AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

2-3-84
Vol. 49 No. 24
Pages 4187-4356

federal register

Friday
February 3, 1984

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Federal Aviation Administration

Banks, Banking
Federal Reserve System

Color Additives
Food and Drug Administration

Crop Insurance
Federal Crop Insurance Corporation

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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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Land Management Bureau

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Federal Communications Commission

Water Supply
Environmental Protection Agency

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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

Federal Crop Insurance Corporation

7 CFR Part 416

[Amdt. No. 2]

Pea Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Pea Crop Insurance Regulations (7 CFR Part 416), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) eliminating the substitute crop provision; (3) eliminating the reduction in production guarantee for unharvested acreage and related provisions; (4) providing that peas are insurable following sunflowers, potatoes, dry beans, soybeans, rape, or mustard as designated by the actuarial table if the proper rotation practices are carried out; (5) adding a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time; (6) adding a provision to provide a coverage level if the insured does not select one; (7) providing that the 15-day notice of loss applies to both dry and green peas; (8) adding a 60-day claim for indemnity provision; (9) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (10) adding a hail/fire provision for appraisals of uninsured causes; (11) changing the cancellation/termination dates to conform with farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition of "service office;" (14) providing for unit determination when the acreage report is filed; and (15) adding three sections concerning "descriptive headings", "determinations", and "notices."

In addition, FCIC issues a new subsection in the pea crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring peas in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: March 5, 1984.

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.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). 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, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

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

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 18, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 37420, amending the policy for insuring peas in accordance with the provisions of Secretary's Memorandum No. 1512–1, and issuing a new section to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received.

Therefore, with the exception of minor and non-substantive changes in language, the proposed rule as published is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 416

Crop insurance, Peas.

PART 416—[AMENDED]

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 hereby amends the Pea Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 416 is:

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

2. 7 CFR 416.3 is added to read as follows:

§ 416.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 416) 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.

§ 416.7 [Amended]

3. 7 CFR 416.7(d) is amended by revising the Pea Crop Insurance Policy therein to read as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Pea—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. The 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 on acreage not planted to peas the previous crop year;

(5) Wildlife;

(6) Earthquake; or

(7) Volcanic eruption;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(8).

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

(1) Green peas not being timely harvested, unless we determine that, due to unusual weather conditions, a substantial amount of acres of green peas in the area were ready for harvest at the same time;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good pea farming practices;

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

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

2. Crop, acreage, and share insured.

a. The crop insured shall be either green peas or dry peas which are planted for harvest as peas, which are 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 peas 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 shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured peas at the time of planting.

d. We do not insure any acreage:

(1) Of green peas not grown under a contract with a processor executed before you report your acreage or excluded from the processor contract for, or during, the crop year;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed and it is practical to replant to the same type of green peas or the same varietal group of dry peas, and such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table;

(6) Of volunteer peas;

(7) Planted to a type or variety of peas not established as adapted to the area or excluded by the actuarial table;

(8) Planted with a crop other than peas; or

(9) Planted for the development or production of hybrid seed or for experimental purposes.

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 irrigation practice for peas at the time of planting; and

(2) Any loss of production caused by failure to carry out a good irrigation practice for peas, except failure of the water supply from an unavoidable cause occurring 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. 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.

g. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured peas are grown and which provides for delivery of the peas under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a contract under which you have a share in the peas.

3. Report of acreage, share, practice and yield.

You shall report on our form:

a. All the acreage of peas in the county in which you have a share;

b. The practice;

c. Your share at the time of planting; and

d. The most recent year's production for the insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any peas 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 guarantees, coverage levels, and prices for computing indemnities are in the acturial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or 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]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

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.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

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 peas are planted and ends at the earliest of:

a. Total destruction of the peas;

b. Combining, vining, or removal from the field;

c. Final adjustment of a loss;

d. The date the green peas should have been harvested, unless we give consent to harvest them as dry peas; or

e. September 15 of the calendar year in which peas are normally harvested.

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 peas on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) During the period before harvest, the green peas on any unit are damaged and you want our consent to harvest the green peas as dry peas;

(c) You want our consent to put the acreage to another use; of

(d) 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 peas and given written consent. We will 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 at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined on dry peas, immediate notice shall be given and a representative sample of the unharvested dry peas (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) If probable loss is later determined on green peas and you are going to claim an indemnity on any unit notice shall be given not later than 48 hours after:

(a) Total destruction of the green peas on the unit;

(b) Discontinuance of harvest on the unit prior to completion; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

If such notice is not given or if the unharvested acreage is not left intact, the appraisal on such acreage shall be the production guarantee.

(5) Unless notice has been given under subsection (4) above, and in addition to the other 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 earlier of:

(a) Harvest of the unit; or

(b) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the peas which are not to be harvested.

c. 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 peas 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 peas 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 peas 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 actual 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) If, due to insurable causes, mature dry pea production which, does not grade No. 3 or better, or lentils which do not grade No. 2 or better, in accordance with the Official United States Standards for dry peas and lentils, shall be adjusted by:

(a) Dividing the value per pound of such peas by the price per pound for the same variety of dry peas grading No. 3 (No. 2 for lentils); and

(b) Multiplying the result by the number of pounds of such peas.

