accepted Accounting Principles. This will lessen the administrative and financial burdens on this Commission and the regulated companies.

Last, the Commission requested comments on whether the proposed thresholds for reclassifying regulated companies are reasonable, or whether other criteria are appropriate. Although many commenters believe that the thresholds are reasonable, a few commenters disagree. One commenter argues that the threshold for gas companies is too high and suggests lowering the threshold to 3 or 4 million Mcf. Another commenter argues that the threshold chosen between Major and Nonmajor gas companies is too low because a Class C Company could be reclassified as Major. Still another commenter asserts that the threshold criteria related to transmission and interchange energy transactions by electric utilities and licensees are relatively low and could be raised to avoid classifying Class C and Class D companies as Major.

The Commission disagrees with these arguments because no Class C or Class D regulated companies are reclassified as Major under the classification criteria adopted. In fact, the only changes to regulated companies' classifications as a result of the thresholds adopted are that 19 electric utilities and 66 natural gas companies will be reclassified from the Class A and Class B categories to the Nonmajor category.

C. Merger of the Uniform Systems and Changes in Nomenclature

As a major overall feature of this rulemaking, the Uniform Systems for Class C and Class D regulated companies are merged into the Uniform Systems for Class A and Class B regulated companies. Thus, there will be only one Uniform System for electric utilities and licensees (Part 101) and one for gas companies (Part 201).[8] The Commission believes that the reorganization will save time, personnel resources, and money each time the Uniform Systems are updated and will make the Uniform Systems easier and less confusing for the public to use.

Many commenters support the mergers and one commenter characterizes the proposed mergers as clearly an improvement of the regulations. In addition, the rule changes the nomenclature for describing these regulated companies. Instead of classifying regulated companies as Class A and Class B, the Commission's regulations will classilfy both classes as "Major" regulated companies. Similarly, Class C and Class D regulated companies will be classified as "Nonmajor" regulated companies. Those commenting on these changes supported it or did not object.

The Commission believes that the present Uniform Systems for Class A and Class B electric utilities and licensees and Class A and Class B gas companies contain the accounting requirements necessary for Commission regulation of Major electric utilities and licensees (Part 101) and Major gas companies (Part 201). Likewise, the Commission believes that the present Uniform Systems for Class C and Class D electric utilities and licensees (Part 104) and Class C and Class D gas companies (Part 204) contain the accounting requirements necessary for Commission regulation of Nonmajor electric utilities and licensees and Nonmajor gas companies. As a result, the respective accounting requirements have not been substantively changed solely as a result of the merger of the four current Uniform Systems into the two Uniform Systems in this rule.

Merging the Uniform Systems for Class A and Class B regulated companies with those for Class C and Class D regulated companies into Parts 101 and 201 has, however, led to three types of implementational changes: (1) Duplicative accounts were removed; (2) accounts applicable only to Major or Nonmajor regulated companies were so designated; and (3) accounts applicable to both Major or Nonmajor regulated companies were amended, where necessary, to distinguish between the requirements for Major and Nonmajor regulated companies. These conforming and clarifying changes are purely technical.

If a definition, instruction, or account is not designated in the rule as either Major or Nonmajor, it is applicable to both Major and Nonmajor regulated companies, as appropriate. However, numerous accounts in Part 101 for electric utilities and licensees and Part 201 for gas companies are applicable to only Major electric utilities, licensees, and gas companies. These accounts are amended by adding the parenthetical "(Major only)" at the end of each account title.

(a) The following accounts in Part 101 are designated "(Major only)": 103, 106, 108, 111, 115, 120.1–120.5, 123, 123.1, 125–128, 131–135, 151–153, 155–163, 171–173, 183–185, 188, 202, 203, 205–210, 216.1, 222, 238–241, 320–325, 418.1, 445, 446, 502, 505, 506, 510–514, 517–532, 537–539, 541–545, 548–549, 551–554, 556, 561–566, 568–573, 581, 582–584, 590–592, 593, 594, 901, 905, and 907–916.

(b) The following accounts in Part 201 are designated "(Major only)": 103, 105.1, 106, 108, 111, 115, 117, 123, 123.1, 125–128, 131–135, 151–153, 155–163, 164.3, 166–173, 183.1–185, 188, 202–203, 205–210, 216.1, 222, 238–241, 363–363.4, 364.1–364.8, 403, 404.1–404.3, 418.1, 482, 700–708, 711–724, 725–729, 730, 732–735, 740–742, 751–754, 756, 757, 761, 762, 765–769, 770–775, 777–791, 800–804.1, 806, 809.1–812, 815–822, 824, 830, 831, 833–837, 840–847.8, 851–853, 854–857, 859, 861, 862, 865–867, 871–873, 875–877, 880, 885–892, 894, 901, 905, 907–913, and 916.

Part 104 for electric utilities and Part 204 for gas companies have many accounts that are applicable to only Nonmajor electric utilities or gas companies. These accounts are merged with the accounts in Parts 101 and 201. These accounts are renumbered and the parenthetical "(Nonmajor only)" is added at the end of each account title.

(a) The following chart shows the accounts in Part 104 that are merged and renumbered, and contain the parenthetical "(Nonmajor only)":

From part 104	To part 101
103	103.1
110	110
125	129
131	130
218	218
449	449
502	508
506	515
532	540.1
535	545.1
540	550.1
543	554.1
551	567.1
553	574
562	581.1
571	592.1
572	594.1
907	906
910	917
933	933
901, 902	902
902, 903	903

(b) The following chart shows the accounts in Part 204 that are merged and renumbered, and contain the parenthetical "(Nonmajor only)":

From part 204	To part 201
103	103.1
110	110
125	129
131	130
218	218
403	403.1
404	404
701	724.1
702	729.1
703	737
706	743
718	792
719	769.1
730	799
735	812.1

[8] The Commission has developed a chart which shows the changes in the Charts of Accounts in Parts 101 and 201. This chart can be obtained through the Commission's Division of Public Information (see footnote 1).

From part 204	To part 201
742	827
746	838
747	839
751	853.1
752	857.1
757	868
765	880.1
767	892.1
769	895
907	906
910	917
933	933
901, 902	902
902, 903	903

After the merger of Part 104 into Part 101 and of Part 204 into Part 201 in accordance with the scheme shown above, numerous definitions, instructions, and accounts contain the requirements for both Major and Nonmajor regulated companies. This may be appropriate in some cases, but there will also be instances where the requirements contained in a definition, instruction, or an account for a Major or a Nonmajor regulated company should differ. In these instances, the present definitions, instructions, and accounts in Parts 101 and 201 have been revised to clarify the appropriate differences in application and to eliminate any unnecessary ambiguity. The Commission intends no substantive changes by these revisions.

(a) The following definitions, instructions and accounts of Part 101 are revised:

Definitions: 28 and 35
General Instructions: 8, 12, 14, and 15
Electric Plant Instructions: 1, 3, 4, 7, 8, 9, 10, 11, 15, and 16
Accounts: 154, 186, 204, 211, 242, 302, 330, 331, 332, 335, 368, 370, 372, 500, 535, 546, 547, 560, 585, 588, 903, 924, 925, 926, 930.2, and 932 (redesignated 935)

(b) The following definitions, instructions and accounts of Part 201 are revised:

Definitions: 13, 15, 16, 29, 35, and 36
General Instructions: 8, 12, 14, 15, 16 and 19
Gas Plant Instructions: 1, 3, 4, 6, 7, 8, 10, 11, 12, 14, 15, and 16
Accounts: 154, 186, 201, 204, 211, 242, 302, 303, 338.3, 352.3, 363.5, 411.6, 411.7, 412, 413, 421.1, 421.2, 481, 488, 495, 710, 750, 755, 759, 776, 795, 796, 797, 798, 807, 808.1, 808.2, 813, 814, 823, 850, 865, 870, 874, 878, 879, 902, 903, 924, 925, 926, 930.2, and 932 (redesignated 935)

Five commenters state that it would be more desirable to keep the Major Uniform Systems separate from the Nonmajor Uniform Systems. Merging them, they say, will be confusing and will result in errors. Similarly, a few other commenters oppose the merger because (1) restructuring the accounts and sub-accounts to provide additional descriptions will result in an additional cost with no real informational benefit; and (2) the merger will require a considerable amount of renumbering or editing that will produce a document that is less efficient to use and a numbering system that is cumbersome.

The Commission agrees that some regulated companies may bear some implementation costs and that, initially, companies may experience start-up inconveniences while using the new Uniform Systems. However, we believe that the advantages of the merger outweigh any disadvantages. First, there will be only one Uniform System for each regulated industry. This ultimately must be a simplification for the regulated companies. Second, significant savings would be realized by the Commission from not having to change, maintain, and publish separate Uniform Systems of Accounts for the four groups of regulated companies. In addition, Nonmajor companies, including those Class A and Class B companies reclassified as Nonmajor, may choose to continue to maintain their accounts as Major regulated companies. This was suggested by one commenter. *See* General Instructions 1, ¶ D.[9]

D. New Methods of Classifying Regulated Companies

This rule adopts new criteria for classifying regulated companies as proposed in the NOPR. Most commenters support the use of these criteria, which are designed to be free from the effects of inflation.

One commenter suggests using total annual megawatt-hours of electric sales or total annual Mcf of gas sales; this would not require regulated companies to change their accounting systems immediately. The Commission did not base the classification criteria on total annual megawatts-hours or total Mcf of company sales because these criteria fail to limit reporting only to regulated companies that have substantial jurisdictional sales.

One commenter argues that the use of jurisdictional sales puts the Commission's classification in direct conflict with the basis that state regulators use for classifying electric utilities. This commenter asserts that the Commission may well classify utilities as Nonmajor that are "Major" from a state jurisdiction perspective if the resale or transportation activities are small. Conversely, the Commission may classify as "Major" those utilities that are "Nonmajor" from a state perspective if their resale or transportation activities are large. Their commenter asserts that some utilities may need to keep two sets of books and thereby incur an unnecessarily large cost and time burden.

The Commission does not believe that any regulated company will be required to keep two sets of books. An analysis of changes to regulated companies' classifications as a result of the new thresholds shows no shift of Class C and Class D companies to the Major category. In addition, many new Class C and Class D regulated companies may wish to continue their old accounting practices as Major companies (per the old Class A and Class B Uniform System). This is currently permitted.

1. Classification of Electric Utilities and Licensees

This rule classifies electric utilities and licensees based on energy sales or transmission services. A Major company has sales or transmission services that in each of the three previous years exceeds any one or more of the following: (1) 1,000,000 megawatt-hours of total sales; (2) 100 megawatt-hours of sales for resale; (3) 500 megawatt-hours of gross interchange out; [10] or (4) 500 megawatt-hours wheeling for others (deliveries plus losses.[11] In contrast, a Nonmajor company has in each of the three previous years total sales of 10,000 megawatt-hours or more but does not otherwise qualify as Major (as defined above).

Those companies that have total sales in each of the previous three years below 10,000 megawatt-hours and do not otherwise qualify as Major are exempted. These companies are exempted because the Commission believes that specific accounting, filing, and reporting burdens may be unjustified, and because the Commission can request information as the need arises.

[9] These companies may also continue reporting as Major regulated companies by filing Form Nos. 1 or 2, as appropriate.

In addition, new substitute pages for Form Nos. 1–F and 2–A have been designed to decrease any burden from annual filings on the newly classified Nonmajor companies. These may be used in lieu of either Form Nos. 1 or 2.

[10] "Interchange Out" means an electric utility's (the respondent's) own megawatt-hours delivered to another electric utility and excludes wheeling transactions.

[11] "Wheeling for others (deliveries plus losses)" means the electrict utility's (the respondent's) use of its transmission facilities to transmit power of or for another electric utility.

2. Classification of Natural Gas Companies

Gas companies are classified based on combined gas sold for resale and gas transported or stored for a fee. A Major gas company has in each of the three previous years combined gas sold for resale and gas transported or stored for a fee in excess of 50 million Mcf at 14.73 psia (60° F.).[12] In contrast, a Nonmajor company has gas sales or volume transactions exceeding 200,000 Mcf at 14.73 psia (60° F.) in each of the three previous calendar years, but does not otherwise qualify as Major. In addition, gas companies that have gas sales or volume transactions at or below 200,000 Mcf at 14.73 psia (60° F.) in each of the three previous years are exempted. These gas companies are exempted because the Commission again believes that specific accounting, filing, and reporting burdens are not justified and because the Commission can always request information as the need arises.

Commenters generally support these revisions of the classification criteria. However, one commenter states that "gas transported or stored for a fee" could mean storage and distribution costs passed on to retail customers. This commenter requests that General Instruction No. 1 be expanded to provide more specific guidance for the classification of gas distribution companies. Another commenter suggests that the Commission revise the definition of "Major" to include large gas distribution companies.

The Commission believes that including the large distribution companies in the Major category is unnecessary because the Commission requires detailed reporting only by those regulated companies that have substantial jurisdictional sales. Including large gas distribution companies is, therefore, inappropriate and could suggest incorrectly that the Commission is attempting to expand its regulatory jurisdiction to the distribution operations that are covered by the "Hinshaw" Amendment exemptions. *See* 18 CFR Part 152 (1983); Section 1(c) of the NGA, 15 U.S.C. 717(c) (1982). In addition, the Commission believes that the General Instructions of the Uniform Systems are sufficient as adopted in this rule.

E. Changes Arising from FASB 71

1. Retained Earnings and Rate Refunds

The current Uniform Systems permit adjustments of the retained earnings account to reflect significant non-recurring transactions related to prior periods where Commission approval is granted (for example, in a rate refund ordered by the Commission). This rule restricts future adjustments to the retained earnings account solely to (1) corrections of errors in financial statements of prior years; (2) adjustments caused by the realization of certain income tax benefits; and (3) adjustments, charges or credits due to losses on reacquisition, resale, or retirement of a regulated company's own stock. These restrictions are necessary to ensure that certain contingent liabilities are accured when required to be recognized by Generally Accepted Accounting Principles rather than making adjustments through the retained earnings account in a later period. Therefore, the Commission amends Account 439, Adjustments to Retained Earnings, of Parts 101 and 201 to implement these restrictions. Moreover, to reflect these and other restrictions arising from FASB 71, the Commission is revising Instructions 7 and 7.1 of Parts 101 and 201 concerning extraordinary items and prior period items and Accounts 434 and 435 concerning extraordinary income and deductions. Unnecessary portions of paragraph B of Account 236 in Parts 101 and 201 (concerning accrued taxes) are also removed.

Commenters request clarification of the appropriate accounting for losses on reacquisition, resale, or retirement of a company's own capital stock because it was proposed that paragraph B of current Account 439 be omitted. Other commenters recommended retaining paragraph B of Account 439 because a retained earnings account is required to properly record certain capital transactions, and paragraph B provides for the use of a retained earnings account for appropriate capital stock transactions. The Commission agrees with these comments. Consequently, paragraph B of Account 439 has been retained.

Under FASB 71, a regulated company will sometimes need to account for those amounts collected subject to refund that the company estimates will actually be refunded. Therefore, the Commission will add to Parts 101 and 201 new Account 449.1, Provision for Rate Refunds, in Part 101 and Account 496, Provision for Rate Refunds, in Part 201. These new accounts provide for the recording of provisions for rate refunds in the operating revenue accounts series when liabilities are required to be recorded under the criteria set forth in FASB 71. Any related deferred taxes are to be recorded in the present deferred income tax accounts. Interest accruals on rate refunds will be credited to the liability account for rate refunds. Otherwise, the present Uniform Systems are to be used to accommodate the recognition of contingencies for rate matters when they are not required to be recorded under FASB 71.

Commenters note that companies are not required to divulge negotiating strategies (FASB 5) and complain that separate accounting for estimated refund liabilities could severely prejudice the position of the reporting company during a rate case, or require disclosure of proprietary information.

This rule only provides accounts for the recording of provisions for rate refunds as and if required under FASB 71. The Commission does not believe that this accounting would prejudice the position of a reporting company during a rate case, disclose negotiation strategies, or require disclosure of proprietary information. Estimates of possible refunds will only be made when it is feasible to do so in accordance with Generally Accepted Accounting Principles. Our implementation of these requirements does not in any way change the current refund estimation requirements under FASB 71 or GAAP generally.

Commenters argue that recording rate refunds in an income account will distort operating income and overstate revenues because revenues during the period of refund are not reduced by the amount refunded to customers, and because the proposed accounting could result in the assessment of additional taxes or adversely affect mortgage indenture earnings coverage tests. In addition, one commenter argues that a separate disclosure in the income statement for rate refunds is unnecessary because these accounts will confuse financial readers, will improperly reflect refunds as an expense, and will distort operating revenues. These commenters recommend using accounts in the operating revenue series. The Commission agrees, and the rule provides new operating revenue accounts (Account 449.1 in Part 101 and Account 496 in Part 201) for the recording of provisions for rate refunds.

One commenter opposes the proposed reporting, by docket number, of concise explanations concerning significant amounts of any refunds made, ordered, or received. Other commenters argue that separate deferred tax accounts are unnecessary. The Commission also agrees with these comments. Consequently, the proposal to require, by docket numbers, certain information concerning refunds is not being adopted.

[12] This criteria is used in Form No. 11.

In addition, separate deferred income tax accounts relative to rate refunds are not added.

Commenters also suggest recognizing rate refunds as a current liability because most of these liabilities will be satisfied within a twelve-month period. The Commission believes that most refunds are not made within a year; however, those refunds that can reasonably be expected to be made in less than a year may be recorded as a current liability.

One commenter suggests referencing APB 30, Reporting the Results of Operations, and FASB 16, Prior Period Adjustments, in General Instructions 7 and 7.1 to save duplicating existing information. The Commission decided not to incorporate these publications by reference because the Uniform Systems would change each time these accounting pronouncements were amended. The Commission prefers to specifically address any accounting changes on its own schedule.

One commenter argues that FASB 71 does not require eliminating contingency or reserve categories on the balance sheet. This commenter also suggests continuing the classification of property, injury, and other reserves as "reserves." The Commission disagrees with these comments because FASB 71 requires that regulated companies recognize as liabilities only those amounts collected through rates for costs that one expects to be incurred. The new liability accounts may be used only when a regulatory authority permits the collection of those amounts through the regulated company's rates.

2. Capital Leases

The present Uniform Systems provide for payments on leased property as rent expenses. No provisions exist for capitalizing any amounts related to this property. Since certain leased property and the corresponding lease obligations must be recorded as assets and obligations under FASB 71, this rule implements a concept of "capital leases" in the Uniform Systems that is consistent with GAAP by adding the following: (1) New definitions 15 and 16 to Part 101 and new definitions 18 and 19 to Part 201 for capital and operating leases; (2) a new General Instruction 19 to Parts 101 and 201 providing criteria for classifying leases as either capital or operating; (3) a new General Instruction 20 to Parts 101 and 201 explaining the method required to account for leases; (4) a new Account 101.1 to Parts 101 and 201 for the recording of utility property under capital leases; (5) a new Account 120.6 to Part 101 for the recording of nuclear fuel under capital leases; (6) a new Account 227 to Parts 101 and 201 for the recording of noncurrent obligations under capital leases; and (7) a new Account 243 to Parts 101 and 201 for recording current obligations under capital leases.

Many commenters argue that the Commission should permit a grace period for the implementation of these changes similar to the transition period permitted in FASB 71 in order to be consistent with GAAP as well as to prevent undue burden and hardship. The transition period provided for capital leases by FASB 71 is provided in this rule. *See* section III.A., *supra*.

Commenters argue that the proposed breakdown of capital leases by components within the utility plant accounts (300 series) is unnecessary because (1) the leased property will not be included in rate base; (2) the lease obligation will not be reflected in the capital structure; (3) the actual rent payments will be charged to rent expense and recovered through the cost of service; and (4) the only rate case impact of capital leases is the recovery of rental expenses. The Commission understands the concerns expressed in these comments, but believes that recording capital leases according to the detailed plant accounts is necessary because capital leasing is an alternative financing method for acquiring property and these costs may, in the future, be part of a regulatory proceeding.

(a) *Method of amortizing nuclear fuel leases.* Commenters argue that the Commission should either permit amortization of nuclear fuel leases using a unit of production method or permit regulated companies to select an appropriate method of amortization. The rule permits companies to choose an appropriate amortization method for nuclear fuel. The specific amortization method of General Instruction 20 simply provides guidelines on how the recorded capital lease asset and obligation are to be written off based on the amount of each lease payment made.

(b) *Accounts for nuclear fuel.* Commenters urge the Commission to adopt provisions to allow for capitalized nuclear fuel leases. Many commenters suggest an account be added in the 120 series for recording capitalized nuclear fuel leases and accumulated amortization. Still other commenters request clarification of the proper account to be used for nuclear fuel leases. The Commission agrees that an account for recording capital leases of nuclear fuel is necessary, and the rule adds a new Account 120.6 to record these amounts. But the Commission does not believe a subaccount is necessary for recording accumulated amortization of leased nuclear fuel because information of this nature is not necessary for our ratemaking purposes.