The applicable price for No. 3 dry peas (No. 2 lentils) shall be the local market price on the earlier of the day the loss is adjusted or the day the peas were sold.

(2) The pounds for harvested green peas shall be determined by dividing the dollar amount received from the processor by the contract price for the tenderometer reading or sieve size designated by the actuarial table.

(3) If any acreage of green peas is not timely harvested, as determined by us, the production to count shall be the greater of:

(a) The appraised production with no adjustment for quality; or

(b) The dollar amount received from the processor divided by the processor's contract price per pound for the tenderometer reading

or sieve size designated by the actuarial table.

(4) If any acreage reported as green peas is harvested as dry peas or we have given consent to be harvested as dry peas the guarantee for such acreage shall be reduced 40 percent.

(5) 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 pea farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(6) 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 peas 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.

(7) We may determine the amount of production of any unharvested peas 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 peas are 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 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 peas are 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 purpose 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 shall 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 only assign to another party your right to an indemnity for the crop year 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 peas produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons 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 shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agiculture shall be the date such payment was approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity 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 December 31 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 pea 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, insurable and uninsurable acreage, and related information regarding pea insurance in the county.

b. "Combining" or "Vining" means separating the peas from the pods.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the peas are normally grown and shall be designated by the calendar year in which the peas are normally harvested.

e. "Harvest" as to any green pea acreage means the vining or combining and acceptance by the processor of the peas from such acreage. "Harvest as to any dry pea acreage means combining peas which are or could be marketed as dry peas.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "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.

i. "Peas" means either:

(1) Canning and freezing peas ("green peas") grown under contract with a processor executed before you report your acreage; or

(2) All spring-planted smooth green and yellow, and wrinkled varieties of dry peas and lentils ("dry peas").

j. "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.

k. "Tenant" means a person who rents land from another person for a share of the peas or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of any one type of green peas or varietal group of dry peas as designated by the actuarial table in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

m. "Vining" or "combining" means separating the peas from the pods.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peas on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

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 determinaions 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.

4. Section 416.7 is further amended by removing the "Appendix A to § 416.7—Additional Terms and Conditions.

5. Appendix A to Part 416 is revised to read as follows:

Appendix A.—Counties Designated for Pea Crop Insurance

The following counties are designated for Pea Crop Insurance under the provisions of 7 CFR 431.1

Crop: Green Peas; Idaho

Cassia	Lincoln	Twin Falls
Jerome	Minidoka	
Lewis	Nez Perce	

Illinois

Boone	La Salle	Ogle
De Kalb	Lee	

Minnesota

Blue Earth	Le Sueur	Scott
Brown	McLeod	Sibley
Carver	Martin	Stearns
Dakota	Meeker	Steele
Dodge	Mower	Wabasha
Faribault	Nicollet	Waseca
Fillmore	Olmsted	Watonwan
Freeborn	Redwood	Winona
Goodhue	Renville	
Kandiyohi	Rice	

Oregon

Marion	Umatilla	Union

Utah

Box Elder	Davis

Washington

Columbia	Lewis	Walla Walla
Grant	Skagit	Whatcom
Grays Harbor	Snohomish	Whitman

Wisconsin

Adams	Green Lake	Rock
Barron	Iowa	St. Croix
Brown	Jefferson	Sauk
Calumet	Kewaunee	Sheboygan
Clark	Manitowoc	Trempealeau
Columbia	Marinette	Walworth
Dane	Oconto	Washington
Dodge	Outagamie	Waushara
Door	Ozaukee	Winnebago
Fond Du Lac	Polk	
Grant	Portage	

Crop: Dry Peas; Idaho

Benewah	Kootenai	Lewis
Clearwater	Latah	Nez Perce

Oregon

Umatilla	Union

Washington

Adams	Grant	Whitman
Columbia	Spokane	
Franklin	Walla Walla	

Approved by the Board of Directors on April 26, 1983.

Date: January 27, 1984.

Peter F. Cole.

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Date: January 27, 1984.

[FR Doc. 84-3017 Filed 2-2-84; 8:45 am]

BILLING CODE 3410-06-M

7 CFR Part 424

[Amdt. No. 4]

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Rice Crop Insurance Regulations (7 CFR Part 424), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) adding volcanic eruption as an insurable cause of loss; (3) eliminating the reduction in production guarantee for unharvested acreage and related provisions; (4) providing that acreage destroyed in compliance with any U.S. Department of Agriculture or State program is uninsurable; (5) allowing rice to be followed by rice if the rotation requirements are carried out, as designated by the actuarial table; (6) adding a provision making rice planted with another crop uninsurable; (7) permitting the determination of indemnities based on the acreage report rather than at loss adjustment time; (8) providing for a coverage when the insured does not select one; (9) providing procedures for reporting a loss when a loss is probable; (10) adding a 60-day claim for indemnity provision; (11) removing the reference to No. 3 rice and providing the conditions under which rice will be eligible for quality adjustment; (12) adding a section regarding appraisals following the end of the insurance period; (13) adding a hail/fire provision for appraisals of uninsured causes of loss; (14) changing the cancellation/termination dates to conform with farming practices; (15) providing that any change in the policy will be available in the service office by a certain date; (16) adding a definition of "service office;" (17) providing for unit determination when the acreage report is filed; (18) adding sections concerning "descriptive headings, determinations, and notices;" (19) adding a provision that provides for crop insurance coverage on rice to be based solely on actual production records and computing the average yield by using the individual production records, actual or established, over a base period; (20) revising the unit definition to conform the ASCS farm serial numbers; and (21) removing the present provision regarding the insurability of a second rice crop in the same crop year.

In addition, FCIC issues a new subsection in the rice crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring rice in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to

information collection requirements in these regulations.

EFFECTIVE DATE: March 5, 1984.

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.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). 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, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

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

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On November 16, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 52067.

The public was given 60 days in which to submit written comments, data, and opinions on the rule. None were received. Therefore, with the exception of minor and non-substantive changes in language, the proposed rule is hereby issued as a final rule effective for the 1984 crop year.

List of Subjects in 7 CFR Part 424

Crop insurance, Rice.

PART 424—[AMENDED]

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 hereby amends the Rice Crop Insurance Regulations (7 CFR Part 424), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 424 is:

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

2. 7 CFR 424.3 is added to read as follows:

§ 424.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 424) 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.

§ 424.7 [Amended]

3. 7 CFR 424.7(d) is amended by revising the Rice Crop Insurance Policy therein to read as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Rice—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. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions (excluding drought);

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake; or

(7) Volcanic eruption; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

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

(1) Application of saline water;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good rice farming practices;

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

(5) Any cause not specified in section 1a as an insured loss;

(6) The failure to carry out a good irrigation practice, except failure of the water supply after planting due to an unavoidable cause;

(7) The breakdown of irrigation equipment or facilities; or

(8) Drought

2. Crop, acreage, and share insured.

a. The crop insured shall be rice which is planted for harvest as grain, 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 rice 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 shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured rice at the time of planting.

d. We do not insure any acreage:

(1) On which rice was destroyed to comply with any other United States Department of Agriculture or state program;

(2) Which does not meet the rotation requirements designated by the actuarial table;

(3) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is not irrigated;

(5) Which is destroyed, is practical to replant to rice, and such acreage was not replanted;

(6) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(7) Of volunteer rice;

(8) Planted to a type or variety of rice not established as adapted to the area or excluded by the actuarial table; or

(9) 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

(10) Planted with a crop other than rice.

e. 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.

f. 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 rice 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 any rice 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 guarantees, coverage levels and prices for computing indemnities are in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or 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 [2] loss years	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 1984 crop year shall be the 5-year period beginning with the 1978 crop year and extending through the 1982 crop year. 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 rice is planted and ends at the earliest of:

a. Total destruction of the rice;

b. Combining, threshing or removal from the field;

c. Final adjustment of a loss; or

d. October 31 of the calendar year in which the rice is normally harvested.

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 rice 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 rice and given written consent. We will 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 at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested rice (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) 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 rice on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the rice which is not to be harvested.

c. 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 will be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the rice on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of rice 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 will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Substracting therefrom the total production of rice 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 actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit will include all harvested and appraised production including any production from a second rice crop harvested in the same crop year.

(1) Mature rough rice production which otherwise is not eligible for quality adjustment will be reduced in volume by .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; or

(2) Mature rough rice production which, due to insurable causes:

(a) Has a total milling yield (heads, second heads, screening and brewers) of less than 68 pounds per hundredweight;

(b) The whole kernel weight is less than 55 pounds per hundredweight for medium and short grain varieties;

(c) The whole kernel weight is less than 48 pounds per hundredweight for long grain varieties;

(d) Contains more than 4.0 percent chalky kernels in long grain varieties;

(e) Contains more than 6.0 percent chalky kernels in medium or short grain varieties;

(f) Contains more than 3.0 percent chalky kernels in other types; or

(g) Contains more than 2.5 percent red rice shall have the production adjusted by:

(i) Dividing the value per pound of such rice by the price per pound of U.S. No. 3 rough rice; and

(ii) Multiplying the result by the number of pounds of such rice.

(The applicable price for No. 3 rough rice will be the nearest milling center price on the earlier of the day the loss is adjusted or the day the rice was sold)

(3) Any mature production from volunteer rice growing in the rice will be counted as rice on a weight basis.

(4) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good rice farming practices;

(b) Not less than the 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) Any appraised production on unharvested acreage.

(5) 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 rice 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.

(6) We may determine the amount of production of any unharvested rice on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the rice 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".

(8) 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 will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will 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 rice is planted for any crop year, any indemnity will be paid to the

person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will 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 will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will 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 rice produced on each unit including separate records showing that same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will 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 shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
Missouri	April 15.
Florida and Texas	March 15.
All other states	March 31.