One commenter argues that detailed accounting for capitalized nuclear fuel leases should be left up to the individual utility because different commissions will make individual determinations on how leases should be treated for ratemaking purposes. The Commission agrees, and detailed accounting by plant accounts will not be required for capitalized nuclear fuel leases.

(c) *Accounting for accumulated amortization of leased property.* One commenter requests clarification with respect to the recording of accumulated amortization of electric property under capital leases. Other commenters recommend that the Commission define an account to be credited with the accumulated amortization of leased assets. Another commenter recommends that the Commission make provision for recording the accumulated amortization of such leases applicable to non-utility property. Still another commenter states that the purpose of capitalizing applicable leases is to show that such applicable leases are actually long-term purchases of assets and suggests reporting these assets at their value at inception and subsequently reducing the amount by means of an accumulated amortization account.

The Commission believes that a new subaccount in the Uniform Systems is not necessary for recording accumulated amortization applicable to capitalized leases. For our ratemaking purposes, capitalized lease amounts are not currently considered as utility plant. However, regulated companies may disclose accumulated amortization applicable to capitalized leases by a footnote in their financial statements.

(d) *Incorporation by reference of FASB 13 and paragraph 42 of FASB 71.* Many commenters recommend that the Commission modify Instructions 19 and 20 to adopt FASB 13, as amended, for two reasons. The concept of capital leases is changing and no good reasons exist for amending these regulations for each new amendment or interpretation by FASB. Also, Instructions 19 and 20, as written, may cause questions on whether certain provisions of FASB 13 apply. The Commission decided not to incorporate FASB 13 by reference primarily because the Uniform Systems would change each time these accounting pronouncements were amended. The Commission prefers to specifically address any accounting changes at its discretion.

Similarly, one commenter suggests that the Commission shorten paragraph

D of Instruction 20 by referencing the language in paragraph 42 of FASB 71 relating to amortization of a leased asset. The Commission decided not to adopt this suggestion because this language does not sufficiently indicate the actual mechanics to be followed in accounting for the recorded asset and the obligations related to a capital lease. However, we note that this language does clearly state the relationship between the amortization of these amounts and the actual rental expense allowed.

(e) *Materiality.* Commenters recommend that the Commission adopt a materiality standard for the capitalization of leases. The Commission does not believe that the evaluation of leases as operating or capital will be burdensome, costly or confusing. Therefore, a materiality standard for the capitalization of leases is unnecessary. However, if any requirements relative to lease capitalization prove too burdensome for any regulated company, that company may petition the Commission for a waiver or partial waiver of the burdensome requirements.

(f) *Timing of expense recognition and recording of expense.* One commenter argues that paragraph D of General Instruction 20 should be amended to provide that the timing of expense recognition and recording of the expense be in conformity with treatment for ratemaking because the interest on the lease obligation and the amortization of the leased asset should equal the rental expense that is allowed for ratemaking purposes. This is the intended and expected result of the accounting specified. But the Commission does not believe that General Instruction 20 needs to be amended because it only provides the procedure to be followed in accounting for the recorded assets and obligations related to a capital lease. This commenter also recommends that the Commission incorporate in the language of General Instruction 20 a provision for fuel expense recognition in connection with nuclear fuel leases. The Commission agrees, and the rule amends paragraph C of General Instruction 20 to permit charging rental payments to fuel expense.

(g) *Miscellaneous.* Commenters offered numerous amendments and suggestions. As discussed above, some of these have been incorporated in the final rule. Others, however, are not in accordance with the Commission's ratemaking and accounting policies and, therefore, these amendments and suggestions were not adopted.

3. Operating Reserves

The present operating reserve accounts record amounts allowed by a regulator to be accured for contingencies such as uninsured storm damage. However, FASB 71 requires that amounts collected in rates, which are not yet expended for the intended contingency and for which the regulated company remains accountable, must be treated as liabilities. The Commission implements this requirement by removing from Parts 101 and 201 the present operating reserve accounts (Accounts 261, 262, 263, and 265) and by adding new liability accounts that may be credited only where a regulatory authority permits the collection of these amounts in a regulated company's rate levels. Specifically, the rule adds to Parts 101 and 201 the following: (1) Account 228.1 for recording amounts accrued and collected for possible property losses through accidents, fire, flood, or other hazards that are not covered by insurance; (2) Account 228.2 for recording the probable liability, not covered by insurance, for deaths or injuries to employees and others for damages to property not owned or leased by the regulated company; (3) Account 228.3 for recording provisions made and amounts contributed for employee pensions and benefits; (4) Account 228.4 for recording accumulated miscellaneous operating provisions not provided for elsewhere; and (5) Account 229 for recording estimated refunds when the regulated company is collecting monies subject to refund.

Many commenters agree with the Commission's proposal to reclassify operating reserves as other non-current liabilities. Commenters did, however, request guidance for account classification of amounts of operating reserves accured pursuant to the provisions of FASB 5 which are not currently authorized to be collected in rates. The Commission does not believe that guidance is needed because these amounts would not meet the requirements of FASB 5 since, without regulatory approval, these contingencies should not be recorded.

One commenter suggests retaining current Accounts 261–265 and the present caption of "Operating Reserves" because self-insurance reserves that are established in conformance with FASB 5 may not be resolved within one year (due to litigation). The Commission did not adopt this suggestion because it conflicts with FASB 71, and no provision requires that "reserve" amounts for self-insurance must be resolved within one year.

F. Editorial and Technical Changes

1. New Account 182.2, Unrecovered Plant and Regulatory Study Costs

The rule subdivides Account 182, Extraordinary Property Losses, by redesignating Account 182 as 182.1 and adding a new Account 182.2, Unrecovered Plant and Regulatory Study Costs. Account 182.2 will include: (1) Nonrecurring costs of studies and analyses *mandated* by regulatory bodies related to plant in service, transferred from Account 183, Preliminary Survey and Investigation Charges, and *not* resulting in construction, and (2) when authorized by the Commission, significant unrecovered costs of plant facilities where construction has been cancelled or prematurely retired. This new Account 182.2 will then be amortized to Account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs, over the period specified by the Commission. In the event that the recovery of costs included in Account 182.2 are disallowed in a rate proceeding, these costs will be charged to Account 426.5, Other Deductions, in the year of disallowance.

The rule also revises the text of Account 183, Preliminary Survey and Investigation Charges, to include costs of studies and analyses *mandated* by regulatory bodies related to plant in service. Hence, if construction results from these studies, Account 183 will be credited and the appropriate utility plant account charged with an equitable portion of such study costs directly attributable to new construction. In contrast, the portion of such study costs not attributable to new construction or the entire cost if construction does not result shall be charged to the new Account 182.2, Unrecovered Plant and Regulation Study Costs, or the appropriate operating expense account. However, the costs of studies relative to plant under construction shall be included directly in Account 107, Construction Work in Progress—Electric.

Commenters recommend using existing accounts instead of adding a new account. However, the Commission believes that specific accounts are necessary to maintain the identity of unrecovered plant and regulatory study costs, and to preclude regulated companies from combining these costs with other items recorded in Account 186, Miscellaneous Deferred Debits.

Clarification was also sought on which items should be included in each account and whether insignificant costs could be expensed currently. The

Uniform Systems provide uniform accounting for specific items, regardless of the amount involved; materiality is then addressed on a case-by-case basis. However, the Commission agrees that clarification would be beneficial. The rule amends paragraph A to Account 182.1 to clarify the items to be included in this account. Paragraph B of Account 183 is also amended to provide that the costs of studies and analyses mandated by regulatory bodies related to plant in service, to the extent these costs do not contribute directly to construction, will be charged to Account 182.2, or the appropriate operating expense account.

One commenter argues that costs for unrecovered plant and regulatory study costs, which are disallowed in a future ratemaking, should be charged to Account 426.5, Other Deductions. In addition, this commenter notes that, in certain situations, the write-off of an unrecovered plant may be considered as an extraordinary item, which should be charged to Account 435, Extraordinary Deductions. The Commission agrees with these comments and the rule provides that costs recorded in Account 182.2, which are disallowed in rate proceedings, may be written off to Account 426.5, Other Deductions, or when the write-off is considered as an extraordinary item, to Account 435, Extraordinary Deductions. Hence, Account 183 is the collection point for recording unrecovered plant and regulatory study costs, which are then distributed to other accounts depending on whether construction results and the rate treatment of these costs.

One commenter complains that this accounting conflicts with an order from its state regulatory commission. The Commission notes that this rule does not preclude a regulated company from accounting for unrecovered plant and regulatory study costs in accordance with rate proceedings.

Some commenters oppose the creation of the new Account 182.2 unless rate base treatment is assured. They also say that the proposal is inconsistent with the Commission's desire to simplify and reduce the recordkeeping requirements of public utilities. The Commission's need for this information for rate analysis and financial audit review purposes heavily outweighs the minimal work-load required, if any, to satisfy the requirement for the new Account 182.2. In addition, the Commission believes that rate base treatment is best addressed in individual rate proceedings.

2. Raising the Threshold for Equipment Items of Small Cost to $500

The rule amends Electric and Gas Plant Instructions 3 and 9 in Parts 101 and 201 by changing the example of "individual items of equipment of small cost that may be expensed" from $50 to $500. This revision is necessary to reflect inflation over the last two decades.

Most companies generally agreed with and supported the proposed increase and believe $500 to be a reasonable and positive step towards eliminating unnecessary and burdensome record keeping. Commenters also note that this change will help reduce the record keeping of the utility.

Commenters suggest other threshold amounts, but the Commission believes that a $500 threshold for small equipment is a reasonable estimate and notes that it is merely a guideline for capitalization purposes and that a utility may capitalize small equipment with values below the proposed $500 limit (*see*, Plant Instruction 9, ¶ B).

One commenter recommends not requiring regulated companies to retire all prior capitalized equipment under $500. The Commission has established a threshold as guidance in helping companies determine whether to capitalize expense items of small value. The Commission agrees that all previously capitalized equipment items with values under $500 need not be expensed.

3. Raising Thresholds for Journal Entry Requirements for Accounts 105 and 105.1

Paragraph C of Account 105 in Parts 101 and 201 relates to the removal from Account 105 of utility plant property held for future use that is no longer needed or appropriate for future utility operations. Paragraph C of Account 105.1 in Part 201 relates to the removal from Account 105.1 of production property held for future use that is no longer needed or appropriate for future operations. Regulated companies are required by paragraph C of these accounts to notify the Commission and to request prior approval of entries to remove property from these accounts, if the "original cost" of that property exceeded a designated amount. For properties with an "original cost" below these thresholds, the regulated company is only required to file annually with the Commission those journal entries reflecting the removal of the property from Account 105 or Account 105.1. The Commission originally proposed to increase the "original cost" thresholds for requiring Commission approval of entries to remove property from these accounts.

Many commenters support the Commission's proposal because it would eliminate the burdensome reporting of minor items. Other commenters suggest raising the thresholds and one suggests elimination of the thresholds because utilities are in a better position to determine an asset's usefulness and should be permitted to remove these assets from a future use account as needed, regardless of the dollars involved. Still another commenter argues that, if the Commission believes it necessary to have removal of properties approved in advance, the thresholds should be increased to amounts which would limit the prior approval to clearly significant transactions with provision for the effect of future inflation. In addition, commenters also complain that the requirement to annually file journal entries with the Commission seems unnecessary since it implies a disproportionate level of regulatory attention.

The Commission agrees that the present requirements are overly burdensome. Consequently, the rule only requires a utility to request Commission approval of journal entries to remove property from these accounts when the gain realized from the sale or other disposition of the property is $100,000 or more, prior to their being recorded. The criterion of "gain realized" is being used because it will limit a regulated company's reporting requirement to only clearly significant transactions. This criterion also eliminates any direct impact that inflation may have if an original cost criterion is used. In addition, regulated companies are not required to file annually with the Commission journal entries for property removed from these accounts when the "gain realized" is below this threshold.

4. Account 214, Capital Stock Expense

The Commission proposed to remove Account 214, related to capital stock expense, from Parts 101 and 201 because it was seldom used and potentially misleading. Current balances would have been included in accounts relating to common or preferred stock issued, as appropriate.

Most commenters generally oppose the elimination of Account 214. They disagree that Account 214 is seldom used or potentially misleading. Commenters argue that this account is necessary in order to be consistent with disclosure requirements of GAAP, to disclose changes in the separate

accounts which comprise stockholder's equity, and to disclose changes in the number of shares of equity securities. Moreover, commenters argue that including any current balances of Account 214 in the accounts relating to common or preferred stock would itself be misleading and, in one state, prohibited by law. In addition, another commenter asserts that GAAP and statutory requirements demand that accounts be established to capture par or stated value of capital stock and argues that the Commission's proposal makes this impossible.

One commenter recommends permitting continued amortization because amortization is utilized in many cases as the basis for recovery of stock expense associated with preferred stock subject to mandatory redemption. In addition, many state commissions include this amortization in the calculation of embedded costs of preferred stock, which impacts a company's rate of return for ratemaking purposes.

The Commission agrees with these comments. Consequently, the rule retains Account 214, Capital Stock Expense, and adds a new provision which allows a regulated company to write off capital stock expense, in whole or in part, by charges to Account 211, Miscellaneous Paid-in Capital. However, paragraph C of Account 214 is being removed to comply with FASB 71. Consequently, regulated companies may no longer amortize the balance in Account 214 by systematic charges to Account 425, Miscellaneous Amortization, nor may they write off capital stock expense to Account 439, Adjustments to Retained Earnings.

5. Removal of Vintage Year Requirements

The rule removes paragraph D of Accounts 281 and 282, relating to accumulated deferred income taxes, in Parts 101 and 201, because these records are no longer needed by the Commission for regulatory purposes. Numerous commenters agree that the maintenance of vintage year records should not be a requirement of the Uniform Systems. In contrast, other commenters argue that vintage year accounting is necessary to implement the requirements contained in the other paragraphs of Account 282 and they question why vintage year requirements were removed from Account 282, but not from Accounts 281 and 283 (Accumulated Deferred Income Taxes—Accelerated Amortization Property and Accumulated Deferred Income Taxes—Other, respectively) in the original proposal. Commenters also argue that vintage year records are still necessary because these records are required for income tax purposes and because state regulatory commissions may need these records to fulfill retail ratemaking responsibilities. Several commenters state that they will continue vintage year accounting.

The Commission does not believe that regulated companies need to maintain vintage year records for amounts recorded in Accounts 281, 282, or 283. The rule removes this requirement from Accounts 281 and 282. Account 283 does not specifically require the maintenance of vintage year records. Although no longer required by the Commission, a regulated company may continue vintage year accounting to satisfy the requirements of their respective state, Federal, and other governmental bodies.

6. Miscellaneous Items

The rule amends paragraph G of General Instruction 17 to require that the tax effects of gains on re-acquired debt be recorded in Account 282. Commenters oppose this change because, they argue, Account 282 is designed only to record the tax effects of property-related timing differences. They recommend that the tax effects of gains on reacquired debt continue to be recorded in Account 283. The Commission disagrees because we believe that the tax effects of gains on reacquired debt are property related since they result from book-tax basis property differences.

The rule adds a new item to Accounts 367 and 376 of Part 201 to provide for "line pack gas." One commenter requests clarification on whether the proposed new accounts for line pack gas should be used propectively, and argues that the Commission should provide separate accounts for line pack for plant classifications other than transmission plant and distribution plant. The comments are well taken, and the rule adds a new "Line Pack Gas" item in Accounts 332 (Item 5); 353 (Item 5); 363.5 (Item 6); and 364.3 (Item 33) of the gas plant accounts. These changes provide clarification and uniform reporting on the recording of line pack gas costs when line pack gas is treated as a capital cost. Whether "line pack gas" should be treated as a capital asset is not being addressed at this time.[13]

One commenter recommends that the Commission prescribe that gains or losses resulting from the reacquisition of cumulative preferred stock be amortized to income. Although cumulative preferred stock has some of the characteristics of debt, essentially it is still capital stock. Therefore, cumulative preferred stock should be treated as capital stock and any gains or losses from its reacquisition and resale or cancellation may not be flowed through the income statement.

Commenters also raise many issues and request numerous changes to the Uniform Systems that went beyond the scope of this rulemaking. Although beyond the changes proposed by this rule, the Commission appreciates these comments and many of these issues will be reviewed for consideration in future rulemakings.

The various amendments addressed above are in addition to the numerous editorial changes that are also being made to conform the remainder of the Uniform Systems with the other specific changes detailed above. These conforming changes are not intended to be substantive in nature.[14]

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act, 5 U.S.C. 601–612 (1982) (RFA) requires agencies to prepare certain statements, descriptions, and analyses of rules that would have "a significant economic impact on a substantial number of small entities." The Commission is not required to make such analyses if a rule would not have such an impact.

Most electric utilities and natural gas companies do not fall within the RFA's definition of small entity.[15] Most hydroelectric licensees, on the other hand, may fall within the small entity definition. Since the accounting, filing, and reporting burdens on all of these types of regulated entities would either be reduced by this rule or remain unchanged, this proposed rule would have a positive economic impact on the vast majority of regulated entities, both large and small. No entity, regardless of size, will have an increased burden of

[13] In *Trailblazer Pipeline Company*, 26 FERC ¶ 61,068 (1984), the Commission stated that the appropriate forum to consider the proper accounting treatment of line pack gas was this rulemaking. However, the Commission now believes that additional information is necessary. Therefore, a new Notice of Proposed Rulemaking will be prepared on this issue.

[14] The Commission recently published in the Federal Register technical amendments to correct minor errors in the Uniform Systems, 48 FR 32567 (July 18, 1983). These technical amendments are reflected in this rule.

[15] 5 U.S.C. 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (1982). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. *See also* SBA's revised Small Business Size Standards, 49 FR 5024 (Feb. 9, 1984) (to be codified at 13 CFR Part 121).

any sort, other than minor nonrecurring start-up costs to conform with the technical accounting changes made. The Commission does not, however, believe that this impact will be "significant," at least within the meaning of the RFA. Pursuant to the RFA, therefore, the Commission certifies that this rule will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act Statement and Effective Date

The changes in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and OMB's regulations, 5 CFR Part 1320 (1984). The OMB Control Numbers are 1902–0030, 1902–0028, 1902–0021, 1902–0070, 1902–0005, and 1902–0029. Interested persons can obtain further information on these changes by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Attention: Joseph Hartsoe, (202) 357–8033).

The rule is effective for all fiscal years beginning on or after January 1, 1984. Thus, the revisions to the Annual Report Form Nos. 1, 1–F, 2 and 2–A are effective for reporting year ending December 31, 1984.

List of Subjects:

18 CFR Part 34

Applications to Issue Securities or Assume Debt.

18 CFR Parts 41 and 158

Accounts, Records and memoranda

18 CFR Parts 101 and 104

Electric power, Electric utilities, Uniform system of accounts.

18 CFR Parts 116 and 216

Electric power, Electric utilities.

18 CFR Part 141

Electric power, Electric utilities.

18 CFR Parts 154 and 159

Natural gas.

18 CFR Parts 201 and 204

Natural gas, Uniform systems of accounts.

18 CFR Part 260

Natural gas.

In consideration of the foregoing, the Commission amends Parts 34, 41, 101, 104, 116, 141, 154, 158, 159, 201, 204, 216, 260 and 389 of Chapter 1, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 34—[AMENDED]

1. Part 34 is amended as follows:

(a) The authority citation is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 791a–828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), unless otherwise noted.

§ 34.3 [Amended]

(b) In paragraph (g)(2) of § 34.3, by removing the parenthetical "(Class A and Class B)";

§ 34.4 [Amended]

(c) In paragraph (d) of § 34.4, by removing the parenthetical "(Class A and Class B)" and by adding the word "Major" preceding the word "Electric."

PART 41—[AMENDED]

2. Part 41 is amended as follows:

(a) The authority citation is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 791a–828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), unless otherwise noted.

§ 41.10 [Amended]

(b) In paragraph (a) of § 41.10, by removing the words "Class A and Class B public utilities and licensees" and adding, in their place, the words "Major and Nonmajor public utilities and licensees not classified as Class C or Class D prior to January 1, 1984";

§ 41.11 [Amended]

(c) In § 41.11, by removing the words "Class A and Class B public utility and licensee" and adding, in their place, the words "Major and Nonmajor public utility or licensee not classified as Class C or Class D prior to January 1, 1984";

PART 101—[AMENDED]

3. The heading for Part 101 that follows the Subchapter heading "SUBCHAPTER C ACCOUNTS, FEDERAL POWER ACT" and the undesdesignated Centerheading in Part 101 that precedes the heading "Definitions" are amended by removing the parenthetical "(Class A and Class B)"; and the authority citation for Part 101 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 791a–828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), unless otherwise noted.

Definitions—[Amended]

4. The Definitions section of Part 101 is amended as follows:

(a) In Definition 7, by removing the words "Federal Power Commission" and adding, in their place, the words "Federal Energy Regulatory Commission";

(b) In paragraph B of Definition 28, by adding the words "in the case of Major utilities," following the parenthetical "(RD&D)";

(c) In Definition 35, by removing the words " "Subsidiary Company" " and adding, in their place, the words " "Subsidiary Company" " in the case of Major utilities,";

(d) By redesignating Definitions 15 through 36 as Definitions 17 through 38, and adding new definitions 15 and 16 to read as follows:

15. "Lease, capital" means a lease of property used in utility or nonutility operations, which meets one or more of the criteria stated in General Instruction 19.