If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance atttaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will 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 will dissolve the joint entity.

f. The contract will 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 will be deemed to have elected. All contract changes shall be available at your service office by December 31 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 rice 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, insurable and uninsurable acreage, and related information regarding rice insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "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 land identified by an ASCS farm serial number for the county but not physically located in the county.

d. "Crop year" means the period within which the rice is normally grown and will be designated by the calendar year in which the rice is normally harvested.

e. "Harvest" means the completion of combining or threshing of rice on the unit.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the persons who submitted the application accepted by us.

h. "Mill Center" means any location in which two or more mills are engaged in milling rough rice.

i. "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.

j. "Second crop rice" means regrowth of a stand of rice originating from the initially insured rice crop following harvest and which can be harvested in the same crop year.

k. "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.

l. "Tenant" means a person who rents land from another person for a share of the rice or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of rice 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 the reconstitution was made in whole or part to defeat the purpose of the Federal Crop Insurance program or to gain disproportionate advantage under this policy. Errors in reporting such units may be corrected by us when adjusting a loss.

n. "Yield" means the actual yield reported by you to ASCS or the yield established by ASCS or by 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.

4. Section 416.7 is further amended by removing the "Appendix A to § 416.7—Additional Terms and Conditions".

5. Appendix A to Part 416 is revised to read as follows:

Appendix A—Counties Designated for Rice Crop Insurance—7 CFR Part 424

The following counties are designated for Rice Crop Insurance under the provisions of 7 CFR 424.1.

Arkansas

Arkansas	Lincoln
Ashley	Little River
Chicot	Logan
Clark	Lonoke
Clay	Miller
Conway	Mississippi
Craighead	Monroe
Crittenden	Nevada
Cross	Ouachita
Dallas	Perry
Desha	Phillips
Drew	Pike
Faulkner	Poinsett
Franklin	Pope
Greene	Prairie
Hempstead	Pulaski
Hot Spring	Randolph
Independence	St. Francis
Jackson	Saline
Jefferson	Sharp
Johnson	Stone
Lafayette	White
Lawrence	Woodruff
Lee	Yell

California

Butte	Sacramento
Colusa	San Joaquin
Fresno	Solano
Glenn	Stanislaus
Kern	Sutter
Kings	Tehama
Madera	Tulare
Merced	Yolo
Placer	Yuba

Florida

Glades	Martin
Gulf	Palm Beach
Hendry	

Kentucky

Daviess

Louisiana

Acadia	Morehouse
Allen	Natchitoches
Avoyelles	Ouachita
Beauregard	Pointe Coupee
Bossier	Rapides
Caddo	Red River
Calcasieu	Richland
Caldwell	St. Landry
Cameron	St. Martin
Catahoula	St. Mary
Concordia	St. Tammany
East Carroll	Tensas
Evangeline	Union
Franklin	Vermilion
Iberia	West Baton Rouge
Jefferson Davis	West Carroll
Lafayette	West Feliciana
Madison	

Mississippi

Bolivar	Quitman
Coahoma	Sharkey
Desoto	Sunflower
Grenada	Tallahatchie
Holmes	Tate
Humphreys	Tunica
Issaquena	Warren
Leflore	Washington
Panola	Yazoo

Missouri

Bollinger	Pemiscot
Butler	Ripley
Cape Girardeau	Scott
Dunklin	Stoddard
New Madrid	

North Carolina

Brunswick

Oklahoma

Choctaw	McCurtain

South Carolina

Colleton	Kershaw

Tennessee

Dyer	Lauderdale

Texas

Anderson	Hopkins
Austin	Jackson
Bowie	Jefferson
Brazoria	Lavaca
Calhoun	Liberty
Chambers	Matagorda
Colorado	Newton
Fort Bend	Orange
Franklin	Red River
Galveston	Victoria
Hardin	Waller
Harris	Wharton

Done in Washington, D.C. on December 22, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: January 27, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-3016 Filed 2-2-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 449; Lemon Reg. 448, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 225,000 cartons during the period February 5–11, 1984, and increases the quantity of lemons that may be shipped to 240,000 cartons during the period January 29–February 4, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation (§ 910.749) becomes effective February 5, 1984, and the amendment (§ 910.748) is effective for the period January 29–February 4, 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: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

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

This act is consistent with the marketing policy currently in effect. The committee met publicly on January 31, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared

purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.749 is added as follows:

§ 910.749 Lemon Regulation 449.

The quantity of lemons grown in California and Arizona which may be handled during the period February 5, 1984, through February 11, 1984, is established at 225,000 cartons.

2. Section 910.748 Lemon Regulation 448 (49 FR 3484) is revised to read as follows:

§ 910.748 Lemon Regulation 448.

The quantity of lemons grown in California and Arizona which may be handled during the period January 29, 1984, through February 4, 1984 is established at 240,000 cartons.

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

Dated: February 1, 1984.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–3153 Filed 2–2–84; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Docket No. R–0481]

Regulation J, Collection of Checks and Other Items and Wire Transfer of Funds; Midweek Closing and Nonstandard Holidays

AGENCY: Board of Governors Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has approved an amendment to Subpart A of Regulation J, governing the collection of checks and other items by Reserve Banks, to permit a Reserve Bank to charge a paying bank for checks made available to it by a Reserve Bank on a weekday that is a banking day for the Reserve Bank but where the paying bank is regularly closed. A paying bank would not be required to open or begin processing the checks on such a midweek closing day because the time for return of the items would not begin to run until the paying bank's next banking day. The Board has also provided an alternative that enables paying banks to be charged for the value of the float created by their midweek closing. These actions will not apply to those instances where a paying bank is closed because of a state or local holiday but on which the Reserve Bank is open (nonstandard holidays). With regard to Federal Reserve check float arising from nonstandard holidays, the Board has decided to permit Reserve Banks to defer credit to depositing institutions for checks drawn on institutions closed on nonstandard holidays where operationally feasible. The value of any remaining Federal Reserve check float generated by nonstandard holidays will be added to the cost base for the check collection service.