16. "Lease, operating" means a lease of property used in utility or nonutility operations, which does not meet any of the criteria stated in General Instruction 19.

General Instructions—[Amended]

5. The General Instructions of Part 101 are amended as follows:

(a) In Instruction 1, by revising paragraphs A, B and C to read as follows:

General Instructions

1. *Classification of utilities.*

A. For purpose of applying the system of accounts prescribed by the Commission, electric utilities and licensees are divided into classes, as follows:

(1) *Major.* Utilities and licensees that had, in each of the last three consecutive years, sales or transmission service that exceeded any one or more of the following:

(1) One million megawatt-hours of total sales;

(2) 100 megawatt-hours of sales for resale;

(3) 500 megawatt-hours of gross interchange out; or

(4) 500 megawatt-hours of wheeling for others (deliveries plus losses).

(2) *Nonmajor.* Utilities and licensees that are not classified as "Major" (as defined above), and had total sales in

each of the last three consecutive years of 10,000 megawatt-hours or more.

B. This system applies to both Major and Nonmajor utilities and licensees. Provisions have been incorporated into this system for those entities which, prior to January 1, 1984, were applying the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees subject to the Provisions of the Federal Power Act (Class C and Class D) [Part 104 of this chapter, now revoked]. The notations "(Nonmajor)" and "(Major)" have been used to indicate those instructions and accounts from previous systems and classifications, which by definition, are not interchangeable without causing a loss of detail for the Major (previously Class A and Class B) or an increase in detail burden on the Nonmajor (previously Class C and Class D).

C. The class to which any utility or licensee belongs will originally be determined by its annual megawatt hours in each of the last three consecutive years, or in the case of a newly established entity, the projected data shall be the basis. Subsequent changes in classification shall be made as necessary when the megawatt-hours for each of the three immediately preceding years shall exceed the upper limit, or be less than the lower limit of the classification previously applicable to the utility.

* * * * *

(b) By amending Instructions 7 as follows:

(1) In the second sentence, by removing the words "not typical or customary business activities of the company" and adding, in their place, the words "of unusual nature and infrequent occurrence;"

(2) In the third sentence, by removing the words "would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating process of business," and adding, in their place, the words " are abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the forseeable future."

(3) In the first sentence of the parenthetical, which immediately by removing the words "of a similar nature should be considered" and adding, in their place, the words "should be considered individually and not;"

(4) By removing the second sentence in the parenthetical that reads "Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate." and adding, in its place the sentence "However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate.";

(c) By revising Instruction 7.1 to read as follows:

7.1 *Prior period items.*

A. Items of profit and loss related to the following shall be accounted for as prior period adjustments and excluded from the determination of net income for the current year:

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits of pre-acquisition operating loss carryforwards of purchased subsidiaries.

B. All other items of profit and loss recognized during the year shall be included in the determination of net income for that year.

(d) By removing Instruction 11;

(e) In the respective headings for Instructions 8, 12, 14 and 15, by adding the parenthetical "(Major Utility)" at the end of each heading;

(f) In the second sentence of paragraph G of Instruction 17, by removing the words "Account 283, Accumulated Deferred Income Taxes—Other" and adding, in their place, the words "Account 282, Accumulated Deferred Income Taxes—Other Property," and by removing the words "Account 283" in the third sentence and adding, in their place, the words "Account 282."

(g) By adding new Instructions 19 and 20, to read as follows:

19. *Criteria for classifying leases.*

A. If at its inception a lease meets one or more of the following criteria, the lease shall be classified as a capital lease. Otherwise, it shall be classified as an operating lease.

(1) the lease transfers ownership of the property to the lessee by the end of the lease term

(2) The lease contains a bargain purchase option.

(3) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease.

(4) The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excees of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by the lessor. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. The lessee utility shall compute the present value of the minimum lease payments using its incremental borrowing rate, unless (A) it is practicable for the utility to learn the implicit rate computed by the lessor, and (B) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

B. If at any time the lessee and lessor agree to change the provisions of the lease, other than by renewing the lease or extending its term, in a manner that would have resulted in a different classification of the lease under the criteria in paragraph A had the changed terms been in effect at the inception of the lease, the revised agreement shall be considered as a new agreement over its term, and the criteria in paragraph A shall be applied for purposes of classifying the new lease. Likewise, any action that extends the lease beyond the expiration of the existing lease term, such as the exercise of a lease renewal option other than those already included in the lease term, shall be considered as a new agreement and shall be classified according to the above provisions. Changes in estimates (for example, changes in estimates of the economic life or of the residual value of the leased property) or changes in circumstances (for example, default by the lessee) shall not give rise to a new classification of a lease for accounting purposes.

20. *Accounting for leases.*

A. All leases shall be classified as either capital or operating leases. The accounting for capitalized leases is effective January 1, 1984, except for the retroactive classification of certain leases which, in accordance with FASB No. 71, will not be required to be capitalized until after a three year transition period. For the purpose of reporting to the FERC, the transition period shall be deemed to end December 31, 1986.

B. The utility shall record a capital lease as an asset in account 101.1, Property under Capital Leases, Account 120.6, Nuclear Fuel under Capital Leases, or account 121, Nonutility Property, as appropriate, and an

obligation in account 227, Obligations under Capital Leases—Noncurrent, or account 243, Obligations under Capital Leases—Current, at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, together with any profit thereon. However, if the amount so determined exceeds the fair value of the leased property at the inception of the lease, the amount recorded as the asset and obligation shall be the fair value.

C. Rental payments on all leases shall be charged to rent expense, fuel expense, construction work in progress, or other appropriate accounts as they become payable.

D. For a capital lease, for each period during the lease term, the amounts recorded for the asset and obligation shall be reduced by an amount equal to the portion of each lease payment that would have been allocated to the reduction of the obligation, if the payment had been treated as a payment on an installment obligation (liability) and allocated between interest expense and a reduction of the obligation so as to produce a constant periodic rate of interest on the remaining balance.

Electric Plant Instructions—[Amended]

6. The Electric Plant Instructions of Part 101 are amended as follows:

(a) In the title of Instruction 1, by adding the parenthetical "(Major utilities)" following the word "Accounts," and adding a new paragraph D, following paragraph C, to read as follows:

1. *Classification of electric plant at effective date of system of accounts (Major utilities).*

* * * * *

D. Plant acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases,* shall be recorded in Account 101.1, Property under Capital Leases, or Account 120.6, Nuclear Fuel under Capital Leases, as appropriate.

(b) By amending Instruction 2 as follows:

(1) In paragraph A, by removing the words "by the utility." from the second sentence and adding, in their place, the words "by the utility, except for property acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases,* and is recorded in Account 101.1, Property under Capital Leases, or Account 120.6, Nuclear Fuel under Capital Leases".

(2) In paragraph B, by removing the number "8" from the parenthetical and adding in its place the number "9".

(c) By amending Instruction 3 as follows:

(1) By revising the introductory text; by removing the words "The cost of construction" from the introductory paragraph and adding, in their place, the words "A. For Major utilities, the cost of construction";

(2) By adding, following newly designated paragraph A in Instruction 3, a new paragraph B to follow new paragraph (A)(3), to read as follows:

3. *Components of construction cost.*

A. For Major utilities, the cost of construction properly includible in the electric plant accounts shall include, where applicable, the direct and overhead cost as listed and defined hereunder:

* * * * *

B. For Nonmajor utilities, the cost of construction of property chargeable to the electric plant accounts shall include, where applicable, the cost of labor; materials and supplies; transportation; work done by others for the utility; injuries and damages incurred in construction work; privileges and permits; special machine service; allowance for funds used during construction, not to exceed without prior approval of the Commission, amounts computed in accordance with the formula prescribed in paragraph (a) of paragraph (17) of this Instruction; training costs; and such portion of general engineering, administrative salaries and expenses, insurance, taxes, and other analogous items as may be properly includable in construction costs. (See Operating Expense Instruction 4.) The rates and balances of short and long-term debt, preferred stock, common equity and construction work in progress shall be determined as prescribed in paragraph (b) of paragraph (17) of this Instruction.

* * * * *

(3) In new paragraph A, by removing from the note the words "$50 or less" and adding, in their place, the words "$500 or less,";

(4) In paragraph (17), by adding the parenthetical "(Major and Nonmajor Utilities)" following the words "during Construction" " in the first sentence;

(5) In paragraph (19) of Instruction 3, by adding the parenthetical "(Major and Nonmajor Utilities)" following the words " "Training Costs" " in the introductory heading;

(6) By adding a new paragraph (20) to instruction 3 to read as follows:

3. *Components of construction costs.*

* * *

(20) "Studies" includes the costs of studies such as nuclear operational, safety, or seismic studies or environmental studies mandated by regulatory bodies relative to plant under construction. Studies relative to facilities in service shall be charged to account 183, Preliminary Survey and Investigation Charges.

* * * * *

(d) In paragraph C of Instruction 4, by removing the words "The records supporting" and adding, in their place, the words "For Major utilities, the records supporting";

(e) In paragraph A of Instruction 6, by adding a sentence at the end of the paragraph to read "The provisions of this paragraph are applicable to property leased under either capital leases or operating leases.";

(f) In paragraph H of Instruction 7, by removing from the parenthetical the words "See account 111" and adding, in their place, the words "For Major utilities, see account 111,"; and by adding in the parenthetical the words "For Nonmajor utilities, see account 404" immediately following the words "Limited-Term Electric Plant";

(g) in paragraph H of Instruction 8, by adding the parenthetical "(Major Utilities)" at the end of the following items: 2, 6, 11, 12, 18, 19, 27, 28, 31, 34, 35, 38, 39, 40, 41, 43, 44, 46, 48, 51, 52, 54, 57, 59, 60, 61, 63, 64, 65, and 66;

(h) In paragraph B of Instruction 9, by removing from the parenthetical in the first sentence the words "$50 or less" and adding, in their place, the words "$500 or less";

(i) In paragraph D of Instruction 9, by removing the words "The utility shall" from the second sentence and adding, in their place, the words "In the case of Nonmajor utilities, the utility shall furnish the Commission with full particulars of and justification for any test or experimental run extending beyond a period of 30 days. In the case of Major utilities, the utility shall";

(j) In paragraph F of Instruction 10, by adding the parenthetical "(Account 110, Accumulated Provision for Depreciation and Amortization of Electric Utility Plant, in the case of Nonmajor utilities)" following the words "Electric Plant in Service"; and by adding the parenthetical "(Account 110 for Nonmajor utilities)" following the words "to Account 108";

(k) At the beginning of paragraph G of Instruction 10, by removing the words "The accounting for" and adding, in their place, the words "In the case of Major utilities, the accounting for";

(l) At the beginning of paragraph C of Instruction 11, by removing the words

"Each utility" and adding, in their place, the words" "In the case of Major utilities, each utility";

(m) In the respective headings of Instructions 15 and 16, by adding the parenthetical "(Major utilities)" at the end of each heading.

Operating Expense Instructions—[Amended]

7. The Operating Expense Instructions of Part 101 are amended by adding, in the heading to Instruction 1, the parenthetical "(Major Utilities)" at the end of the heading.

Balance Sheet Chart of Accounts and Balance Sheet Accounts—[Amended]

8. The Balance Sheet Chart of Accounts and Balance Sheet Accounts of Part 101 are amended by adding the parenthetical "(Major only)" at the end of the titles of the following accounts: accounts 103, 106, 108, 111, 115, 120.1 through 120.6, 123, 123.1, 125 through 128, 131 through 135, 151 through 153, 155 through 157, 163, 171 through 173, 183, 184, 185, 188, 202, 203, 205 through 209, 210, 216.1, 222, 238 and 239 through 241.

Balance Sheet Chart of Accounts—[Amended]

9. The Balance Sheet Chart of Accounts of Part 101 is amended as follows:

(a) By adding a new account 101.1 to read "101.1 Property under capital leases.";

(b) By adding a new account 103.1 to read "103.1 Electric plant in process of reclassification (Nonmajor only).";

(c) In account 110, by removing the words "110 [Reserved]" and adding, in their place, the words "110 Accumulated provision for depreciation and amortization of electric utility plant (Nonmajor only).";

(d) By adding a new account 120.6, following account 120.5 to read "120.6, Nuclear Fuel under Capital Leases.";

(e) By adding a new account 129 to read "129 Special funds (Nonmajor only).";

(f) By adding a new account 130, following the caption "3. Current and Accrued Assets" to read "130 Cash and working funds (Nonmajor only).";

(g) By redesignating account 182 as account 182.1 and adding a new account 182.2 to read "182.2, Unrecovered plant and regulatory study costs.";

(h) By adding a new account 218 following account 217 to read "218 Noncorporate proprietorship (Nonmajor only).";

(i) By removing the heading "9. OPERATING RESERVES" and by removing accounts 261, 262, 263, and 265;

(j) By redesignating heading 8 as heading 9 and heading 7 as heading 8 and adding a new heading 7 to read "7. OTHER NONCURRENT LIABILITIES";

(k) By adding accounts 227, 228.1, 228.2, 228.3, 228.4, and 229 after the heading "7. OTHER NONCURRENT LIABILITIES" to read as follows:

7. Other Noncurrent Liabilities

227 Obligations under capital leases—noncurrent.
228.1 Accumulated provision for property insurance.
228.2 Accumulated provision for injuries and damages.
228.3 Accumulated provision for pensions and benefits.
228.4 Accumulated Miscellaneous operating provisions.
229 Accumulated provision for rate refunds.

(l) By adding a new account 243 to read "243 Obligations under Capital Leases—Current."

Balance Sheet Accounts—[Amended]

10. The Balance Sheet Accounts of Part 101 are amended as follows:

(a) By adding a new account 101.1 to read as follows:

101.1 Property under capital leases.

A. This account shall include the amount recorded under capital leases for plant leased from others and used by the utility in its utility operations.

B. The electric property included in this account shall be classified separately according to the detailed accounts (301 to 399) prescribed for electric plant in service.

C. Records shall be maintained with respect to each capital lease reflecting: (1) name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

(b) By revising paragraph C of account 105 to read as follows:

105 Electric plant held for future use.

* * * * * *

C. In the event that property recorded in this account shall no longer be needed or appropriate for future utility operations, the company shall request Commission approval of journal entries to remove such property from this account when the gain realized from the sale or other disposition of the property is $100,000 or more, prior to their being recorded. Such filings shall include the description and original cost of individual properties removed from this account, the accounts charged upon removal, and any associated gains realized upon disposition of such property.

* * * * *

(c) In account 110, by removing the word "[Reserved]";

(d) By adding a new account 120.6 to read as follows:

120.6 Nuclear fuel under capital leases.

A. This account shall include the amount recorded under capital leases for nuclear fuel leased from others for use by the utility in its utility operations.

B. Records shall be maintained with respect to each capital lease reflecting: (1) name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of nuclear fuel leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

* * * * *

(e) In account 121, by redesignating paragraph B as C, and adding a new paragraph B and NOTE to read as follows:

121 Nonutility property.

* * * * *

B. This account shall also include the amount recorded under capital leases for property leased from others and used by the utility in its nonutility operations. Records shall be maintained with respect to each lease reflecting: (1) name of lessor, (2) basis details of lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lessee payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

* * * * *

Note: The gain from the sale or other disposition of property included in this account which had been previously recorded in account 105, Electric Plant Held for Future Use, shall be accounted for in accordance with paragraph C of account 105.

* * * * *

(f) In paragraph A of account 154, by adding, following the words "maintenance purposes" ending the first sentence, the sentence "For Nonmajor utilities, this account shall include the cost of fuel on hand and unapplied materials and supplies (except meters and house regulators)." and by removing the words "It shall include" and adding, in their place, the words "For both Major and Nonmajor utilities, it shall include";

(g) In account 154, by adding a new paragraph C and removing the existing Note and adding new Notes A and B to read as follows:

154 Plant Materials and Operating Supplies.

* * * * *

C. For Nonmajor utilities, inventories of materials, supplies, fuel, etc., shall be taken at least annually and the necessary adjustments shall be made to bring this account into agreement with the actual inventories. In effecting the adjustments, large differences which can be assigned to important classes of materials shall be equitably adjusted among the accounts to which such classes of materials have been charged since the previous inventory. Other differences shall be equitably apportioned among the accounts to which materials have been charged.

Note A: Where expenses applicable to materials purchased cannot be directly assigned to particular purchases, they may be charged to a stores expense clearing account (account 163, Stores Expense Undistributed, in the case of Major utilities), and distributed therefrom to the appropriate account.

Note B: When materials and supplies are purchased for immediate use, they need not be carried through this account but may be charged directly to the appropriate utility plant or expense account.

(h) By redesignating account 182 as account 182.1, removing paragraphs A and B and redesignating paragraph C as paragraph B, and adding a new paragraph A to read as follows:

182.1 Extraordinary property losses.

A. When authorized or directed by the Commission, this account shall include extraordinary losses, which could not reasonably have been anticipated and which are not covered by insurance or other provisions, such as unforeseen damages to property.

* * * * *

(i) By adding a new account 182.2 following account 182.1, to read as follows:

182.2 Unrecovered plant and regulatory study costs.

A. This account shall include: (1) Nonrecurring costs of studies and analyses mandated by regulatory bodies related to plants in service, transferred from account 183, Preliminary Survey and Investigation Charges, and not resulting in construction; and (2) when authorized by the Commission, significant unrecovered costs of plant facilities where construction has been cancelled or which have been prematurely retired.

B. This account shall be credited and account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs, shall be debited over the period specified by the Commission.

C. Any additional costs incurred, relative to the cancellation or premature retirement, may be included in this account and amortized over the remaining period of the original amortization period. Should any gains or recoveries be realized relative to the cancelled or prematurely retired plant, such amounts shall be used to reduce the unamortized amount of the costs recorded herein.

D. In the event that the recovery of costs included herein is disallowed in the rate proceedings, the disallowed costs shall be charged to account 426.5, Other Deductions, or account 435, Extraordinary Deductions, in the year of such disallowance.

* * * * *

(j) In account 183, by redesignating paragraph B as paragraph C and adding a new paragraph B to read as follows:

183 Preliminary survey and investigation charges.

* * * * *

B. This account shall also include costs of studies and analyses mandated by regulatory bodies to plant in service. If construction results from such studies, this account shall be credited and the appropriate utility plant account charged with an equitable portion of such study costs directly attributible to new construction. The portion of such study costs not attributible to new construction or the entire cost if construction does not result shall be charged to account 182.2, Unrecovered Plant and Regulatory Costs, or the appropriate operating expense account. The costs of such studies relative to plant under construction shall be included directly in account 107, Construction Work in Progress-Electric.

* * * * *

(k) Revise paragraph A of account 186, by removing the words "This account shall" and adding, in their place, the words "For Major utilities, this account shall";

(l) In account 186, by revising paragraph B, redesignating revised paragraph B as paragraph C and adding new paragraph B. As revised, account 186 reads as follows:

186 Miscellaneous deferred debits.

A. For Major utilities, this account shall include all debits not elsewhere provided for, such as miscellaneous work in progress, and unusual or extraordinary expenses, not included in other accounts, which are in process of amortization and items the proper final disposition of which is uncertain.

B. For Nonmajor utilities, this account shall include the following classes of items:

(1) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of utility projects under contemplation. If construction results, this account shall be credited with the amount applicable thereto and the appropriate plant accounts shall be charged with an amount which does not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to plant. If the work is abandoned, the charge shall be to account 426.5, Other Deductions, or to the appropriate operating expense accounts.

(2) Undistributed balances in clearing accounts at the date of the balance sheet. Balances in clearing accounts shall be substantially cleared not later than the end of the calendar year unless items held therein related to a future period.

(3) Balances representing expenditures for work in progress other than on utility plant. This includes jobbing and contract work in progress.

(4) Other debit balances, the proper final disposition of which is uncertain and unusual or extraordinary expenses not included in other accounts, which are in process of being written off.

C. For both Major and Nonmajor utilities, the records supporting the entries to this account shall be so kept that the utility can furnish full information as to each deferred debit included herein.

(m) In the NOTE to account 204, by adding the parenthetical "(for Nonmajor utilities, account 211, Miscellaneous Paid-In Capital)" immediately following the words "Premium on Capital Stock";

(n) By revising account 211, redesignating the NOTE as NOTE A, and adding a new NOTE B as revised, account 211 and notes read as follows:

211 Miscellaneous paid-in capital.

This account shall include the balance of all other credits for paid-in capital which are not properly includible in the foregoing accounts. This account may include all commissions and expenses incurred in connection with the issuance of capital stock. (In the case of Nonmajor companies, this account shall be kept so as to show the source of the credits includible herein.)

Items (Nonmajor only)

1. Premium received on original issues of capital stock.
2. Donations received from stockholders or reduction of debt of the utility, and the cash value of other assets received as a donation.
3. Reduction in part or stated value of capital stock.
4. Gain on resale or cancellation of reacquired capital stock.