EFFECTIVE DATE: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: John F. Sobala, Assistant Director (202/452–2739) or Morgan J. Hallmon, Program Manager, (202/452–3878), Division of Federal Reserve Bank Operations; Daniel L. Rhoads, Attorney (202/452–3711), or Joseph R. Alexander, Attorney (202/452–2489), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Background

Section 107 of the Monetary Control Act of 1980 (12 U.S.C. 248a) ("MCA") requires that fees be established for Federal Reserve Bank services, including Federal Reserve float.

In April 1982, the Board requested public comment on a proposal to amend Regulation J to require a depository institution to pay for checks delivered or made available to it on days the institution is closed and on which the Reserve Bank is open. 47 FR 15349 (April 9, 1982). Such days consist of "midweek closing days" (regular weekdays on which a depository institution chooses to close as permitted by state law) and "nonstandard holidays" (days on which the paying institution is closed because of a state or local holiday). The proposal was intended to eliminate the float that results from these closings. A total of 150 comments were received on the issue of midweek closings: 59 commenters favored the proposal and 91 were opposed. There were 82 comments received on the issue of nonstandard holidays: 19 commenters favored the proposal and 63 were opposed.

After review of the comments received and the issues raised therein, the Board, in April 1983, decided not to adopt the proposed amendment; instead, the Board provided Reserve Banks with three options to eliminate or price float arising from midweek closings and nonstandard holidays. 48 FR 20802 (May 9, 1983). First, a Reserve Bank could modify its availability schedules for deposits of local depositors so that credit for checks drawn on closed institutions would be deferred one additional day. Second, a Reserve Bank could modify its current practice of posting funds received for the account of the institutions on the day the institution is closed. Third, a Reserve Bank could price all or any remaining float arising from midweek closings and nonstandard holidays by adding the value of this float to the cost base for the check collections service. These procedures were scheduled to become effective October 1, 1983.

As preparations were begun to implement these procedures, depository institutions requested reconsideration of the Board's action. Concerns were expressed about each of the alternatives. With regard to the alternative of modifying availability schedules for local depositors to delay credit for checks they deposit that are drawn on closed institutions, concerns were raised as to the inequitable treatment of local depositors relative to other depositors. Under this alternative, a local depositor would receive credit for its deposit of a check drawn on a closed institutions one day later than would a non-local depositor of a check drawn on the same institution. There was also some indication that this alternative could result in circuitous routing as checks drawn on closed banks are sent for collection through non-local depository institutions for whom credit would not be deferred.

Equity considerations also were raised concerning the alternative of adding the value of this float to the cost base of the check collection service. Concern was expressed that it was unfair for depository institutions that do not choose to close midweek to bear a substantial portion of the float cost of midweek closings simply because they are in a Reserve District with a disproportionately large number of institutions that voluntarily close midweek. For example, 40 percent of the depository institutions that close midweek are located in the Chicago Federal Reserve District, and 35 percent are located in the Atlanta Federal Reserve District. Local institutions would bear a disproportionate amount of the midweek closing float cost because most of the checks deposited with the Federal Reserve for collection are drawn on another institution located in the same Federal Reserve office territory.

With regard to the alternative of deferring credit received for the account

of the institution on the day it is closed, it was suggested that closed institutions could easily avoid this deferral by directing their credits through correspondents.

The Board therefore determined to republish for comment the proposed amendment to Regulation J to permit a Reserve Bank to charge a depository institution for checks delivered or made available to it on days the institution is closed and on which the Reserve Bank is open. 48 FR 41776 (September 19, 1983). The Board noted that there had been a substantial reduction in the amount of Federal Reserve check float arising from midweek closings and nonstandard holidays.[1] The Board believed that the concerns expressed with the three options approved by the Board for the treatment of this float and the significant decline in the levels of this float warranted re-publication of the proposed amendment to Regulation J to permit depository institutions the opportunity to reassess the impact of the proposed amendment. The Board also decided to solicit comment on the option of permitting paying institutions to defer the charge an additional day for checks made available to them on days they are closed where the Reserve Bank is open and compensate the Federal Reserve for the float caused by the deferral. Paying institutions would be charged for this float in the same manner as is done currently for interterritory check float.[2]

Analysis of Comments

The Board received 100 comment letters on its midweek closing and nonstandard holiday proposal. Comments favoring the proposal were also received from ten Federal Reserve Banks. (These comments are not included in the following analysis.) The majority (87 percent) of commenters were banks and bank holding companies, with more than 40 percent of the comments from institutions with deposits of less than $200 million and 31 percent from institutions with deposits of $1 billion or more. The majority of comments from depository institutions were received from institutions located in the Federal Reserve Districts of Atlanta and Chicago.[3]

A. *Midweek Closings.* Of the 91 commenters discussing midweek closings, 53 (approximately 58 percent) favored the proposal to charge paying institutions for checks made available to them on the days that they are closed.[4] Three of these commenters conditioned their support on receiving same-day credit for Saturday deposits, and one commenter supported the proposal on the condition that the Federal Reserve authorize all collecting institutions to charge closed institutions on days they are closed. Commenters in favor of the proposal generally indicated that the cost of float should be borne by those institutions responsible for creating it, and that the proposal was equitable since it was unfair for open institutions to be required to pay for float generated by institutions which close midweek voluntarily. These commenters indicated further that the proposal was feasible, easy to implement, and that the float payment option would minimize the operational impact of the proposal on closed institutions. These comments were similar to those presented when the Board previously requested comment in April 1982.