Note A: (Major utilities) Amounts included in capital surplus at the effective date of this system of accounts which cannot be classified as to the source thereof shall be included in this account.

Note B: (Nonmajor utilities) Premium on capital stock shall not be set off against expenses. Further, a premium received on an issue of a certain class or series of stock shall not be set off against expense of another issue of the same class or series.

(o) In account 213, by removing paragraph C;

(p) In account 214, by removing paragraph C, redesignating the NOTE as NOTE A, and adding a new NOTE B to read as follows:

214 Capital stock expense.

* * * * *

Note B: The utility may write off capital stock expense in whole or in part by charges to account 211, Miscellaneous Paid-in Capital.

(q) By adding the following heading and new accounts 227, 228.1, 228.2, 228.3, 228.4, and 229 to read as follows:

7. Other Noncurrent Liabilities

227 Obligations under capital leases—noncurrents.

This account shall include the portion not due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, account 120.6, Nuclear Fuel under Capital Leases, or account 121, Nonutility Property.

Special instruction. No amounts shall be credited to these accounts unless authorized by a regulatory authority or authorities to be collected in a utility's rate levels.

228.1 Accumulated provision for property insurance.

A. This account shall include amounts reserved by the utility for losses through accident, fire, flood, or other hazards to its own property or property leased from others, not covered by insurance. The amounts charged to account 924, Property Insurance, or other appropriate accounts to cover such risks shall be credited to this account. A schedule of risks covered shall be maintained, giving a description of the property involved, the character of the risks covered and the rates used.

B. Charges shall be made to this account for losses covered, not to exceed the account balance. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

228.2 Accumulated provision for injuries and damages.

A. This account shall be credited with amounts charged to account 925, Injuries and Damages, or other appropriate accounts, to meet the probable liability, not covered by insurance, for deaths or injuries to employees and others and for damages to property neither owned nor held under lease by the utility.

B. When liability for any injury or damage is admitted by the utility either voluntarily or because of the decision of a court or other lawful authority, such as a workmen's compensation board, the admitted liability shall be charged to this account and credited to the appropriate current liability account. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

Note: Recoveries or reimbursements for losses charged to this account shall be credited hereto; the cost of repairs to property of others if provided for herein shall be charged to this account.

228.3 Accumulated provision for pensions and benefits.

A. This account shall include provisions made by the utility and amounts contributed by employees for pensions, accident and death benefits, savings, relief, hospital and other provident purposes, where the funds are included in the assets of the utility either in general or in segregated fund accounts.

B. Amounts paid by the utility for the purposes for which this liability is established shall be charged hereto.

C. A separate account shall be kept for each kind of provision included herein.

Note: If employee pension or benefit plan funds are not included among the assets of the utility but are held by outside trustees, payments into such funds, or accruals therefor, shall not be included in this account.

228.4 Accumulated miscellaneous operating provisions.

A. This account shall include all operating provisions which are not provided for elsewhere.

B. This account shall be maintained in such manner as to show the amount of each separate provision and the nature and amounts of the debits and credits thereto.

Note: This account includes only provisions as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

229 Accumulated provision for rate refunds.

A. This account shall be credited with amounts charged to Account 449.1, Provisions for Rate Refunds, to provide for estimated refunds where the utility is collecting amounts in rates subject to refund.

B. When refund of any amount recorded in this account is ordered by a regulatory authority, such amount shall be changed hereto and credited to account 242, Miscellaneous Current and Accrued Liabilities.

C. Records supporting the entries to this account shall be kept so as to identify each amount recorded by the respective rate filing docket number.

(r) In paragraph B of account 236, by removing the sentence "However, if such corrections are so large as to seriously distort current expenses, see General Instruction 7.1.";

(s) In account 242, by adding new items at the end of the text to read as follows:

242 Miscellaneous current and accrued liabilities.

* * * * *

Items (Nonmajor only)

1. Dividends declared but not paid.
2. Matured long-term debt.
3. Matured interest.
4. Taxes collected through payroll deductions or otherwise pending transmittal to the proper taxing authority.

* * * * *

(t) By adding a new account 243 immediately after account 242 to read as follows:

243 Obligations under capital leases—current.

This account shall include the portion, due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, account 120.6, Nuclear Fuel under Capital Leases, or account 121, Nonutility Property.

(u) By removing accounts 261, 262, 263, and 265;

(v) In account 281, by removing paragraph D and redesignating paragraph E as paragraph D; and

(w) In account 282, by removing paragraph D, and redesignating paragraph E as paragraph D.

Electric Plant Chart of Accounts and Electric Plant Accounts—[Amended]

11. The Electric Plant Chart of Accounts and the Electric Plant Accounts of Part 101 are amended by adding in the following accounts the parenthetical "(Major only)" at the end of the headings of accounts 320, 321, 322, 323, 324, and 325.

Electric Plant Accounts—[Amended]

12. The Electric Plant Accounts of Part 101 are amended as follows:

(a) In paragraph C of account 302 and paragraph B of account 303, by adding the parenthetical "(for Nonmajor utilities, account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant)" following the words "Electric Utility Plant";

(b) In accounts 330, 331, 332 and 335 by removing the words "It shall also" and adding, in their place, the words "For Major utilities, it shall also";

(c) In the NOTE at the end of account 368, by adding the parenthetical "(for Nonmajor utilities, account 561, Line and Station Labor, or account 562, Line and Station Supplies and Expenses)," following the words "Underground Line Expenses";

(d) In NOTE B at the end of account 370, by adding the parenthetical "(for Nonmajor utilities, account 556, Meter Expenses)" following the words "Meter Expenses";

(e) In NOTE A of account 372, by adding the parenthetical "(for Nonmajor utilities, account 567, Customer Installations Expenses)" immediately following the words "Customer Installations Expenses".

Income Chart of Accounts and Income Accounts—[Amended]

13. The Income Chart of Accounts and the Income Accounts of Part 101 are amended by adding the parenthetical "(Major only)" at the end of the title of account 418.1.

Income Chart of Accounts—[Amended]

14. The Income Chart of Accounts of Part 101 is amended by revising the title of Account 407 to read "407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs";

Income Accounts—[Amended]

15. The Income Accounts of Part 101 are amended as follows:

(a) In account 407, by revising the title to read "407 Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs" and removing the words "account 182, Extraordinary Property Losses" and adding, in their place, the words "account 182.1, Extraordinary Property Losses, and account 182.2, Unrecovered Plant and Regulatory Study Costs";

(b) In paragraph A of the *Special Instructions* following account 409 [Reserved], by removing the words "unless such adjustments are properly includible in account 439, Adjustments to Retained Earnings," and removing the sentence "(See General Instruction 7.1 for prior period adjustments.)";

(c) In paragraph B of the *Special Instructions* following account 409 [Reserved], by removing the sentence "The income tax effects of amounts recorded in account 439, Adjustments to Retained Earnings, shall be recorded in the account.";

(d) In account 425, by removing Items 2 and 3, and adding a new Item 2 to read as follows:

425 Miscellaneous amortization.

* * * * *

Items

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2. Other miscellaneous amortization charges allowed to be included in this account by the Commission.

(e) In account 426.5, by adding a new Item 5 to read as follows:

426.5 Other deductions.

* * * * *

Items

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5. Costs of preliminary abandonment costs recorded in accounts 182.1, Extraordinary Property Losses, and 182.2, Unrecovered Plant and Regulatory Study Costs, not allowed to be amortized to account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs.

(f) In account 434, by removing the words "nontypical, noncustomary, infrequently recurring gains," and adding, in their place, the words "gains of unusual nature and infrequent occurrence,";

(g) In account 435, by removing the words "nontypical, noncustomary, infrequently recurring losses," from the first sentence, and adding, in their place, the words "losses of unusual nature and infrequent occurrence,".

Retained Earnings Accounts—[Amended]

16. The Retained Earnings Accounts of Part 101 are amended as follows:

(a) By revising paragraph A of account 439 to read as follows:

439 Adjustments to retained earnings.

A. This account shall, with prior Commission approval, include significant nonrecurring transactions accounted for as prior period adjustments, as follows:

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits of pre-acquisition operating loss carryforwards of purchased subsidiaries.

All other items of profit and loss recognized during a year shall be included in the determination of net income for that year;

* * * * *

(b) By removing the Items Section of account 439.

Operating Revenue Chart of Accounts and Operating Revenue Accounts—[Amended]

17. The Operating Revenue Chart of Accounts and Operating Revenue Accounts of Part 101 are amended by adding the parenthetical "(Major only)" at the end of the titles of accounts 445 and 446.

Operating Revenue Chart of Accounts—[Amended]

18. The Operating Revenue Chart of Accounts of Part 101 are amended as follows:

(a) By adding an account 449 to read "449 Other sales (Nonmajor only)" just after account 448;

(b) By adding an account 449.1 to read "449.1 Provision for rate refunds." just after account 449.

Operating Revenue Accounts—[Amended]

19. The Operating Revenue Accounts of Part 101 are amended as follows:

(a) By adding an account 449 under the heading "1. *Sales of Electricity*" to read as follows:

449 Other sales (Nonmajor).

A. This account shall include revenues for electricity supplied which are not provided for elsewhere.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenues received from each customer.

(b) By adding an account 449.1 to read as follows:

449.1 Provision for rate refunds.

A. This account shall be charged with provisions for the estimated pretax effects on net income of the portions of amounts being collected subject to refund which are estimated to be required to be refunded. Such provisions shall be credited to Account 229, Accumulated Provision for Rate Refunds.

B. This account shall also be charged with amounts refunded when such amounts had not been previously accrued.

C. Income tax effects relating to the amounts recorded in this account shall be recorded in account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, as appropriate.

Operation and Maintenance Expense Chart of Accounts and Operation and Maintenance Expense Accounts—[Amended]

20. The Operation and Maintenance Expense Chart of Accounts and the Operation and Maintenance Expense Accounts are amended by adding in the following accounts the parenthetical "(Major only)" at the end of each heading of accounts 502, 505, 506, 510, 511, 512, 513, 514, 517 through 532, 537 through 539, 541 through 545, 548, 549, 551 through 554, 556, 561 through 566, 568 through 573, 581 through 584, 590 through 594, 901, 905, 907 through 913, 916.

Operation and Maintenance Expense Chart of Accounts—[Amended]

21. The Operation and Maintenance Expense Chart of Accounts of Part 101 is amended as follows:

(a) By adding an account 508 to read "508 Operation supplies and expenses (Nonmajor only)." just after account 507;

(b) By adding an account 515 to read "515 Maintenance of steam production plant (Nonmajor only)." just after account 514;

(c) By adding an account 540.1 to read "540.1 Operation supplies and expenses (Nonmajor only)." just after account 540;

(d) By adding an account 545.1 to read "545.1 Maintenance of hydraulic production plant (Nonmajor only)." just after account 545;

(e) By adding an account 550.1 to read "550.1 Operation supplies and expenses (Nonmajor only)." just after account 550;

(f) By adding an account 554.1 to read "554.1 Maintenance of other power production plant (Nonmajor only)." just after account 554;

(g) By adding an account 567.1 to read "567.1 Operation supplies and expenses (Nonmajor only)." just after account 567;

(h) By adding an account 574 to read as follows "574 Maintenance of transmission plant (Nonmajor only)." just after account 573;

(i) By adding an account 581.1 to read "581.1 Line and station expenses (Nonmajor only).";

(j) By adding an account 592.1 to read "592.1 Maintenance of structures and equipment (Nonmajor only).";

(k) By adding an account 594.1 to read "594.1 Maintenance of lines (Nonmajor only).";

(l) By adding an account 906 to read "906 Customer service and informational expenses (Nonmajor only)." just before account 907;

(m) By adding an account 917 to read "917 Sales expenses (Nonmajor only." just after account 916; and

(n) By redesignating account 932 as account 935 and adding a new account 933 to read "933 Transportation expenses (Nonmajor only)."

Operation and Maintenance Expense Accounts—[Amended]

22. The Operation and Maintenance Expense Accounts of Part 101 are amended as follows:

(a) By revising account 500 to read as follows:

500 Operation supervision and engineering.

A. For Major Utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of steam power generating stations. Direct supervision of specific activities, such as fuel handling, boiler room operations, generator operations, etc., shall be charged to the appropriate account. (See operating expense instruction 1.)

B. For Nonmajor Utilities, this account shall include the cost of supervision and labor in the operation of steam power generating stations.

Items (Nonmajor only)

Boiler Room Labor:

1. Supervising steam production.
2. Operating fuel conveying, storage, weighing and processing equipment within boiler plant.
3. Operating boiler and boiler auxiliary equipment.
4. Operating boiler feed water purification and treatment equipment.
5. Operating ash collection and disposal equipment located inside the plant.
6. Operating boiler plant electrical equipment.
7. Keeping boiler plant log and records and preparing reports on boiler plant operations.
8. Testing boiler water.
9. Testing, checking, and adjusting meters, gauges and other instruments in boiler plant.
10. Cleaning boiler plant equipment when not incidental to maintenance work.
11. Repacking glands and replacing gauge classes where the work involved is of a minor nature and is performed by regular operating crews. Where the work is of a major character such as that performed on high pressure boilers the item should be considered as maintenance.

Electric Plant Labor:

12. Supervising electric production.
13. Operating turbines, engines, generators and exciters.
14. Operating condensers, circulating water systems and other auxiliary apparatus.
15. Operating generator cooling system.
16. Operating lubrication and oil control system, including oil purification.
17. Operating switchboards, switch gear and electric control and protective equipment.
18. Keeping electric plant log and records and preparing reports on electric plant operations.
19. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls and other equipment in electric plant.
20. Cleaning electric plant equipment when not incidental to maintenance work.
21. Repacking glands and replacing gauge glasses.

Miscellaneous Labor:

22. General clerical and stenographic work at plant.
23. Guarding and patrolling plant and yard.
24. Building service.
25. Care of grounds including snow removal, cutting grass, etc.
26. Miscellaneous labor.

(b) By amending account 501 as follows:

(1) By adding the parenthetical "(for Nonmajor utilities, appropriate fuel accounts carried under account 154, Plant Materials and Operating Supplies)" following the words "account 151, Fuel Stock" in the first sentence of paragraph B;

(2) By adding the parenthetical "(for Nonmajor utilities, an appropriate subaccount of account 154, Plant Materials and Operating Supplies)" immediately following the words "account 152, Fuel Stock Expenses Undistributed" in the second sentence of paragraph B; and

(3) In items 7 and 8, by adding the parenthetical "(Major only)" after the words "unloading point";

(c) By revising account 535 to read as follows:

535 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of hydraulic power generating stations. Direct supervision of specific activities, such as hydraulic operation, generator operation, etc., shall be charged to the appropriate account (See operating expense instruction 1).

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of hydraulic power generating stations.

Items (Nonmajor Only)

Hydraulic Labor:

1. Supervising hydraulic operation.
2. Removing debris and ice from trash racks, reservoirs and waterways.
3. Patrolling reservoirs and waterways.
4. Operating intakes, spillways, sluiceways and outlet works.
5. Operating bubbler, heater or other deicing systems.
6. Ice and log jam work.
7. Operating navigation facilities.
8. Operations relating to conservation of game, fish, forests, etc.
9. Insect control activities.

Electric Labor:

10. Supervising electric production.
11. Operating prime movers, generators and auxiliary equipment.
12. Operating generator cooling system.
13. Operating lubrication and oil control systems, including oil purification.
14. Operating switchboards, switchgear and electric control and protection equipment.
15. Keeping plant log and records and preparing reports on plant operations.
16. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls and other equipment in the plant.
17. Cleaning plant equipment when not incidental to maintenance work.
18. Repacking glands.

Miscellaneous Labor:

19. General clerical and stenographic work.
20. Guarding and patrolling plant and yard.
21. Building service.
22. Care of grounds, including snow removal, cutting grass, etc.
23. Snow removal from roads and bridges.
24. Miscellaneous labor.

(d) By revising account 546 to read as follows:

546 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of other power generating stations. Direct supervision of specific activities, such as fuel handling, engine and generator operation, etc., shall be charged to the appropriate account. (See operating expense instruction 1.)

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of other power generating stations.

Generating Labor:

1. Supervising other power generation operation.
2. Operating prime movers, generators and auxiliary apparatus and switching and other electric equipment.
3. Keeping plant log and records and preparing reports on plant operations.
4. Testing, checking, cleaning, oiling and adjusting equipment.

Miscellaneous Labor:

5. General clerical and stenographic work.
6. Guarding and patrolling plant and yard.
7. Building service.
8. Care of grounds, including snow removal, cutting grass, etc.
9. Miscellaneous labor.

(e) In account 547, by removing the parenthetical "(See account 151, Fuel Stock)" and adding, in its place, the parenthetical "(See account 151, Fuel Stock, for Major utilities, and account 154, Plant Materials and Operating Supplies, for Nonmajor utilities)";

(f) By revising account 560 to read as follows:

560 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of the transmission system as a whole. Direct supervision of specific activities, such as station operation, line operation, etc., shall be charged to the appropriate account. (See operating expense instruction 1.)

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of the transmission system.

Items (Nonmajor Only)

Load Dispatching Labor:

1. Direct switching.
2. Arranging and controlling clearances for construction, maintenance, test and emergency purposes.
3. Controlling system voltages.
4. Obtaining reports on the weather and special events.
5. Preparing operating reports and data for billing and budget purposes.

Station Labor:

6. Supervising station operation.
7. Adjusting station equipment where such adjustment primarily affects performance, such as regulating the flow of cooling water, adjusting current in fields of a machine or changing voltage of regulators changing station transformer taps.
8. Inspecting, testing and calibrating station equipment for the purpose of checking its performance.
9. Keeping station log and records and preparing reports on station operation.
10. Operating switching and other station equipment.
11. Standing watch, guarding and patrolling station and station yard.
12. Sweeping, mopping and tidying station.
13. Care of grounds, including snow removal, cutting grass, etc.

Line Labor:

14. Supervising line operation.
15. Inspecting and testing lightning arresters, circuit breakers, switches and grounds.
16. Load tests of circuits.
17. Routine line patrolling.
18. Routine voltage surveys made to determine the condition of efficiency of transmission system.
19. Transfering loads, switching and reconnecting circuits and equipment for operating purposes. (Switching for construction or maintenance purposes is not includible in this account.)
20. Routine inspection and cleaning of manholes, conduit, network and transformer vaults.
21. Electrolysis surveys.
22. Inspecting and adjusting line testing equipment such as voltmeters, ammeters, wattmeters, etc.
23. Regulation and addition of oil or gas in high voltage cable systems.

Miscellaneous Labor:

24. General records of physical characteristics of lines and stations, such as capacities, etc.
25. Ground resistance records.
26. Janitorial work at transmission office buildings, including care of grounds, snow removal, cutting grass, etc.
27. Joint pole maps and prints.
28. Line load and voltage records.
29. Preparing maps and prints.
30. General clerical and stenographic work.
31. Miscellaneous labor.

(g) In account 580, by removing the word "See" from the parenthetical and adding, in its place, the words "For Major utilities, see";

(h) By revising account 582 by removing the text. As revised account 582 reads "582 Station expenses.";

(i) By revising account 584 to read as follows:

584 Underground line expenses (Major only).

Accounts 581.1 through 584 shall include, respectively, the cost of labor, materials used and expenses incurred in the operation of overhead and underground distribution lines and stations.

Items

Line Labor:

1. Supervising line operation.
2. Changing line transformer taps.
3. Inspecting and testing lightning arresters, line circuit breakers, switches and grounds.
4. Inspecting and testing line transformers for the purpose of determining load, temperature or operating performance.
5. Patrolling lines.
6. Load tests and voltages surveys of feeders, circuits and line transformers.
7. Removing line transformers and voltage regulators with or without replacements.
8. Installing line transformers or voltage regulators with or without change in capacity provided that the first installation of these items is included in account 368, Line transformers.
9. Voltage surveys, either routine or upon request of customers, including voltage tests at customers' main switch.

10. Transferring loads, switching and reconnecting circuits and equipment for operation purposes.
11. Electrolysis surveys.
12. Inspecting and adjusting line testing equipment.

Line Supplies and Expenses:

13. Tool expenses.
14. Transportation expenses.
15. Meals, traveling and incidental expense.
16. Operating supplies, such as instrument charts, rubber goods, etc.

Station Labor:

1. Supervising station operation.
2. Adjusting station equipment where such adjustment primarily affects performance, such as regulating the flow of cooling water, adjusting current in fields of a machine, changing voltage of regulators or changing station transformer taps.
3. Keeping station log and records and preparing reports on station operation.
4. Inspecting, testing and calibrating station equipment for the purpose of checking its performance.
5. Operating switching and other station equipment.
6. Standing watch, guarding and patrolling station and station yard.
7. Sweeping, mopping and tidying station.
8. Care of grounds, including snow removal, cutting grass, etc.

Station Supplies and Expenses:

9. Building service expenses.
10. Operating supplies, such as lubricants, commutator brushes, water and rubber goods.
11. Station meter and instrument supplies, such as ink and charts.
12. Station record and report forms.
13. Tool expenses.
14. Transportation expenses.
15. Meals, traveling and incidental expenses.

Note (Major only): If the utility owns storage battery equipment used for supplying electricity to customers in periods of emergency, the cost of operating labor and of supplies, such as acid, gloves, hydrometers, thermometers, soda, automatic cell fillers, acid proof shoes, etc., shall be included in this account. If significant in amount, a separate subdivision shall be maintained for such expenses.

(j) In account 585, by redesignating the existing text as paragraph B and removing the words "This account shall" and adding, in their place, the words "For Major utilities, this account shall" in the first sentence; and by adding a new paragraph A to read as follows:

585 Street lighting and signal system expenses.

A. For Nonmajor utilities, this account shall include the cost of labor, materials used and expenses incurred in the operation of street lighting and signal system plant.

* * * * *

(k) In Item 7 of account 588, by adding the word "expenses" following the word "meter";

(l) In Item 8 of account 588, by adding in two separate places, following the words "Station Expenses" and "Expense Undistributed," the parenthetical "(For Nonmajor utilities, account 581.1, Line and Station Expenses)"; and by adding following the words "store records," the parenthetical "(For Nonmajor utilities, station records)";

(m) In Item 13 of account 588, by adding the parenthetical "(Major only)" following the words "demonstration expenses";

(n) In Item 26 of account 903, by adding the parenthetical "(Major only)" following the words "Transportation expenses";

(o) In account 903, by adding new Items 31 and 32 before the note to read as follows:

903 Customer records and collection expenses

* * * * *

Items

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31. Communication service (Nonmajor only).

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32. Miscellaneous office supplies and expenses and stationery and printing (Nonmajor only).

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(p) In Item 2 of account 924, by removing the words "261, Property Insurance Reserve" and adding, in their place, the words "228.1, Accumulated Provision for Property Insurance;"

(q) In NOTE B of account 924, by adding in paragraph (1) the parenthetical "(store expenses in the case of Nonmajor utilities)" following the words "Expense Undistributed";

(r) In NOTE B of account 924, by removing from paragraph (2) the word "Transportation" and adding, in its place, the words "For Major Utilities, transportation"; and by adding at the end of paragraph (2), the sentence "For Nonmajor utilities, transportation and garage equipment, to account 933, Transportation Expenses.";

(s) In NOTE C of account 924, by adding the parenthetical "(Major only)" directly following the words "NOTE C";

(t) In paragraph A of account 925, by removing the words "It shall also" and adding, in their place, the words "For Major utilities, it shall also";

(u) In Item 1 of account 925, by removing the words, "262, Injuries and Damages Reserve" and adding, in their place, the words "228.2 Accumulated Provision for Injuries and Damages;"

(v) In paragraph D of account 926, by removing the word "Records" and adding, in its place, the words "For Major utilities, records";

(w) In Item 4 of account 930.2 by removing the word "Research" and adding, in its place, "For Major utilities, research", and adding, following Item 12 in ITEMS list, the sentence "For Nonmajor utilities, transportation and garage equipment, to account 933, Transportation Expenses.";

(x) By redesignating account 932 as account 935;

(y) In paragraph A of newly redesignated account 935, by adding a sentence, immediately preceding the parenthetical, to read "For Nonmajor utilities, include also other general equipment accounts (not including transportation equipment).."; and

(z) In paragraph B of newly redesignated account 935, by adding the parenthetical "(Major only)" following the words "Account 532".

PART 104—[AMENDED]

23. Part 104 is amended as follows:

(a) By redesignating account 103 as account 103.1 of Part 101 and adding the parenthetical "(Nonmajor only)" at the end of the account 103.1 heading;

(b) By redesignating account 110 as account 110 of Part 101 and adding the parenthetical "(Nonmajor only)" at the end of the account 110 heading;

(c) By redesignating account 125 as account 129 of Part 101 (to precede the heading "3. CURRENT AND ACCRUED ASSETS.") and adding the parenthetical "(Nonmajor only)" at the end of the account 129 heading;

(d) By redesignating account 131 as account 130 of Part 101 (to follow the heading "3. CURRENT AND ACCRUED ASSETS") and adding the parenthetical "(Nonmajor only)" at the end of the account 130 heading;

(e) By redesignating account 218 as account 218 of Part 101 (to precede the heading "6. LONG-TERM DEBT") and adding the parenthetical "(Nonmajor only)" at the end of the account 218 heading;

(f) By redesignating account 449 as account 449 of Part 101 (to precede the heading "2. OTHER OPERATING REVENUES") and adding the parenthetical "(Nonmajor only)" at the end of the account 449 heading;

(g) By redesignating account 502 as account 508 of Part 101 (to precede the heading "Maintenance") and adding the parenthetical "(Nonmajor only)"at the end of the account 508 heading;

(h) By redesignating account 506 as account 515 of Part 101 (to precede the

heading "B. NUCLEAR POWER GENERATION") and adding the parenthetical "(Nonmajor only)" following the word "plant" in the heading;

(i) By redesignating account 532 as account 540.1 of Part 101 (to precede the heading "*Maintenance*") and adding the parenthetical "(Nonmajor only)" following the word "expenses" in the heading;

(j) By redesignating account 535 as account 545.1 of Part 101 (to precede the heading "D. OTHER POWER GENERATION") and adding the parenthetical "(Nonmajor only)" following the word "plant" in the heading;

(k) By redesignating account 540 as account 550.1 of Part 101 (to precede the heading "Maintenance") and adding the parenthetical "(Nonmajor only)" following the word "expenses" in the heading;

(l) By redesignating account 543 as account 554.1 of Part 101 (to precede the heading "E. OTHER POWER SUPPLY EXPENSES") and adding the parenthetical "(Nonmajor only)" at the end of the account 554.1 heading;

(m) By redesignating account 551 as account 567.1 of Part 101 (to precede the heading "*Maintenance*") and adding the parenthetical "(Nonmajor only)" at the end of the account 567.1 heading;

(n) By redesignating account 553 as account 574 of Part 101 (to precede the heading "3 DISTRIBUTION EXPENSES") and adding the parenthetical "(Nonmajor only)" at the end of the account 574 heading;

(o) By redesignating account 562 as account 581.1 and adding the parenthetical "(Nonmajor only)" at the end of the account 581.1 heading;

(p) By redesignating account 571 as account 592.1 of Part 101 and adding the parenthetical "(Nonmajor only)" at the end of the account 592.1 heading;

(q) By redesignating account 572 as account 594.1 of Part 101 and adding the parenthetical "(Nonmajor only)" at the end of the account 594.1 heading;

(r) By redesignating account 907 as account 906 of Part 101 (to follow the heading "*Operation*") and adding the parenthetical "(Nonmajor only)" at the end of the account 906 heading;

(s) By redesignating account 910 as account 917 of Part 101 (preceding the heading "7. ADMINISTRATIVE AND GENERAL EXPENSES") and adding the parenthetical "(Nonmajor only)" at the end of the account 917 heading;

(t) By redesignating account 933 as account 933 of Part 101 (to precede the heading "Maintenance") and adding the parenthetical "(Nonmajor only)" at the end of the account 933 heading;

(u) By removing the remaining text of Part 104 and adding, in its place, the following:

PART 104—[RESERVED]

Note.—For the Uniform System of Accounts for all Public Utilities, see Part 101 of this Subchapter.

24. In Part 116, instruction 1 is amended by removing the words "Class A and Class B Public Utilities and Licensees (Electric Plant Instruction 9 of the Uniform System of Accounts for Class C Public Utilities and Licensees"); and adding, in their place, the words "Public Utilities and Licensees"; and the authority citation is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 791a–828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), unless otherwise noted.

PART 141—[AMENDED]

25. Part 141 is amended as follows:

(a) The authority citation of Part 141 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 C.F.R. 142 (1978); Federal Power Act, 16 U.S.C. 791a–828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), unless otherwise noted.

§ 141.1 [Amended]

(b) In the heading of § 141.1, by removing the parenthetical "(Class A and Class B)" and adding, in its place, the word "Major" preceding the word "electric";

(c) In paragraph (a) of § 141.1, by removing the words "Class A and Class B" and adding, in their place, the word "Major";

(d) In paragraph (b)(1)(i) of § 141.1, by removing footnote 1 and its text, and by removing the words "Class A and Class B [1] electric utility, license" and adding, in their place, the words "Major electric utility (as defined in Part 101 of Subchapter C of this chapter)", by removing the words "having annual electric revenues of $1,000,000 or more" and adding, in their place, the words "having sales or transmission service equal to Major as defined above";

(e) By removing paragraph (c) of § 141.1;

§ 141.2 [Amended]

(f) In the heading of § 141.2, by removing the parenthetical "(Class C and Class D)" and by adding the word "Nonmajor" preceding the word "public";

(g) In paragraph (a) of § 141.2, by removing the parenthetical "(Class C and Class D)" and by adding the word "Nonmajor" preceding the word "Public";

(h) In paragraph (b)(1)(i) of § 141.2, by removing the words "*Generally*. Each public utility and licensee, as defined by the Federal Power Act, which is included in Class C or Class D as defined in Part 104 of this chapter," and adding, in their place, the words "Generally, each public utility and licensee as defined by the Federal Power Act, which is considered Nonmajor as defined in Part 101 of this Chapter."; and further by removing footnote 1.

(i) In § 141.2, by removing paragraph (c).

PART 154 [AMENDED]

§ 154.63 [Amended]

26. In Part 154, paragraph (b)(3) of §154.63 is amended by removing the words "Class B, C, and D companies defined as above" from the second sentence and adding, in their place, the words "Nonmajor companies, defined above"; by removing the words "Class A companies (as defined in Subchapter F, Uniform System of Accounts for Natural Gas Companies, of this chapter)" from the first sentence and adding, in their place, "Major natural gas companies (as defined in subchapter F, Part 201, Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act of this Chapter)"; and by revising the authority citation to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982), unless otherwise noted.

PART 158—[AMENDED]

27. Part 158 is amended as follows:

(a) The authority citation is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982), unless otherwise noted.

§ 158.10 [Amended]

(b) In paragraph (a) of § 158.10, by removing the words "Class A and Class B natural gas companies" and adding, in their place, the words "Major and Nonmajor natural gas companies not classified as Class C or Class D prior to January 1, 1984";

§ 158.11 [Amended]

(c) In § 158.11, by removing the words "Class A or B natural gas company" and adding, in their place, the words "Major or Nonmajor natural gas company not classified as Class C or Class D prior to January 1, 1984";

PART 159—[AMENDED]

§ 159.2a [Amended]

28. In Part 159, paragraph (a)(1) of § 159.2a is amended by removing in two places the words "Class A and Class B" following the words "each" and "all" respectively, and adding, in the respective places, the word "Major"; and the authority citation is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Independent Appropriations Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717z (1982); 43 U.S.C. 1334(c)(1982); Executive Order 10,485, 3 CFR 970 (1949–1953).

PART 201—[AMENDED]

29. The heading of Part 201 and the duplicative heading that precedes the heading "Definitions" are amended by removing the parenthetical "(Class A and Class B)"; and the authority citation is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Independent Appropriations Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717z (1982); 43 U.S.C. 1334(c) (1982); Executive Order 10,485, 3 CFR 970 (1949–1953).

Definitions—[Amended]

30. The Definitions section of Part 201 is amended as follows:

(a) In Definition 7, by removing the words "Federal Power Commission" and adding, in their place, the words "Federal Energy Regulatory Commission";

(b) In Definition 13, by adding the words "in the case of Major natural gas companies," following the words " "Development costs," ";

(c) In Definition 15, by adding the words "in the case of Major natural gas companies, after the words " "Exploration costs," ";

(d) In Definition 16, by adding the words ", in the case of Major natural gas companies," following the words "development costs" ";

(e) In Definition 27, by adding the parenthetical "(Major natural gas companies)" following the words "distribution plant." ";

(f) In paragraph B of Definition 29, by adding the words ", in the case of Major natural gas companies," following the parenthetical "(RD&D)";

(g) In Definition 35, by removing the word "are" and adding, in its place, the words ", in the case of Major natural gas companies, means";

(h) In Definition 36, by removing the word "means" and adding, in its place, the words ", in the case of Major natural gas companies, means,";

(i) By redesignating Definitions 18 through 37 as Definitions 20 through 39, and adding new Definitions 18 and 19 to read as follows:

18. "Lease, capital" means a lease of property used in utility or non-utility operations, which meets one or more of the criteria stated in General Instruction 19.

19. "Lease, operating" means a lease of property used in utility or non-utility operations, which does not meet any of the criteria stated in General Instruction 19.

General Instructions—[Amended]

31. The General Instructions of Part 201 are amended as follows:

(a) In Instruction 1, by revising paragraphs A, B, and C to read as follows:

General Instructions

1. *Classification of utilities.*

A. For the purpose of applying the system of accounts prescribed by the Commission, natural gas companies are divided into classes, as follows:

Major—Each natural gas company as defined in the Natural Gas Act, whose combined gas sold for resale and gas transported or stored for a fee exceeds 50 million Mcf at 14.73 psi (60°F) in each of the three previous calendar years.

Nonmajor—Natural gas companies that are not classified as a "Major company" (as defined above), and had total gas sales of volume transactions exceeding 200,000 Mcf at 14.73 psi (60°F) in each of the three previous calendar years.

B. This system applies to both Major and Nonmajor natural gas companies. Provisions have been incorporated into this system for those entities which prior to January 1, 1984, were applying the Commission's Uniform System of Accounts Prescribed for Class C and Class D (Part 104 of this Chapter) now revoked. The notations "(Nonmajor)" and "(Major)" have been used to indicate those instructions and accounts from the previous systems and classifications, which by definition, are not interchangeable without causing a loss of detail for the *Major* (previous Class A and Class B) or an increase in detail burden for the *Nonmajor* (previous Class C and Class D).

C. The class to which any natural gas company belongs shall originally be determined by its annual gas volume in each of the last three consecutive years, or, in the case of a newly established entity, the projected data shall be the basis. Subsequent changes in classification shall be made when the volume for each of the three immediately preceding years exceeds the upper limit, or is less than the lower limit of the classification previously applicable to the natural gas company.

* * * * *

(b) By amending Instruction 7, as follows:

(1) By removing the words "not typical or customary business activities of the company" from the second sentence and adding, in their place, the words "of unusual nature and infrequent occurrence";

(2) By removing the words "would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business." in the third sentence and adding, in their place, the words "are abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the foreseeable future.";

(3) By removing the words "of a similar nature should be considered" in the fourth sentence and adding, in their place, the words "should be considered individually and not";

(4) By removing the sentence in the parenthetical that reads "Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate." and adding, in its place in the parenthetical, the sentence "However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate.";

(c) By revising Instruction 7.1 to read as follows:

7.1 Prior period items.

A. Items of profit and loss related to the following shall be accounted for as prior period adjustments and excluded from the determination of net income for the current year.

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits of pre-acquisition operating loss carryforwards of purchased subsidiaries.

B. All other items of profit and loss recognized during the year shall be

included in the determination of net income for that year.

(d) By removing Instruction 11.

(e) In the respective titles for Instructions 8, 12, 14, 15, and 16, by adding the parenthetical "(Major natural gas companies)" at the end of each title;

(f) In paragraph G of Instruction 17, by removing the words "Account 283, Accumulated Deferred Income Taxes—Other" and adding, in their place, the words "Account 282, Accumulated Deferred Income Taxes—Other Property," and by removing the words "Account 283" and adding, in their place, the words "Account 282";

(g) By adding Instructions 19, 20 and 21 to read as follows:

19. *Criteria for classifying leases.*

A. If at its inception a lease meets one or more of the following criteria, the lease shall be classified as a capital lease. Otherwise, it shall be classified as an operating lease.

(1) The lease transfers ownership of the property to the leasee by the end of the lease term.

(2) The lease contains a bargain purchase option.

(3) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the lease property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease.

(4) the present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by the lessor. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the lease property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. The lessee utility shall compute the present value of the minimum lease payments using his incremental borrowing raate, unless (a) it is practicable for the utility to learn the implicit rate computed by the lessor, and (b) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

B. If at any time the lessee and lessor agree to change the provisions of the lease, other than by renewing the lease or extending its term, in a manner that would have resulted in a different classification of the lease under the criteria in paragraph A had the changed terms been in effect at the inception of the lease, the revised agreement shall be considered as a new agreement over its term, and the criteria in paragraph A shall be applied for purposes of classifying the lease. Likewise, any action that extends the lease beyond the expiration of the existing lease term, such as the exercise of a lease renewal option other than those already included in the lease term, shall be considered as a new agreement, and shall be classified according to the above provisions. Changes in estimates (for example, changes in estimates of the economic life or of the residual value of the leased property) or changes in circumstances (for example, default by the lessee), shall not give rise to a new classification of a lease for accounting purposes.

20. *Accounting for leases.*

A. All leases shall be classified as either capital or operating leases. The accounting for capitalized leases is effective January 1, 1984, except for the retroactive classification of certian leases which, in accordance with FASB No. 71, will not be required to be capitalized until after a three year transition period. For the purpose of reporting to the FERC, the transition period shall be deemed to end December 31, 1986.

B. The utility shall record a capital lease as an asset in account 101.1, Property under Capital Leases (or account 121, Non-utility Property, if appropriate), and an obligation in account 227, Obligations under Capital Leases—Noncurrent, or account 243, Obligations under Capital Leases—Current, at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, together with any profit thereon. However, if the amount so determined exceeds the fair value of the leased property at the inception of the lease, the amount recorded as the asset and obligation shall be the fair value.

C. Rental payments on all leases shall be charged to rent expense, fuel expense, construction work in progress, or other appropriate accounts as they become payable.

D. For a capital lease, for each period during the lease term, the amounts recorded for the asset and obligation shall be reduced by an amount equal to the portion of each lease payment which would have been allocated to the reduction of the obligation, if the payment had been treated as a payment on an installment obligation (liability) and allocated between interest expense and a reduction of the obligation so as to produce a constant periodic rate of interest on the remaining balance.

21. *Gas Well Records* (Nonmajor Natural Gas Companies). Each utility with natural gas operations shall maintain operating or accounting records for each well showing: (a) Acreage on which drilled, (b) dates of drilling period, (c) cost of drilling, (d) depth of well, (e) particulars and depth of each stratum drilled through, (f) geological formation from which gas is obtained, (g) initial rock pressure and open flow capacity, (h) sizes of casing used and lengths of each size, (i) total cost of well as recorded in gas plant accounts, (j) date well abandoned, for wells once productive, (k) date transferred to underground storage plant, for wells converted to storage use, and (l) date drilling discontinued, for wells determined to be nonproductive. The foregoing data, as appropriate, shall also be maintained for each subsequent change in the depth of each well.

Gas Plant Instructions—[Amended]

32. The Gas Plant Instructions of Part 201 are amended as follows:

(a) In Instruction 1, by adding the parenthetical "(Major natural gas companies)" at the end of the heading, and adding a new paragraph D, to read as follows:

1. *Classification of utilities (Major natural gas companies).*

* * * * *

D. Plant acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases,* shall be recorded in Account 101.1, Property under Capital Leases.

(b) In paragraph A of Instruction 2, by removing the words "by the utility." and adding, in their place, the words "by the utility, except for property acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases,* and is recorded in Account 101.1, Property under Capital Leases.";

(c) By amending Instruction 3 as follows:

(1) By redesignating the existing text as paragraph A and removing the words "The cost of construction" and adding, in their place, the words "For Major natural gas companies, the cost of construction";

(2) In paragraph (3), by removing from the note the words "$50 or less" and

adding, in their place, the words "$500 or less";

(3) In paragraph (17), by adding the parenthetical "(Major and Nonmajor Natural Gas Companies)" immediately preceding the word "includes,";

(4) In paragraph (19), by adding the parenthetical (Major and Nonmajor Natural Gas Companies)" following the words " "Training Costs" ";

(5) By adding a new paragraph (22) to read as follows:

3. *Components of construction costs.*

* * * * *

(22) "Studies" includes the costs of studies such as operational, safety or environmental studies relative to plant under construction. Studies mandated by regulatory bodies relative to facilities in service, shall be charged to Account 183.2, Other Preliminary Survey and Investigation Charges.

* * * * *

(d) In Instruction 3, by adding a new paragraph B, following paragraph A, to read as follows:

3. *Components of construction cost.*

* * * * *

B. For Nonmajor natural gas companies, the cost of construction of property chargeable to the gas plant accounts shall include, where applicable, fees for construction certificate applications paid after grant of certificate, the cost of labor, materials and supplies, transportation, work done by others for the company, injuries and damages incurred in construction, privileges and permits, special machine service, allowance for funds used during construction, not be exceed without prior approval of the Commission amounts computed in accordance with the formula prescribed in paragraph (a) of paragraph (17) of this instruction; training costs and such portion of general engineering, administrative salaries and expenses, insurance, taxes, and other analogous items as may be properly includible in construction costs. (See Operating Expense Instruction 4). When the company employs its own funds in exploration and development on leases acquired after October 7, 1969, no allowance for funds used during construction on such funds shall be included in these accounts. The rates and balances of short and long-term debt, preferred stock, common equity and construction work in progress shall be determined as prescribed in paragraph (b) of paragraph (17) of this instruction.