Thirty-eight commenters (approximately 42 percent) were opposed to the proposal. These commenters generally stated that it was unfair to charge institutions when they are closed and that institutions would experience account management problems under the proposal. Two commenters argued that the proposal would give the Federal Reserve an unfair competitive advantage. Seven commenters suggested alternatives to the proposal.

Twenty-six commenters stated that the proposal was unfair and that it would affect disproportionately the earnings of small institutions. These commenters stated that small institutions closed midweek in order to open on Saturdays and provide full banking services to their communities, and that being charged for checks made available to them on days they are closed midweek would increase their costs. Eight commenters stated that they would have to absorb the cost of float or incur additional operating costs to process the checks on the days they are closed. As a result, some indicated they might reduce the level of service they provide on Saturday. Six commenters stated that management of their money position would be more difficult and expensive under the midweek proposal. These commenters argued that because they could not forecast accurately the dollar value of checks expected from the Federal Reserve, they would have to maintain excess balances to avoid account overdrafts or, alternatively, incur additional expense in having employees at the institution on the closed day to manage their money position. Two commenters also stated that the increased costs may disadvantage them competitively relative to institutions in neighboring communities. Three commenters also believed that this could adversely affect the economies of the small and rural communities in which these institutions are located. Five commenters stated that the cost of the proposal to small institutions outweighed any possible benefits, and two commenters stated that the Federal Reserve should recover the cost of this float by including it in the costs of the check collection service.

After full consideration of these comments, the Board has determined that the burden of imposing the cost of this float on depositing institutions outweighs the impact of charging the paying institution for checks made available to it. As indicated previously, if the Reserve Banks added the value of this float to the check cost base, check costs would be impacted disproportionately because of the disproportionate concentration in two Reserve Districts of institutions that close midweek. Local institutions would bear a disproportionate amount of the float cost because most of the checks deposited by a depository institution with the Federal Reserve for collection are drawn on other institutions within the same Federal Reserve office territory. Further, recovering this float through per item check fees would be inequitable to other institutions and would represent a subsidy to institutions which close voluntarily since they would not bear the full burden of float generated by their voluntary closing. By placing the float burden upon those institutions that can be easily identified as responsible for generating the float, the Board also believes that the amendment improves the efficiency of the payments mechanism since payment for checks is enhanced. While the amendment may increase costs somewhat for these closed institutions, the Board believes that institutions that regularly close midweek are the

[1] In 1982, daily average float arising from midweek closings was estimated to be $160 million, while daily average float from nonstandard holidays was estimated to be $110 million. By the third quarter of 1983, float resulting from midweek closings had declined to an estimated daily average of $110 million and float resulting from nonstandard holidays had declined to an estimated daily average of $10 million.

[2] Charges could be made by an "as of" adjustment to the institutions' reserve or clearing account, or by explicit charge.

[3] Seventy-five percent of the institutions that regularly close midweek are located in these two Districts and generate almost 90 percent of the $110 million daily average float attributable to midweek closings.

[4] When the Board previously published this proposal in April 1982, 59 (39%) of 150 comments received favored the proposal and 91 (61%) were opposed.

appropriate parties to incur the cost. Further, the option of deferring the charge to closed institutions for one day with the institutions and being charged for the float incurred should minimize the operational burdens on these closed institutions. The Board believes that this option also addresses the money management concerns expressed by commenters. In addition, these institutions can call their local Federal Reserve office to determine the value of checks that will be charged to their accounts. With regard to the concern about the adverse impact of the proposal on the economies of small and rural communities, there is no indication that the large majority of institutions in these communities will not continue to provide full banking services on Saturday.

Two commenters believed that the proposal represented an unfair use of Federal Reserve regulatory authority to enhance funds availability for institutions using Federal Reserve services. These commenters argued that correspondent institutions would be disadvantaged in offering competitive services, since, unlike Federal Reserve Banks, they would not be able to charge closed institutions. The Board does not believe that the amendment would have a material effect upon the competitive balance between the Federal Reserve and correspondents. First, the Reserve Banks will not change their availability schedules as a result of this amendment. Thus, the amendment will not affect the availability of funds to depositors from current levels. Additionally, the Board notes that the percentage of checks drawn upon institutions that are closed midweek is quite small relative to total clearings. Further, some correspondent banks already charge their respondents for such checks on a day the respondent chooses to close.

Commenters suggested several alternatives to the proposed amendment of Regulation J. One commenter suggested that the Federal Reserve not recover float attributable to midweek closings since it is incidental to the provision of banking services to small and rural communities and should be considered a social cost of maintaining the nation's payments mechanism. Five commenters also stated that the decline in the level of midweek closing float makes the need for the Board to take action at this time less urgent. However, the Federal Reserve is required to eliminate or price all Federal Reserve float.