* * * * *

(e) In paragraph C of Instruction 4, by removing the words "The records supporting" and adding, in their place, the words "For Major natural gas companies, the record supporting";

(f) In paragraph A of Instruction 6, by adding the parenthetical "(For Nonmajor companies, account 404, Amortization of Limited-Term Gas Plant)" following the words "Limited-Term Gas Plant" in the second sentence and by adding a sentence at the end of the paragraph to read "The provisions of this paragraph are applicable to property leased under either capital leases or operating leases.";

(g) By amending Instruction 7 as follows:

(1) In paragraph C, by adding the parenthetical "(in the case of Major companies, account 105.1, Production Properties Held for Future Use)" following the words "Gas Plant Held For Future Use" in the second sentence;

(2) In paragraph D, by removing the words "A parcel" in the fourth sentence and adding, in their place, the words "In the case of Major companies, a parcel";

(3) In paragraph E, by adding the parenthetical "(in the case of Major companies, the differences shall be included in accounts 411.6, Gains from Disposition of Utility Plant or 411.7, Losses from Disposition of Utility Plant, when such property has been recorded in account 105, Gas Plant Held for Future Use or 105.1, Production Properties Held for Future Use)" following the words "as appropriate";

(4) In paragraph G, by removing the words "Future Use, or Account 121." in the first sentence and adding, in their place, the words "Future Use or, in the case of Major Companies, account 121";

(5) In the parenthetical of paragraph H, by removing the word "See" and adding, in its place, the words "For Major companies, see";

(6) In paragraph H, by removing from the parenthetical the words, ", and account 797, Abandoned leases." and adding two sentences following the words "Limited-Term Gas Plant" to read "For Nonmajor companies, see account 403.1, Depreciation and Depletion Expense, and account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant. See also account 797, Abandoned Leases, for the accounting for abandonments of natural gas leases which have never been productive."

(h) In paragraph G of Instruction 8, by adding the parenthetical "(Major natural gas companies)" at the end of the following Items: Items 2, 6, 11,12, 18, 19, 22, 28, 29, 32, 35, 36, 39, 40, 41, 42, 44, 45, 47, 49, 52, 53, 55, 58, 60, 61, 62, 64, 65, 66 and 67;

(i) In paragraph B, of Instruction 9, by removing from the parenthetical the words "$50 or less" and adding, in their place, the words "$500 or less";

(j) By amending Instruction 10 as follows:

(1) In paragraph E, by adding the words ", or in the case of Major companies, account" immediately following the words "Gas Plant Held for Future Use";

(2) In paragraph F, by adding the parenthetical "(account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant, in the case of Nonmajor companies)" following the words "Depreciation of Gas Plant in Service," and by adding the parenthetical "(account 110 for Nonmajor companies)" immediately following the words "credited to account 108"; and

(3) In paragraph G, by removing the words "the accounting for" and adding, in their place, the words "In the case of Major companies, the accounting for";

(k) In paragraph C of Instruction 11, by removing the words "Each utility" and adding, in their place, the words "In the case of Major companies, each utility";

(l) In paragraph 12, by removing the words "105.1, Production Properties held for Future Use," and by adding the parenthetical "(105.1, Production Properties Held For Future Use, in the case of Major companies)" following the words "Gas Plant held for Future Use";

(m) In the Note to Instruction 12 by adding after "Note:" the parenthetical "(Major Companies)";

(n) In the title to Instruction 14, by adding the parenthetical "(Major natural gas companies)" at the end of the title of the instruction;

(o) By amending paragraph A of Instruction 15 as follows:

(1) In item (1), by adding the parenthetical "(account 180, Other Deferred Debits, in the case of Nonmajor companies)" following the words "Miscellaneous Deferred Debits,";

(2) In item (2), by adding the parenthetical "(the amounts recorded in account 186 shall be cleared to the appropriate plant accounts, in the case of Nonmajor companies)" following the words "plant accounts"; and

(3) In item (3), by adding parenthetical "(Account 180 in the case of Nonmajor companies)" following the words "in account 186";

(p) By adding an Instruction 16 to read as follows:

16. *Transmission and Distribution Plant Nonmajor natural gas companies).* For the purposes of this system of accounts:

A. "Transmission System" means the land, structures, mains, valves, meters, boosters, regulators, tanks, compressors and their driving units and appurtenances, and other equipment used primarily for transmitting gas from a production plant, delivery point of purchased gas, gathering system storage area, or other wholesale source of gas, to one or more distribution areas. The transmission system begins at the outlet side of the valve at the connection to the last equipment in a manufactured gas plant, the connection to gathering lines or delivery point of purchased gas, and includes the equipment at such connection that it used to bring the gas to transmission pressure, and ends at the outlet side of the equipment which meters or regulates the entry of gas into the distribution system or into a storage area. It does not include storage, land, structures or equipment. Pipeline companies, including those companies which measure deliveries of gas to their own distribution systems, shall include city gate and main line industrial measuring and regulating stations in the transmission function.

B. "Distribution System" means the mains which are provided primarily for distributing gas within a distribution area, together with land, structures, valves, regulators, services and measuring devices, including the mains for transportation of gas from production plants or points of receipt located within such distribution area to other points therein. The distribution system owned by companies having no transmission facilities connected to such distribution system begins at the inlet side of the distribution system equipment which meters or regulates the entry of gas into the distribution system and ends with and includes property on the customer's premises. For companies which own both transmission and distribution facilities on a continuous line, the distribution system begins at the outlet side of the equipment which meters or regulates the entry of gas into the distribution system and ends with and includes property on the customer's premises. The distribution system does not include storage land, structures, or equipment.

C. "Distribution Area" as used herein means a metropolitan area or other urban area comprising one or more adjacent or nearby cities, villages or unincorporated areas, including areas contiguous to main highways.

Operating Expense Instructions—[Amended]

33. The Operating Expense Instructions of Part 201 are amended by adding, in the heading to Instruction 1, the parenthetical "(Major natural gas companies)" at the end of the heading.

Balance Sheet Chart of Accounts and Balance Sheet Accounts—[Amended]

34. The Balance Sheet Chart of Accounts and the Balance Sheet Accounts of Part 201 are amended by adding the parenthetical "(Major only)" at the end of the heading of the following accounts: accounts 103, 105.1, 106, 108, 111, 115, 117, 123, 123.1, 125, 126, 128, 131, through 135, 151 through 153, 155, 156, 163, 164.3, 166, 167, 171 through 173, 183.1, 183.2, 184, 185, 188, 202, 203, 205 through 210, 216.1, 222, 238 through 241.

Balance Sheet Chart of Accounts—[Amended]

35. The Balance Sheet Chart of Accounts of Part 201 are amended as follows:

(a) By adding a new account 101.1 to read "101.1 Property under capital leases";

(b) By adding a new account 103.1 to read "301.1 Gas Plant in process of reclassification (Nonmajor only).";

(c) By removing the word "[Reserved]" after account 110 and adding in its place: "Accumulated provision for depreciation, depletion, and amortization of gas utility plant (Nonmajor only)";

(d) By adding an account 129, to read "129 Special funds (Nonmajor only).";

(e) By adding an account 130 following the heading "3. Current and Accrued Assets" to read "130 Cash and working funds (Nonmajor only).";

(f) By redesignating account 182 as account 182.1 and adding an account 182.2 to read "182.2, Unrecovered plant and regulatory study costs.";

(g) By adding an account 218 just after account 217 to read "218 Noncorporate proprietorship (Nonmajor only).";

(h) By removing the heading "9. OPERATING RESERVES" and by removing accounts 261, 262, 263, and 265;

(i) By redesignating heading 8 as heading 9 and heading 7 as heading 8 and adding a new heading 7 to read "7. OTHER NONCURRENT LIABILITIES";

(j) By adding accounts 227, 228.1, 228.2, 228.3, 228.4 and 229 after the heading "7. OTHER NONCURRENT LIABILITIES" to read as follows:

7. Other Noncurrent Liabilities

227 Obligations under capital leases—noncurrent
228.1 Accumulated provision for property insurance
228.2 Accumulated provision for injuries and damages
228.3 Accumulated provision for pensions and benefits
228.4 Accumulated miscellaneous operating provisions
229 Accumulated provision for rate refunds

(k) By adding account 243, following account 242, to read "243 Obligations under capital leases—current.".

Balance Sheet Accounts—[Amended]

36. The Balance Sheet Accounts of Part 201 are amended as follows:

(a) By adding a new account 101.1 to read as follows:

101.1 Property under capital leases.

A. This account shall include the amount recorded under capital leases for plant leased from others and used by the utility in its utility operations.

B. The gas property included in this account shall be classified separately according to the detailed accounts (301 to 399) prescribed for electric plant in service.

C. Records shall be maintained with respect to each capital lease reflecting: (1) name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost of fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amounts representing interest and the interest rate used, and (9) expenses paid.

(b) By revising paragraph C of Account 105 to read as follows:

105 Gas plant held for future use.

* * * * *

C. In the event that property recorded in this account shall no longer be needed or appropriate for future utility operations, the company shall request Commission approval of journal entries to remove such property from this account when the gain realized from the sale or other disposition of the property is $100,000 or more, prior to their being recorded. Such filings shall include the description and original cost of individual properties removed from this account, the accounts charged upon removal, and any associated gains realized upon disposition of such property.

* * * * *

(c) By revising paragraph C of account 105.1 to read as follows:

105.1 Production properties held for future use

* * * * *

C. In the event that property recorded in this account shall no longer be needed or appropriate for future utility operations, the company shall request Commission approval of journal entries to remove such property from this

account when the gain realized from the sale or other disposition of the property is $100,000 or more, prior to their being recorded. Such filings shall include the description and original cost of individual properties removed from this account, the accounts charged upon removal, and any associated gains realized upon disposition of such property.

* * * * *

(d) In NOTE A of account 107, by removing the words "Federal Power Commission" and adding, in their place, the words "Federal Energy Regulatory Commission";

(e) In account 110, by removing the word "[Reserved]";

(f) In account 121, by redesignating paragraph B as paragraph C and adding a new paragraph B and NOTE to read as follows:

121 Non-utility property.

* * * * *

B. This account shall also include the amount recorded under capital leases for property leased from others and used by the utility in its nonutility operations. Records shall be maintained with respect to each lease reflecting: (1) name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

* * * * *

Note.—In the event of the subsequent sale or other disposition of property included in this account which had been previously recorded in account 105, Gas Plant Held for Future Use, or account 105.1, Production Properties Held for Future Use, such property costs shall be accounted for in accordance with paragraph C of accounts 105 and 105.1, respectively.

(g) By amending account 154 as follows:

(1) In the introductory text of paragraph A, by adding following the words "maintenance purposes.", the words "For Nonmajor utilities, this account shall include the cost of fuel on hand and unapplied materials and supplies (except meters and house regulators)";

(2) In the introductory text of paragraph A, by removing the words "It shall" in the second sentence and adding, in their place, the words "For both Major and Nonmajor utilities, it shall";

(3) By adding a new paragraph C, by redesignating the existing "NOTE" as "NOTE A", by revising the text and by adding a new NOTE B to read as follows:

154 Plant materials and operating supplies.

* * * * *

C. For Nonmajor utilities, inventories of materials, supplies, fuel, etc., shall be taken at least annually and the necessary adjustments shall be made to bring this account into agreement with the actual inventories. In effecting the adjustments, large differences which can be assigned to important classes of materials shall be equitably adjusted among the accounts to which such classes of materials have been charged since the previous inventory. Other differences shall be equitably apportioned among the accounts to which materials have been charged.

Note A: Where expenses applicable to materials purchased cannot be directly assigned to particular purchases, they may be charged to a stores expense clearing account (account 163, Stores Expenses Undistributed, in the case of Major Utilities), and distributed therefrom to the appropriate accounts.

Note B: When materials and supplies are purchased for immediate use, they need not be carried through this account but may be charged directly to the appropriate gas plant or expense account.

* * * * *

(h) In paragraph A of account 186, by removing the words "This account shall" and adding, in their place, the words "For Major companies, this account shall"; by redesignating paragraph B as paragraph C and revising it; and adding a new paragraph B to read as follows:

186 Miscellaneous deferred debits.

A. For Major companies, this account shall * * *

B. For Nonmajor companies, this account shall include the following classes of items:

(1) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility projects under contemplation. If construction results, this account shall be credited with the amount applicable thereto and the appropriate plant accounts shall be charged with an amount which does not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to plant. If the work is abandoned, the charge shall be to account 462.5, Other Deductions, or to the appropriate operating expense accounts.

(2) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas. If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 6G) charged with the amount of expenditures related to such acquisition. Such preliminary survey and investigation charges transferred to gas plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to the gas plant. If a project is abandoned involving a natural gas lease acquired before October 8, 1969, the expenditures related thereto shall be charged to account 723, Other Exploration. If a project is abandoned involving a lease acquired after October 7, 1969, the expenditures related thereto shall be charged to account 338, Unsuccessful Exploration and Development Costs.

(3) Undistributed balances in clearing account at the date of the balance sheet. Balances in clearing accounts shall be substantially cleared not later than the end of the calendar year unless items held therein relate to a future period.

(4) Balances representing expenditures for work in progress other than on utility plant. This includes jobbing and contract work in progress.

(5) Other debit balances, the proper final disposition of which is uncertain, and unusual or extraordinary expenses, not included in other accounts, which are in process of being written off.

(6) All fees related to certificate applications involving construction paid prior to the final disposition of the certificate application. If the certificate is granted and accepted, the amount recorded in this account shall be credited with the amount applicable thereto and charged to the appropriate plant accounts. If the certificate requested is not granted or is not accepted by the applicant, the fees recorded in this account shall be cleared to account 928, Regulatory Commission Expenses.

C. The records supporting the entries to this account shall be so kept that the utility can furnish full information as to each deferred debit included herein. (In the case of Nonmajor companies, the records supporting entries for preliminary natural gas surveys and investigations shall be so kept that the utility can furnish, for each investigation, complete information as to identification and location of the territory investigated, the number of other identification assigned to the land tract or leasehold acquired, and the nature and respective amounts of the charges.)

(i) By redesignating account 182 as account 182.1, removing paragraphs A and B, and redesignating paragraph C as paragraph B, and adding a new paragraph A to read as follows:

182.1 Extraordinary property losses.

A. When authorized or directed by the Commission, this account shall include extraordinary losses, which could not reasonably have been anticipated and which are not covered by insurance or other provisions, such as unforeseen damages to property.

* * * * *

(j) By adding a new account 182.2 to read as follows:

182.2 Unrecovered plant and regulatory study costs.

A. This account shall include: (1) Nonrecurring costs of studies and analyses mandated by regulatory bodies related to plants in service, transferred from account 183.2, Other Preliminary Survey and Investigation Charges, and not resulting in construction; and (2) when authorized by the Commission, significant unrecovered costs of plant facilities where construction has been cancelled or which have been prematurely retired.

B. This account shall be credited and account 407.1, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs, shall be debited, over the period specified by the Commission.

C. Any additional costs incurred, relative to the cancellation or premature retirement, may be included in this account and amortized over the remaining period of the original amortization period. Should any gains of recoveries be realized relative to the cancelled or prematurely retired plant, such amounts shall be used to reduce the unamortized amount of the costs recorded herein.

D. In the event that the recovery of costs included herein is disallowed in rate proceedings, the disallowed costs shall be charged to account 426.5, Other Deductions, or account 435, Extraordinary deductions, in the year of such disallowance.

(k) In account 183.2, by redesignating paragraph B as paragraph C and adding a new paragraph B to read as follows:

183.2 Other preliminary survey and investigation charges.

* * * * *

B. This account shall also include costs of studies and analyses mandated by regulatory bodies related to plant in service. If construction results from such studies, this account shall be credited and the appropriate utility plant account charged with an equitable portion of such study costs directly attributible to new construction. The portion of such study costs not attributible to new construction or the entire cost if construction does not result shall be charged to account 182.2, Unrecovered Plant and Regulatory Study Costs, or the appropriate operating expense account. The costs of such studies relative to plant under construction shall be included directly in account 107, Construction Work in Progress—Gas.

* * * * *

(l) In paragraph D of account 192.1, by removing the words "transferred to account 191, Unrecovered Purchase Gas Costs," and adding, in their place, the words "cleared from this account by a debit to account 805.2 and a credit to this account";

(m) In the NOTES to accounts 201 and 204, by adding the parenthetical "(For Nonmajor companies, account 211, Miscellaneous Paid-In Capital)" immediately following the words "Premium on Capital Stock";

(n) By amending account 211 as follows:

(1) By revising the text, by adding a parenthetical and an ITEMS section;

(2) By redesignating the existing NOTE and"NOTE A" and adding the parenthetical (Major companies) to the heading,

(3) By adding new NOTE B to read as follows:

211 Miscellaneous paid-in capital.

This account shall include the balance of all other credits for paid.in capital which are not properly includible in the foregoing accounts. This account may include all commissions and expenses incurred in connection with the issuance of capital stock.

(In the case of Nonmajor companies, this account shall be kept so as to show the source of the credits includible herein.)

Items (Nonmajor only)

1. Premium received on original issues of capital stock.
2. Donations received from stockholders or reduction of debt of the utility, and the cash value of other assets received as a donation.
3. Reduction in par or stated value of capital stock.
4. Gain or resale or cancellation of reacquired capital stock.

Note A (Major Companies): * * *

Note B (Nonmajor companies): Premium on capital stock shall not be set off against expenses. Further, a premium received on an issue of a certain class or series of stock shall not be set off against expense of another issue of the same class or series.

(o) In account 213, by removing paragraph C:

(p) In account 214, by removing paragraph C, redesignating the NOTE as NOTE A and adding a new NOTE B to read as follows:

214 Capital stock expense.

* * * * *

Note B: The utility may write off capital stock expense in whole or in part by charges to account 211, Miscellaneous Paid-In Capital.

(q) by adding new accounts 227, 228.1, 228.2, 228.3, 228.4 and 229 and Centerheading No. 7 to read as follows:

7. Other Noncurrent Liabilities

227 Obligations under capital leases—noncurrent.

This account shall include the portion not due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, or account 121, Nonutility property.

Special Instruction

No amounts shall be credited to these accounts unless authorized by a regulatory authority or authorities to be collected in a utility's rate levels.

228.1 Accumulated provision for property insurance.

A. This account shall include amounts reserved by the utility for losses through accident, fire, flood, or other hazards to its own property or property leased from others, not covered by insurance. The amounts charged to account 924, Property Insurance, or other appropriate accounts to cover such risks shall be credited to this account. A schedule of risks covered shall be maintained, giving a description of the property involved, the character of the risks covered and the rates used.

B. Charges shall be made to this account for losses covered, not to exceed the account balance. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

228.2 Accumulated provision for injuries and damages.

A. This account shall be credited with amounts charged to account 925, Injuries and Damages, or other appropriate accounts, to meet the probable liability, not covered by insurance, for deaths or injuries to employees and others, and for damages to property neither owned nor held under lease by the utility.

B. When liability for any injury or damage is admitted by the utility either

voluntarily or because of the decision of a court or other lawful authority, such as a workmens' compensation board, the admitted liability shall be charged to this account and credited to the appropriate current liability account. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

Note.—Recoveries or reimbursements for losses charged to this account shall be credited hereto; the cost of repairs to property of others if provided for herein shall be charged to this account.

228.3 Accumulated provision for pensions and benefits.

A. This account shall include provisions made by the utility and amounts contributed by employees for pensions, accident and death benefits, savings, relief, hospital and other provident purposes, where the funds are included in the assets of the utility either in general or in segregated fund accounts.

B. Amounts paid by the utility for the purposes for which this liability is established shall be charged hereto.

C. A separate account shall be kept for each kind of provision included herein.

Note.—If employee pension or benefit plan funds are not included among the assets of the utility but are held by outside trustees, payments into such funds, or accruals therefor, shall not be included in this account.

228.4 Accumulated miscellaneous operating provisions.

A. This account shall include all operating provisions which are not provided for elsewhere.

B. This account shall be maintained in such manner as to show the amount of each separate provision and the nature and amounts of the debits and credits thereto.

Note.—This account includes only provisions as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

229 Accumulated provision for rate refunds.

A. This account shall be credited with amounts charged to Account 496, Provision for Rate Refunds, to provide for estimated refunds where the utility is collecting amounts in rates subject to refund.

B. When a refund of any amount recorded in this account is ordered by a regulatory authority, such amount shall be charged hereto and credited to account 242, Miscellaneous Current and Accrued Liabilities.

C. Records supporting the entries to this account shall be kept so as to identify each amount recorded by the respective rate filing docket number.

(r) In paragraph B of account 236, by removing the second sentence which reads, "However, if such corrections are so large as to seriously distort current expenses, see General Instruction 7.1.";

(s) In account 242, by adding, at the end of the account, a new Items section to read as follows:

Items (Nonmajor only)

1. Dividends declared but not paid.
2. Matured long-term debt.
3. Matured interest.
4. Taxes collected through payroll deductions or otherwise pending transmittal to the proper taxing authority.