One commenter suggested that the Reserve Banks should obtain voluntary agreements from closed institutions authorizing the Federal Reserve to charge for checks made available on closed days. The Board does not, however, believe that voluntary agreements between the Reserve Banks and depository institutions would eliminate most or all midweek closing floats. Since Federal Reserve Banks are only collecting agents there is little likelihood that paying institutions would authorize Reserve Banks to charge their accounts. Another commenter suggested that the Federal Reserve authorize all collecting institutions to charge paying institutions on closed days. However, there is a substantial question as to whether the Board is empowered to authorize all collecting institutions to charge paying institutions for checks presented on midweek closing days. Another commenter suggested that the Federal Reserve and depository institutions work jointly toward developing uniform presentment rules for all institutions. Such efforts would not enable the Federal Reserve to move expeditiously to recover fully the cost of this float.

One commenter suggested that the Federal Reserve defer credit one day to all depositors of checks drawn on closed institutions, arguing that this alternative would be consistent with the practice of the private sector. The Board believes that deferring credit to depositors for checks drawn on closed institutions would result in more complex Federal Reserve availability schedules. Implementation of these schedules would be extremely burdensome for the Reserve Banks and depository institutions since every institution depositing checks with the Federal Reserve, as well as the Reserve Banks, would have to keep track of virtually every institution that is closed midweek. Moreover, in order to delay making credit available to their customers, depository institutions would likely separately sort checks drawn on closed institutions, requiring substantial and expensive modifications to existing check sorting patterns.

Seven commenters suggested that the Federal Reserve pass credit to depositors on a six day basis, and one commenter suggested that all depository institutions be required to clear checks on Saturdays. In their opinion, this would increase the efficiency of the payments mechanism. To implement either of these suggestions, it would be necessary for the Federal Reserve and perhaps the entire banking system to remain open on Saturdays. Such an alternative is well beyond the scope of the midweek closing proposal and would require extensive consideration and analysis.

One trade association suggested that small institutions should be exempted from the proposal. However, since most float from midweek closings is attributable to small institutions, such an exemption would not accomplish the objective of eliminating this float.

B. *Nonstandard holidays.* Of the 65 commenters discussing nonstandard holidays, 41 (63 percent) favored charging for checks made available to institutions closed on nonstandard holidays. Of these commenters, five conditioned their support on the Federal Reserve differentiating between mandatory and voluntary nonstandard holidays, and three conditionally supported the proposal if the Reserve Banks provided credit on days the Reserve Banks are closed and depository institutions are open. Commenters favoring the proposal generally based their support on equity considerations, observing that closing was optional for many nonstandard holidays.

Twenty-four commenters (37 percent) opposed the proposal. Eight commenters stated their belief that it is unfair to charge institutions for mandatory or uniformly observed nonstandard holidays. Twelve commenters stated that the proposal would have a negative impact on their earnings, and 11 commenters suggested alternatives to the proposal.

Seven commenters stated that it was unfair to charge for nonstandard holidays when depository institutions are required by state or local law to be closed. The Board agrees that a distinction should be made in the treatment of float arising from mandatory closings. However, for many nonstandard holidays, it is unclear as to whether an institution is required or merely permitted to be closed. In view of the complexity and burden in making this distinction for all state and local holidays, the Board believes that, at this time, it is appropriate to treat all nonstandard holidays as if they were mandatory.

Twelve commenters indicated that the proposal would be operationally burdensome or costly to implement since a closed institution would have to have staff present on closed days or maintain excess balances to avoid account overdrafts. As indicated in the discussion of midweek closings, institutions would have had the option of having their Federal Reserve offices defer for one day charges to their accounts, with the institutions

compensating the Federal Reserve for the float incurred.

Two commenters stated that it is unfair for the Federal Reserve to charge for nonstandard holidays when Federal Reserve Banks themselves do not observe holidays uniformly. Ten commenters suggested that the Federal Reserve should standardize holiday schedules. One commenter suggested that the Reserve Banks should credit the accounts of institutions that are open on nonstandard holidays on which their Reserve Banks are closed. One commenter suggested that the Federal Reserve should work with the industry to develop a universal holiday schedule. The Board agrees that uniform holiday schedules could contribute substantially to a further reduction in nonstandard holiday float. However, this would require extensive analysis by the Federal Reserve System and is beyond the scope of the proposed amendment.

Three commenters stated their belief that the proposal would provide a competitive advantage to some institutions located in the same state as their Federal Reserve office. These commenters argued that those institutions would be charged for fewer nonstandard holidays than other institutions within the same territory because their Federal Reserve office also observes most of these holidays. The Board believes, however, that there is no competitive advantage with respect to being charged on nonstandard holidays since all institutions would be charged when their Reserve Banks are open and would not be charged when their Reserve Banks are closed.