(t) By adding an account 243 to read as follows:

243 Obligations under capital leases—current.

This account shall include the portion due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, or account 121, Non-Utility Property.

(u) By removing accounts 261, 262, 263, and 265;

(v) In account 281, by removing paragraph D and redesignating paragraph E as paragraph D; and

(w) In account 282, by removing paragraph D and redesignating paragraph E as paragraph D.

Gas Plant Chart of Accounts and Gas Plant Accounts—[Amended]

37. The Gas Plant Chart of Accounts and the Gas Plant Accounts of Part 201 are amended by adding the parenthetical "(Major only)" at the end of each title of the following accounts: Accounts 363, 363.1, 363.2, 363.3, 363.4, 364.1, 364.2, 364.3, 364.4, 364.5, 364.6, 364.7, and 364.8.

Gas Plant Accounts—[Amended]

38. The Gas Plant Accounts of Part 201 are amended as follows:

(a) In paragraph C of account 302 and in paragraph B of account 303, by adding the parenthetical "(For Nonmajor Companies; account 110, Accumulated Provisions for Depreciation, Depletion and Amortization of Gas Utility Plant) following the words "Gas Utility Plant",

(b) In the ITEMS section of account 332, by adding a new Item 5 to read "5. Line Pack Gas.";

(c) In the Special Instructions paragraph immediately preceding account 325.1 by adding the parenthetical "(for Nonmajor companies, 403.1, Depreciation and Depletion Expense)" following the words "Land Rights" in the fifth sentence;

(d) In the paragraph immediately preceding account 350.1, by adding the heading "SPECIAL INSTRUCTIONS—ACCOUNTS 350.1 THROUGH 363.5" preceding the text and removing the words "the accounts under subsections A and B hereunder." and adding, in their place, the words "the above accounts." and removing the words "under Subsection C, Base Load Liquified Natural Gas Terminating and Processing Plant" and adding, in their place, the words "in accounts 364.1 through 364.8";

(e) In paragraph B of account 352.3, by adding the parenthetical "(for Nonmajor companies, account 164.1, Gas Stored Underground)" following the word "Noncurrent";

(f) In the ITEMS section of account 353, by adding a new Item 5 to read "5. Line Pack Gas.";

(g) In the ITEMS section of account 363.5, by redesignating Items 2 through 4 as Items 3 through 5, and adding a new Item No. 2 to read "2. Compressor.", and adding a new Item 6 to read "6. Line Pack Gas.";

(h) In the ITEMS section of account 364.3, by adding a new Item 33 to read "33. Line Pack Gas.";

(i) In the ITEMS section of account 367, by redesignating Items 11 through 23 as Items 12 through 24, and adding a new Item 11 to read "11. Line Pack Gas."; and

(j) In the ITEMS section of account 376, by redesignating Items 8 through 25 as Items 9 through 26, and adding a new Item 8 to read "8. Line Pack Gas.".

Income Chart of Accounts and Income Accounts—[Amended]

39. The Income Chart of Accounts and Income Accounts of Part 201 are amended by adding the parenthetical "(Major only)" at the end of the headings of the following accounts: Accounts 403, 404.1, 402.2 404.3, and 418.1.

Income Chart of Accounts—[Amended]

40. The Income Chart of Accounts of Part 201 are amended as follows:

(a) In the title of account 401, by changing the word "Operating" to the word "Operation";

(b) By adding an account 403.1, following account 403, to read "403.1 Depreciation and depletion expense (Nonmajor only)";

(c) By adding an account 404, preceding account 404.1, to read "404

Amortization of limited-term gas plant (Nonmajor only)";

(d) In account 407.1, by revising the title to read "Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs";

Income Accounts—[Amended]

41. The Income Accounts of Part 201 are amended as follows:

(a) In account 407.1, by revising the title to read "Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs" and by removing the words "Account 182, Extraordinary Property Losses" and adding, in their place, the words "Account 182.1, Extraordinary Property Losses, and Account 182.2 Unrecovered Plant and Regulatory Study Costs";

(b) In paragraph A of the *Special Instructions* following account 410 [Reserved], by removing the words "unless such adjustments are properly includible in Account 439, Adjustments to Retained Earnings," and the sentence "(See General Instruction 7.1 for prior period adjustments.)";

(c) In paragraph B of the *Special Instructions* following account 409 [Reserved], by removing the sentence "The income tax effects of amounts recorded in account 439, Adjustments to Retained Earnings, shall be recorded in that account.";

(d) In accounts 421.1 and 421.2, by adding the parenthetical "(Major only)" following the words "Production Properties Held for Future Use" in the second sentence;

(e) In account 425, by removing Item 3, and by revising Item 2 to read "2. Other miscellaneous amortization charges allowed to be included in this account by the Commission."

(f) In account 426.5, by adding a new Item 5 to read as follows:

426.5 Other deductions.

* * * * *

Items

* * * * *

5. Costs of preliminary abandonment costs recorded in accounts 182.1, Extraordinary Property Losses, and 182.2, Unrecovered Plant and Regulatory Study Costs, not allowed to be amortized to account 407.1, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs.

(g) In account 434, by removing the words "nontypical, noncustomary, infrequently recurring gains," and adding, in their place, the words "gains of unusual nature and infrequent occurrence,";

(h) In account 435, by removing the words "nontypical, noncustomary, infrequently recurring losses," and adding, in their place, the words "losses of unusual nature and infrequent occurrence,".

Operating Revenue Chart of Accounts and Operating Revenue Accounts—[Amended]

42. The Operating Revenue Chart of Accounts and Operating Revenue Accounts of Part 201 are amended by adding the parenthetical "(Major only)" at the end of the title of account 482.

Operating Revenue Chart of Accounts—[Amended]

43. The Operating Revenue Chart of Accounts is amended by adding a new account 496, following account 495, to read "496 Provision for rate refunds."

Operating Revenue Account—[Amended]

44. The Operating Revenue Accounts are amended as follows:

(a) In paragraph C of account 481, by adding the parenthetical "(Major companies)" preceding the words "Records shall" in the introductory text;

(b) In Item 3 of account 488, by removing from the parenthetical the word "See" and adding, in its place, the words "For Major Companies, see,";

(c) In Item 8 of account 495, by adding the parenthetical "(Major companies)" immediately preceding the word "Include";

(d) By adding an account 496 to read as follows:

496 Provision for rate refunds.

A. This account shall be charged with provisions for the estimated pretax effects on net income of the portions of amounts being collected subject to refund which are estimated to be required to be refunded. Such provisions shall be credited to Account 229, Accumulated Provision for Rate Refunds.

B. This account shall also be charged with amounts refunded when such amounts had not been previously accrued.

C. Income tax effects relating to the amounts recorded in this account shall be recorded in account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, as appropriate.

45. The Retained Earnings Accounts of Part 201 are amended by revising paragraph A of account 439 to read as follows:

439 Adjustments to retained earnings.

A. This account shall, with prior Commission approval, include significant nonrecurring transactions accounted for as prior period adjustments, as follows:

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits of pre-acquisition operating loss carryforwards of purchased subsidiaries.

All other items of profit and loss recognized during a year shall be included in the determination of net income for that year.

* * * * *

(b) By removing the ITEMS Section of Account 439.

Operation and Maintenance Expense Chart of Account and Operation and Maintenance Expense Accounts—[Amended]

46. The Operation and Maintenance Expense Chart of Account and the Operation and Maintenance Expense Accounts of Part 201 are amended by adding the parenthetical "(Major only)" at the end of each title of the following accounts: accounts 700 through 708, 711 through 730, 732 through 735, 740 through 742, 751 through 754, 756, 757, 761, 762, 765 through 775, 777 through 791, 800 through 804.1, 806, 809.1, 809.2, 810 through 812, 815 through 822, 824, 830, 831, 833 through 837, 840 through 842, 842.1 through 842.3, 843.1 through 843.9, 844.1 through 844.8, 845.1 through 845.6, 846.1, 846.2, 847.1 through 847.8, 851 through 857, 859, 861, 862, 865 through 867, 871 through 873, 875 through 877, 880, 885 through 892, 894, 901, 905, 907 through 913, and 916.

Operation and Maintenance Expense Chart of Accounts—[Amended]

47. The Operation and Maintenance Expense Chart of Accounts of Part 201 is amended as follows:

(a) By adding an account 724.1 just after 724 to read "724.1 Fuel (Nonmajor only).";

(b) By adding an account 729.1 to read "729.1 Raw material (Nonmajor only).";

(c) By adding an account 737 just after 736 to read "737 Operation supplies and expenses (Nonmajor only).";

(d) By adding an account 743, just after 742 to read "743 Maintenance of production plant (Nonmajor only).";

(e) By adding an account 769.1 just after 769 to read "769.1 Maintenance of other plant (Nonmajor only).";

(f) By adding an account 792 just after 791 to read "792 Maintenance of products extraction plant (Nonmajor only).";

(g) By adding an account 799 preceding account 800, to read "799

Natural gas purchases (Nonmajor only).";

(h) By adding an account 812.1 to read "812.1 Gas used in utility operations—credit (Nonmajor only).";

(i) By adding an account 827 just after 826 to read "827 Operation supplies and expenses (Nonmajor only).";

(j) By adding new accounts 838 and 839 just after 837 to read as follows:

838 Maintenance of other underground storage plant (Nonmajor only).

839 Maintenance of local storage plant (Nonmajor only).

(k) By adding an account 853.1 to read "853.1 Compressor station fuel and power (Nonmajor only).";

(l) By adding an account 857.1 to read "857.1 Operation supplies and expenses (Nonmajor only).";

(m) By adding an account 868 just after 867 to read "868 Maintenance of other plant (Nonmajor only).";

(n) By adding an account 880.1 to read "880.1 Miscellaneous distribution expenses (Nonmajor only).";

(o) By adding an account 892.1 to read "892.1 Maintenance of lines (Nonmajor only).";

(p) By adding an account 895 just after 894 to read "895 Maintenance of other plant (Nonmajor only).";

(q) By adding an account 906 preceding account 907, to read "906, Customer service and informational expenses (Nonmajor only).";

(r) By adding an account 917 just after 916 to read "917 Sales expenses (Nonmajor only).";

(s) By redesignating account 932 as account 935 and adding a new account 933 to read "933 Transportation expenses (Nonmajor only).";

Operation and Maintenance Expense Accounts—[Amended]

48. The Operation and Maintenance Expense Accounts are amended as follows:

(a) In account 710, by redesignating the existing text as paragraph A, by revising the first sentence by removing the words "This account shall" and adding, in their place, the words "For Major companies, this account shall", and adding a new paragraph B and Items section to read as follows:

710 Operation supervision and engineering.

* * * * *

A. For Major companies, this account shall include the cost of labor and expenses occurred in the general supervision and direction of the operation of manufactured gas stations. * * *

* * * * *

B. For Nonmajor companies, this account shall include the cost of supervision and labor in the operation of manufactured gas production plants.

Items (Nonmajor only)

1. Supervising.
2. Operating or attending equipment and controls including boiler plant, power equipment and other auxiliaries.
3. Cleaning, lubricating and oiling equipment and auxiliaries.
4. Loading and unloading and other handling of coal, coke, other fuels, raw materials, residuals, waste materials, etc.
5. Observing, testing, checking and adjusting meters, gauges, and other instruments and equipment.
6. Keeping plant logs and other records and preparing reports on plant operation.
7. Cleaning boiler room, other buildings and yards.
8. Repacking glands and replacing gauge glasses and other similar work if work is of a minor nature and performed by regular operating crews. Where work is of a major character, such as that performed on high pressure boilers, the word shall be considered maintenance.
9. Testing water, etc.
10. Janitorial, messenger, watchman and similar services.
11. Clerical and stenographic work at plant.

(b) In paragraphs A and B of account 731, by adding the parenthetical "(for Nonmajor companies, account 154, Plant Materials and Operating Supplies)" immediately following the words "Extracted Products";

(c) In account 750, by redesignating the existing test as paragraph A, revising the first by removing the words "This account shall" and adding, in their place, the words "For Major companies, this account shall", by adding at the end of the text a new paragraph B, by adding the words "Major and Nonmajor:" between the title ITEMS and Item 1; and adding new Items 5 through 21 to read as follows:

750 Operation supervision and engineering.

A. For Major companies, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of production and gathering systems. * * *

* * * * *

B. For Nonmajor companies, this account shall include the cost of supervision and labor in the operation of gas wells, lines, compressors and other equipment of the natural gas production and gathering system including miscellaneous labor such as care of grounds, building service, and general clerical and stenographic work at field offices.

Items (Major and Nonmajor)

* * * * *

5. Gas well labor: turning wells on and off, bailing, swabbing, blowing wells, etc.
6. Preparing and maintaining production maps and land records, including surveys.
7. Field line labor: patrolling, attending and lubricating valves and other equipment, blowing and cleaning lines and drips, taking line pressures, etc.
8. Field compressor station labor: operating, attending, lubricating and servicing equipment, recording pressures, replacing charts, etc.
9. Measuring and regulating labor: recording pressures, changing charts, calculating gas volumes except for purchased gas and sales, adjusting and calibrating measuring equipment, taking gas samples and testing gas, inspecting and pumping drips, dewatering manholes and pits, etc.
10. Purification labor: attending and servicing purification apparatus, emptying, cleaning and refilling purifier boxes, unloading and storing glycol, etc.
11. Inspecting and testing equipment, not specifically to determine necessity for repairs or replacement of parts.
12. Lubricating equipment, valves, etc.
13. Hauling operating employees, materials, supplies, etc.
14. Moving equipment, minor structures, etc., not in connection with construction, retirement or maintenance work.
15. Keeping log and other operating records, preparing reports of operations, etc.
16. Cleaning structures, cutting grass and weeds, and minor grading around stations.
17. Cleaning debris, cutting grass and weeds on rights-of-way.
18. Cleaning and repairing tools.
19. Building and repairing gate boxes, foot bridges, stiles, tool boxes, etc.
20. Janitorial, watchmen and messenger services.
21. Clerical and stenographic work.

(d) By amending account 755 as follows:

(1) In paragraph A, by removing the words "stations, including" and adding, in their place, the words "stations (including in the case of Major companies)," and by adding a bracket" following the word "expenses";

(2) In paragraph B, by removing the word "Respective" and adding, in its place, the words "For Major companies, respective";

(3) By redesignating the existing Note as Note A, by adding the parenthetical "(Major Companies)" immediately following the word "NOTE"; and adding a new Note B to read as follows:

Note A. (Major Companies): * * *

Note B. (Nonmajor Companies): The cost of fuel, except gas, shall be charged initially to account 154, Plant Materials and Operating Supplies, and cleared to this account on the basis of fuel used.

(e) By amending account 759 as follows:

(1) By adding the parenthetical "(Major companies only)" following the words "labor" in the introductory text;

(2) By adding the heading "Major companies" between the titles "ITEMS" and "Labor", as set forth below; and

(3) By adding eighteen new Items to read as follows:

759 Other expenses.

* * * * *

Items (Major Companies)

Labor:

* * * * *

Nonmajor Companies:

1. Scrubber oil.
2. Gas, gasoline, and oil, in pumping, bailing, heating and swabbing.
3. Well swabs.
4. Lumber, nails, and other materials used for upkeep of fences, making signs, etc.
5. Material for upkeep of roads, etc.
6. Hand tools.
7. Lubricants, wiping rags, waste, etc.
8. Gas used in field line operation.
9. Charts and printed forms.
10. Gauge glasses.
11. Water tests and treatment by other than employees.
12. Gas purifying supplies.
13. Geological and gas reserve services by other than employees in connection with gas production.
14. Office supplies, stationery, drafting materials, etc.
15. Janitor, washroom, landscaping, first aid supplies, etc.
16. Employees' transportation and travel expenses.
17. Freight, express, parcel post, trucking, and other transportation.
18. Utility services: lights, water, telephone.

(f) In account 776, by removing the words "blending and refining" and adding, in their place, the words "in the case of Major companies, blending and refining"; by adding the parenthetical "(Major only)" to the end of the heading "ITEMS"; and by adding a Note, at the end of the account, to read as follows:

776 Operation supplies and expenses.

* * * * *

Note (Nonmajor companies): If the products extraction operations of the utility are other than a relatively minor part of the utility's natural gas business, the utility shall use the accounts for products extraction expenses of the Major Gas Utilities with the respective accounts prescribed therein identified as subaccounts to this account.

* * * * *

(g) In the NOTE at the end of account 795, by adding the parenthetical "(in the case of Nonmajor Companies, account 105, Gas Plant Held for Future Use)" following the words "Future Use";

(h) In NOTE A of account 796, by adding the parenthetical "(in the case of Nonmajor companies, General Instruction 19, Gas Well Records)" following the words "Each Plant";

(i) By amending account 797 as follows;

(1) In paragraph A, by removing the words "This account shall" and adding, in their place, the words "For Major Companies, this account shall"; and by adding a sentence, following the word "Productive.", to read "For Nonmajor companies, this account shall be charged with losses on abandonment of natural gas leases acquired before October 8, 1969, included in account 105, Gas Plant Held for Future Use, which have never been productive, unless otherwise authorized by the Commission. (See account 182.)"

(2) In paragraph B, by adding the parenthetical "(Major only)" preceding the word "When";

(j) In the parenthetical of account 798, by adding the words "for Major companies," preceding the word "see", and by adding after the word "Charges;" the words "for Nonmajor companies, see account 186, Miscellaneous Deferred Debits";

(k) In paragraph D of account 807, by adding the parenthetical "(Major companies)" preceding the word "This";

(l) In paragraph A of accounts 808.1 and 808.2, by adding to paragraph A the parenthetical "(in the case of Nonmajor companies, account 164.1, Gas stored Underground)" following the word "Noncurrent", by removing from paragraph B of account 808.1 the words "account 809" and adding in their place, the words "account 808.2" and by removing from paragraph B of account 808.2 the words "account 808" and adding in their place, the words "account 808.1";

(m) In account 813, by removing the word "including" and adding, in its place, the words "including, in the case of Major companies,";

(n) In account 814, by redesignating the existing text as paragraph A, revising the first sentence by removing the words "This account shall" and adding, in their place, the words "For Major companies, this account shall"; and by adding a new paragraph B and ITEMS section to read as follows:

814 Operation supervision and engineering.

A. For Major companies, this account shall include the cost of labor and expenses incurred in the general supervision and direction of underground storage operations. * * *

* * * * *

B. For Nonmajor companies, this account shall include the cost of supervision and labor in the operation of storage facilities including underground storage gas wells, lines, compressors and other equipment of the underground storage system, and the labor and expense of preparing and maintaining storage maps and lands records.

Items (Nonmajor only)

1. Operation of other storage facilities.
2. Operation of underground storage system.

(See account 750)

(o) In the parenthetical of account 823, by removing the word "See" and adding in its place the words "For Major companies, see";

(p) In account 850, by redesignating the existing text as paragraph A, revising the first sentence by removing the words "This account shall" and adding, in their place, the words "For Major companies, this account shall"; and by adding a new paragraph B and six Items to read as follows:

850 Operation supervision and engineering.

A. For Major companies, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of transmission facilities.

* * *

B. For Nonmajor companies, this account shall include the cost of supervision and labor in the operation of lines, compressor stations, and other equipment of the transmission system.

Items (Nonmajor only)

1. Load dispatching labor.
2. Transmission communication system labor.
3. Compressor station labor.
4. Mains labor.
5. Measuring and regulating station labor.
6. Miscellaneous labor.

(q) In account 865, by changing the account number "309" to the number "369";

(r) In account 870, by adding a new parenthetical "(Major only)" following the word "dispatching" and by removing from the parenthetical the word "See" and adding, in its place, the words "For Major companies, see";

(s) In the ITEMS section of account 874, by adding the parenthetical "(Major only)" to the heading "Labor", such that the heading reads "Labor (Major only)", and by adding the following new Items after the existing items to read as follows:

Items

* * * * *

Labor (Nonmajor only):

1. Mains and services labor.
2. Pumping station labor.
3. Measuring and regulating station labor.

Materials and Expenses (Major and Nonmajor):

1. Line markers and warning signs.
2. Lumber, nails, etc., used in building and repairing gate boxes (foot bridges, stiles, tool boxes, etc.) (Major only).
3. Charts and printed forms.
4. Scrubber oils.
5. Hand tools.
6. Lubricants, wiping rags, waste, etc.
7. Freight, express, parcel post, trucking and other transportation.
8. Uniforms (Major only).
9. Employee transportation and travel expenses (Major only).
10. Janitor and washroom supplies (Major only).
11. Utility services: light, water, telephone (Major only).
12. Gas used in mains operation (Major only).
13. Oil for fogging.

(t) In account 878, by adding the parenthetical "(Major only)" at the end of each Item 1 through 12 and 20;

(u) In account 879, by adding the parenthetical "(Major only)" at the end of Items 1, 2, 4, 5, 6, 9, and 11 through 13;

(v) In account 902, by revising Item 13 and adding new Items 14 to read as follows:

902 Meter reading expenses.

* * * * *

Items

Labor:

* * * * *

13. Communication service (Nonmajor only).
14. Miscellaneous office supplies and expenses and stationery and printing (Nonmajor only).

* * * * *

(w) In account 903, by adding at the end of Item 26 the parenthetical "(Major only") and adding new Items 31 and 32 to read as follows:

903 Customer records and collection expenses.

* * * * *

Items

Labor:

* * * * *

31. Communication service (Nonmajor only).
32. Miscellaneous office supplies and expenses and stationery and printing (Nonmajor only).

* * * * *

(x) By amending account 924 as follows:

(1) In paragraph A of account 924, by removing the words "It shall include" and adding, in their place, the words "For Major companies, it shall include";

(2) In Item 2 of account 924, by removing the words "261, Property Insurance Reserve" and adding, in their place, the words "228.1, Accumulated Provision for Property Insurance;"

(3) In paragraph (1) of NOTE B, by adding the parenthetical "(stores expenses in the case of Nonmajor companies)" following the word "Undistributed";

(4) In Paragraph (2) of NOTE B by removing the word "Transportation" and adding, in its place, the words "For Major companies, transportation"; and by adding the following words to the end "For Nonmajor companies, transportation and garage equipment, to account 933, Transportation expenses.";

(5) In NOTE C, by adding the parenthetical "(Major only)" following the title "NOTE C";

(y) By amending account 925 as follows:

(1) In paragraph A of account 925, by removing the words "It shall also" and adding, in their place, the words "For Major companies, it shall also";

(2) In Item 1 of account 925, by removing the word "262, Injuries and Damages Reserve" and adding, in their place, the words "228.2, Accumulated Provision for Injuries and Damages;"

(z) In paragraph D of account 926, by removing the word "Records" and adding, in its place, the words "For Major companies, records";

(aa) In Item 4 of account 930.2, by removing the word "Research" and adding, in its place, the words "For Major companies, research"; and by adding the words "For Nonmajor companies, experimental and general research work for the industry" following the word "basis.";

(bb) By redesignating account 932 as account 935, by adding a sentence to paragraph A immediately following the words "Miscellaneous Equipment." to read "For Nonmajor companies, include also other general equipment accounts (not including transportation equipment)."; and by removing the NOTE and adding, in its place, the following:

935 Maintenance of general plant.

* * * * *

Functions	Account numbers	
	Major	Nonmajor
Manufactured gas production	708, 742	743
Natural gas production and gathering	769	793
Natural gas products extraction	791	
Underground storage	837	838, 839
Local storage	846.2	
Transmission expenses	867	868
Distribution expenses	894	895
Merchandising and jobbing	416	416

Garages, shops, etc.—appropriate clearing account, if used (or general expense, in the case of Nonmajor companies).

PART 204—[AMENDED]

49. Part 204 is amended as follows:

(a) By redesignating account 103 as account 103.1 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 103.1 heading;

(b) By redesignating account 110 as account 110 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 110 heading;

(c) By redesignating account 125 as account 129 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 129 heading;

(d) By redesignating account 131 as account 130 of Part 201 (following the heading "3. CURRENT AND ACCRUED ASSETS") and adding the parenthetical "(Nonmajor only)" at the end of the account 130 heading;

(e) By redesignating account 218 as account 218 of Part 201 (preceding the heading "6. LONG-TERM DEBT") and adding the parenthetical "(Nonmajor only)" at the end of the account 218 heading;

(f) By redesignating account 403 as account 403.1 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 403.1 heading;

(g) By redesignating account 404 as account 404 of Part 202 and adding the parenthetical "(Nonmajor only)" at the end of the account 404 heading;

(h) By redesignating account 701 as account 724.1 of Part 201 (preceding the heading "*Gas Raw Materials*") and adding the parenthetical "(Nonmajor only)" at the end of the account 724.1 heading;

(i) By redesignating account 702 as account 729.1 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 729.1 heading;

(j) By redesignating account 703 as account 737 of Part 201 (preceding the heading "*Maintenance*") and adding the parenthetical; "(Nonmajor only)" at the end of the account 737 heading;

(k) By redesignating account 706 as account 743 of Part 201 (preceding the heading "B. *Natural Gas Production Expenses*") and adding the parenthetical "(Nonmajor only)" at the end of the account 743 heading;

(l) By redesignating account 718 as account 792 of Part 201 (preceding the heading "C. EXPLORATION AND DEVELOPMENT EXPENSES") and adding the parenthetical "(Nonmajor only)" at the end of the account 792 heading;

(m) By redesignating account 719 as account 769.1 of Part 201 (preceding the heading "B 2. *Products Extraction*" and adding the parenthetical "(Nonmajor

only)" at the end of the account 769.1 heading;

(n) By redesignating account 730 as account 799 of Part 201 (following the heading D. *Other Gas Supply Expenses*) and adding the parenthetical "(Nonmajor only)" at the end of the account 799 heading;

(o) By redesignating account 735 as account 812.1 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 812.1 heading;

(p) By redesignating account 742 as account 827 of Part 201 (preceding the heading "*Maintenance*") and adding the parenthetical "(Nonmajor only)" at the end of the account 827 heading;

(q) By redesignating account 746 as account 838 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 838 heading;

(r) By redesignating account 747 as account 839 of Part 201 (preceding the heading "B. *Other Storage Expenses*") and adding the parenthetical "(Nonmajor only)" at the end of the account 839 heading;

(s) By redesignating account 751 as account 853.1 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 853.1 heading;

(t) By redesignating account 752 as account 857.1 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 857.1 heading;

(u) By redesignating account 757 as account 868 of Part 201 (preceding the heading "4. DISTRIBUTION EXPENSES") and adding the parenthetical "(Nonmajor only)" at the end of the account 868 heading;

(v) By redesignating account 765 as account 880.1 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 880.1 heading;

(w) By redesignating account 767 as account 892.1 of Part 201 and adding the parenthetical "(Nonmajor only)" at the end of the account 892.1 heading;

(x) By redesignating account 769 as account 895 of Part 201 (preceding the heading "5. CUSTOMER ACCOUNTS EXPENSES") and adding the parenthetical "(Nonmajor only)" at the end of the account 895 heading;

(y) By redesignating account 907 as account 906 of Part 201 (following the heading "6. CUSTOMER SERVICE AND INFORMATIONAL EXPENSES") and adding the parenthetical "(Nonmajor only)" at the end of the account 906 heading;

(z) By redesignating account 910 as account 917 of Part 201 (preceding the heading "8. ADMINISTRATIVE AND GENERAL EXPENSES") and adding the parenthetical "(Nonmajor only)" at the end of the account 917 heading;

(aa) By redesignating account 933 as account 933 of Part 201 (preceding the heading "*Maintenance*") and adding the parenthetical "(Nonmajor only)" at the end of the account 933 heading;

(bb) By removing the remaining text of Part 204 in its entirety and adding, in its place, the following:

PART 204—[RESERVED]

Note.—For the Uniform System of Accounts for Natural Gas Companies subject to the Natural Gas Act, see Part 201 of this Subchapter.

PART 216—[AMENDED]

50. In Part 216, instruction 1 is amended by removing the words "Class A and Class B natural gas companies (Gas Plant Instruction 9 of the Uniform System of Accounts Prescribed for Class C Natural Gas Companies)" and adding, in their place, the words "Natural Gas Companies."

PART 260—[AMENDED]

51. Part 260 is amended as follows:

(a) The authority citation of Part 260 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Natural Gas Act, 15 U.S.C. 717–717z (1982).

§ 260.1 [Amended]

(b) In the heading and paragraph (a) of § 260.1, by removing the parenthetical "(Class A and Class B)" and by adding the word "Major" immediately preceding the word "Natural";

(c) In paragraph (b) of § 260.1, by removing the words "included in Class A or Class B as defined in the Commission's Uniform System of Accounts as Prescribed for Natural Gas Companies, Subject to the Provisions of the Natural Gas Act" and by adding, in their place, the following: "a Major company (as defined in Part 201 of Subchapter F of this chapter)";

(d) In § 260.1, by removing paragraph (c);

§ 260.2 [Amended]

(e) In the heading and paragraph (a) of § 260.2, by removing the parenthetical "(Class C and Class D)" and by adding the word "Nonmajor" preceding the word "Natural";

(f) In paragraph (b) of § 260.2, by removing the words "included in Class C or Class D as defined in Part 204 of this chapter," and by adding, in their place, the words "considered Nonmajor as defined in Part 201 of Subchapter F of this Chapter,";

(g) In § 260.2, by removing paragraph (c);

§ 260.8 [Amended]

(h) In paragraph (a) of § 260.8, by removing the words "Class A" and by adding, the word "Major".

PART 389—[AMENDED]

52. Part 389 is amended as follows:

(a) The authority citation for Part 389 reads as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 389.101 [Amended]

(b) The Table of OMB Control Numbers in § 389.101(b) is amended by removing "0092" in the OMB control number column across from "Part 101" in the section column and adding, in its place, "0021, 0029"; and by removing "0092" in the OMB control number column across from "Part 201" in the section column, and adding, in its place, "0028, 0030".

(c) The Table of OMB Control Numbers in § 389.101(b) is further amended by removing "104" from the section column, and "0029" from the corresponding section in the OMB control number column; and by removing "204" from the section column, and "0030" from the corresponding section in the OMB control number column.

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Part III

Small Business Administration

13 CFR Part 123

Disaster Loans; Economic Injury; Proposed Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster Loans; Economic Injury

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: Title III of Pub. L. 98–270, approved April 18, 1984 (98 Stat. 157) the Omnibus Budget Reconciliation Act of 1984, has made significant changes in SBA's disaster assistance program. Changes affecting the physical disaster assistance programs have been previously published as "interim final" rules. This notice of proposed rulemaking would create a new Subpart E to Part 123, to implement another aspect of the cited statute, which is designed to alleviate economic injury caused by currency devaluation and monetary adjustment in a country contiguous to the United States.

DATE: Comments must be received on or before August 29, 1984.

ADDRESS: Written comments to be submitted to the Deputy Associate Administrator for Disaster Assistance, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Telephone: (202) 653–6879.

SUPPLEMENTARY INFORMATION: Revision 11 of Part 123, previously published, contains (1) an explanation of these regulations; (2) Subpart A—Conditions applicable to all loans under this Part; (3) Subpart B—Physical Disaster Loans; and (4) Subpart C—Economic injury disaster loans. Subpart D, to be proposed hereafter, will implement assistance to alleviate economic injury caused by, or as a result of, Federal action, such as Federal construction, or regulations protecting the environment, the workplace or consumers. This Subpart E will implement new subsection 7(b)(4) of the Small Business Act ("Act"), which authorizes loans to small business concerns (including the refinancing of certain prior SBA business loans) located in an area of economic dislocation that is the result of the drastic fluctuation in the currency of a country continguous to the United States and adjustments in the regulation of its monetary system, if such concern is determined by SBA as unable to obtain credit elsewhere (§ 123.60). The Governor of a State may certify to such injury, and to the need for such assistance, which is not available on reasonable terms. The Governor's request for a designation of such area of dislocation must show that at least 25 small concerns in a county, previously financially sound, have suffered economic injury of such magnitude that without this assistance they may become insolvent, or be unable to return to their former level of operation within six months (§ 123.61). The regulation defines substantial economic injury as a drop of at least 40% in profits, or an increase of at least 40% in operating expenses which causes the business to be unable to meet its financial obligations (§ 123.62). Most small businesses are eligible, if they can demonstrate that the injury is due to the harmful event stated in the designation, but a business which has changed ownership after the event is not eligible. Proceeds of these loans may only be used to alleviate the specific economic injury caused by the designated event (§ 123.63).

The definition of "substantial economic injury" was set in conformity with the existing pattern for economic injury established elsewhere in these regulations related to physical and economic injury disaster loans. The quantitative factor of 40% is used as the Agency's dividing line between nonsubstantial and substantial in other disaster situations which call for quantitative distinctions. The 40% factor and the requirement for 25 businesses to be adversely affected represent equitable median positions at which significant damage to a business and to the community, respectively, is readily ascertainable, but is not set so high as to constitute an onerous burden to either the business applicant or the community. These requirements are consistent with similar requirements in other subparts of the Regulation which have proven to be practical and equitable based on our previous experience. The use of the impact factor (25 businesses) is necessitated by the requirement to have this program, together with that under section 7(b)(3) of the Act, not exceed $100,000,000 in this and each of the next 2 fiscal years. In addition, the possibility of substantial economic injury taking the form of either a reduction in profits or an increase in costs is recognized.

Other matters such as designation procedures, eligible applicants, ineligible losses, use of proceeds, etc., are consistent with our administration of all economic injury programs as modified by the specific mandates of section 7(b)(4) of the Act.

Regulatory Impact

This proposed regulation is not a major rule for purposes of E.O. 12291. However, for purposes of Regulatory Flexibility Act 5 U.S.C. 601 et seq. it will have a significant economic impact on substantial number of small entities if promulgated in final form. For purposes of section 603 of that Act the following information is offered:

1. The reasons why this proposal is being considered, its objectives and legal basis have been indicated above.

2. The proposal will apply to all small businesses which apply for assistance pursuant to section 7(b)(4) of the Small Business Act.

3. There are no reporting or recordkeeping requirements specifically inherent in this proposal. However, applicants will be required to substantiate the requests for assistance.

4. There are no Federal rules which duplicate, conflict, or overlap this proposal.

5. There are no significant alternatives to SBA's proposal. In each instance in which SBA has provided a substantive requirement in the proposal, it was either in response to a specific statutory requirement (§ 123.61 (a) and (c)) or consistent with the implementation of SBA's other economic injury disaster loan program procedures which have proven to be administratively sound and equitable based upon extensive administrative experience. (§§ 123.61(b), 123.62, and 123.63.)

This rule is intended, as mentioned above, to implement certain provisions of Pub. L. 98–270. As such, it will permit the dispensing of up to $100 million in disaster assistance, and provide for the orderly administration of the terms and conditions of such dispensation to qualified recipients. There are no monetary costs or adverse effects inherent in this rule.

The approval number of the reporting and recordkeeping requirement under the Paperwork Reduction Act is noted in the text of this regulation.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs/business, Small businesses.

Accordingly, pursuant to sections 5(b)(6) and 7(b)(4) of the Act, 15 U.S.C. 634 and 636, it is proposed to add a new Subpart E to Part 123, as follows:

PART 123—[AMENDED]

Subpart E—Currency Fluctuation Loans

Sec.

123.60 Introdiction.
123.61 Designation.
123.62 Substantial economic injury.
123.63 Loan conditions.

Authority: Sec. 7(b)(4) of the Small Business Act, 15 U.S.C. 634, 636, Pub. L. 98–270, Title III.

Subpart E—Currency Fluctuation Loans

§ 123.60 Introduction.

This subpart applies to loans made for substantial economic injury caused by drastic currency fluctuation and adjustments in the regulation of the monetary system in a country contiguous to the continental United States, on or after January 1, 1982. These loans are available only for small concerns suffering such injury and meeting the size standards of Part 121 of this chapter as of the time (stated in the relevant designation) when the economic injury commenced, which are located within the designated area, and which are unable to obtain Credit Elsewhere (as defined in § 123.3). For additional eligibility requirements, see § 123.63(a) of this part.

§ 123.61 Designation.

(a) *Request for designation.* A designation of an area of economic dislocation caused by drastic currency fluctuations and adjustments in the regulation of the Monetary system of a country contiguous to the continental United States shall be requested by the Governor of the State in which the economic dislocation is claimed to have injured small business concerns. The Governor's request must cite the specific drastic fluctuation in the value of the currency and the adjustment in the regulation of the monetary system of the contiguous country, and must certify that:

(1) At least twenty-five small business concerns located in a county or smaller political subdivision of the State have directly suffered substantial economic injury as a result of these events;

(2) These concerns were financially sound prior to these events;

(3) These concerns are in need of financial assistance that is not otherwise available on reasonable terms; and

(4) The Injury is of such magnitude that without the loans provided by this program these concerns would become insolvent or be unable to return quickly (within 6 months after the commencement of these events) to their former level of operation.

(b) *Processing.* The request, together with supporting documentation, shall be sent by the Governor to the Regional Office serving the region wherein the State is located within 6 months of the commencement of these events, or 60 days from the effective date of this regulation, whichever comes later (OMB No. 3245 0121). The Administrator may extend the time for filing a request where the extent of the dislocation could not reasonably be ascertained within the stated time. The Regional Office will forward the request and documentation to the appropriate Disaster Area Office where the request will be evaluated and forwarded to SBA's Central Office. The Administrator will take final action and, if a request is approved, publish a notice of designation of the currency-related economic dislocation area(s) in the **Federal Register.**

(c) *Definition of currency fluctuation.* For purposes of this Subpart, drastic currency fluctuation means a rise in value, during a 30 day period, of more than 40 percent in the official conversion rate of United States currency to that of a country contiguous to the continental United States caused by an adjustment in the regulation of the monetary system of the national govenment of the contiguous country.

§ 123.62 Substantial economic injury.

For purposes of this subpart, substantial economic injury means:

(a) *Profits.* A decrease of at least 40 percent in profit from operations or cash position (as a result of aging receivables or similar accounts) over a period of at least 6 months subsequent to the claimed injury as compared with a similar period for the fiscal year preceding that in which the claimed injury occurred, and which is directly attributable to such injury and results in the inability of the small business to meet its obligations as they mature and to pay ordinary and necessary operating expenses; or

(b) *Operating costs.* An increase in operating costs of at least 40 percent over a period of at least 6 months subsequent to the claimed injury as compared with a similar period in the preceding fiscal year, also attributable and with the result as described in the preceding paragraph; or (c) a reasonable expectation of paragraph (a) or (b) of this section.

§ 123.63 Loan conditions.

(a) *Eligibility of applicants.* Applicants otherwise eligible under §123.60 shall able to demonstrate that their substantial economic injury is directly (proximately) due to the cause stated in the designation (OMB Approval No. 3245–0017). Small concerns regardless of their business activity are eligible to apply for these loans, except for multilevel sales distribution plans of the "pyramid" type, [see § 120.2(d)(12) of this chapter], media of any description [see § 120.2(d)(4)], gambling [see § 120.2(d)(5)], financing [see § 120.2(d)(6)], speculative ventures (e.g., mineral exploration) [see § 120.2(d)(2)], rental property [see § 120.2(d)(7)], and illegal activities [see § 120.2(d)(9)]. All non-profit groups are ineligible. Consumer and marketing cooperatives are ineligible, but other cooperatives are eligible if each of the owners would itself qualify as a small business concern under this subpart.

(b) *Ineligible loss.* If a small concern was established or has undergone a substantial change of ownership (more than 50%) after the impending economic injury became apparent and no contract of sale existed at the time, the owner shall be deemed to have assumed that risk, and not to have incurred an economic injury. Loss of anticipated profits or a drop in sales which is not injury-related, is not considered an economic injury. Evidence of loss or injury and of the cause thereof, satisfactory to SBA, must be provided by the applicant (OMB Approval No. 3245–0017).

(c) *Use of proceeds.* (i) Proceeds of loans under this subpart may be used for the alleviation of the specific economic injury, and for working capital necessary to carry the concern until resumption or normal operations, but not to exceed that which the business could provide had the currency fluctuation not occurred, and for upgrading if required to meet building code requirements at a new location. Refinancing of SBA direct loans previously made to the applicant to alleviate the effect of currency fluctuation is permitted.

(ii) Proceeds of a loan under this subpart may not be used to refinance any non-SBA loan, or credit, nor for the payment of dividends or other disbursements to owners, partners, offficers or stockholders unless they constitute reasonable remuneration and are directly related to their performance of services; nor to reduce loans provided, guaranteed or insured by another Federal agency or a small business investment company licensed under the Small Business Investment Act. No part of the proceeds of any loan under this subpart shall be used, directly or indirectly, to pay any obligations resulting from a Federal, state or local tax, criminal fine or penalty, or any civil fine or penalty for non-compliance with a law, regulation or order of a Federal, state, regional, or local agency or similar matter.

(iii) Each borrower shall use the loan proceeds for the purposes set forth in the loan authorization. Any loan recipient who wrongfully applies loan proceeds shall be civilly liable to SBA in an amount equal to one and-one half times the original amount of the loan (Pub. L. 92–385, approved August 16, 1972; 86 Stat. 554).

(d) *Use of other assets.* Applicants must use personal and business assets to the greatest extent possible without incurring undue personal hardship, before disbursement of funds under this section.

(e) *Loan amount.* No loan under this subpart shall exceed $100,000.

(f) *Interest.* Loans under this section shall bear interest at a rate not to exceed 8 percent.

(g) *Other requirements.* For application requirements see § 123.7; for record keeping requirements see § 123.18; for terms of loans, see section 9(a); for types of loans, see § 123.4; for service fees, see § 123.6 of this part.

(Catalog of Domestic Financial Assistance No. 529.027 Economic Dislocation Loans)

Dated: July 16, 1984.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 84-21465 Filed 8-13-84; 8:45 am]

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