Two commenters stated that the Board's proposal would provide an unfair competitive advantage to Reserve Banks since correspondent institutions could not make similar charges. Another commenter stated that the Federal Reserve would achieve a competitive advantage because the cost to the Federal Reserve to implement the proposal is small relative to the costs for private sector competitors. One commenter suggested that the Federal Reserve should work with the private sector to develop uniform presentment rules for all institutions and another commenter suggested voluntary presentment agreements. Given the small amount of float involved in nonstandard holidays ($10 million), even if the proposal were adopted it is unlikely that there will be a material impact on the competitive balance between Reserve Banks and correspondents.

Citing the decline in nonstandard holiday float, two commenters suggested that the amount of this float was small and that it therefore should be excluded from pricing. However, this alternative is impractical since the Federal Reserve is required to eliminate or price Federal Reserve float.

It was suggested by three commenters that the Federal Reserve should defer credit to collecting institutions for nonstandard holidays. Since institutions in the same state often observe nonstandard holidays uniformly, it may be possible to identify readily such institutions and defer credit to depositors for checks drawn on these institutions. Thus, where operationally feasible, Reserve Banks will be provided the option of deferring credit in such instances.

Five commenters suggested that the value of nonstandard holiday float should be recovered through per item fees, since the amount of this float is small. Ideally the burden of float should be placed on the institution responsible for generating it. However, given the issues raised by the nonstandard holiday proposal, the Board believes it is appropriate that the value of nonstandard holiday float remaining after operational changes are made be added to the check collection cost base.

C. *Float Payment Option.* Seventeen commenters specifically discussed the option of permitting paying institutions to compensate the Federal Reserve for the value of midweek closings and nonstandard holiday float rather than being charged for their checks when they are closed. These commenters generally stated that it would minimize the difficulties faced by an institution in managing its money position, e.g., avoiding the expense of having an employee present on the closed day. One of these commenters conditionally supported the float payment option, provided the Reserve Banks pass credit when they are closed and depository institutions are open. The Board agrees that the float payment option would make the midweek closing amendment to Regulation J less bordensome operationally, and therefore this option will be available at all Reserve Banks.

Board Action

After review of the comments and analysis of the issues raised therein, the Board has determined to approve the amendment to Regulation J to give the Reserve Banks the ability to charge institutions regularly closed midweek for checks made available to them by the Reserve Banks on the days they are closed, effective April 2, 1984. Such days include days on which the institution regularly closes midweek even if these closings are characterized as "holidays" under State law since such closings are clearly voluntary in all cases. The Board has also approved the option of permitting closed institutions to be charged for the value of the float created by their midweek closing in the same manner as is currently done for interterritory check float. In accordance with the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Board considered the alternatives outlined above to minimize the impact of the amendment on small institutions. However, it is appropriate that the institution that is closed midweek bear the cost of the float that is created as a result of its closing. The Board believes that the option to allow institutions to be charged for the value of float will minimize the impact of the amendment on small institutions by permitting banks regularly closed midweek to avoid the operational costs that might otherwise be incurred. It is the Board's opinion that the amendment is the most effective and equitable manner with which to eliminate or price Federal Reserve float created by midweek closings.

The Board has also determined that the amendment to Regulation J should not apply at this time to those nonstandard holidays where a depository institution is closed but its Reserve Bank is open. The Board has decided therefore to permit Reserve Banks to defer credit to depositing institutions for checks drawn on institutions closed on nonstandard holidays where operationally feasible. The value of any remaining float arising from nonstandard holidays will be added to the cost base for the check collection service.

List of Subjects in 12 CFR Part 210

Banks, Banking, Federal Reserve System.

Effective April 2, 1984, pursuant to the Board's authority under section 13 of the Federal Reserve Act (12 U.S.C. 342), section 16 of the Federal Reserve Act (12 U.S.C. 248(o), 360), and section 11(i) of the Federal Reserve Act (12 U.S.C. 248(i)), paragraph (a) in § 210.9 of Regulation J (12 CFR Part 210) is amended by inserting "(1)" after "(a) Cash items.", redesignating subparagraphs (1), (2) and (3) as (i), (ii) and (iii) respectively, designating the undesignated paragraph following subparagraph (iii) as "(2)" and revising paragraph (2) of § 210.9 to read as follows:

§ 210.9 Payment.

(a) Cash items. (1) * * *

(i) * * *

(ii) * * *

(iii) * * *

(2) The proceeds of any payment shall be available to the Reserve Bank by the close of the Reserve Bank's banking day on the banking day of receipt of the item by the paying bank. If the banking day of receipt is not a banking day for the Reserve Bank, payment shall be made on the next day that is a banking day for the Reserve Bank by the close of the Reserve Bank's banking day. A paying bank that closes regularly on a weekday which is a banking day for the Reserve Bank shall either pay on that day by the close of the Reserve Bank's banking day for cash items that the Reserve Bank makes available to the paying bank on that day, or compensate the Reserve Bank for the value of the float associated with the items in accordance with procedures provided in its Reserve Bank's operating circular; in such circumstances, the paying bank is not considered to receive the item until its next banking day.

* * * * *

By Order of the Board of Governors, January 30, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-2971 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ANM-19]

Revised Transition Area; Redmond, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The current geographical boundaries of the Redmond, Oregon, Transition Area are described, in part, by reference to the Roberts nondirectional beacon (NDB). The Roberts NDB no longer exists and a new description is required. This action provides the revised description, which revokes certain controlled airspace.

EFFECTIVE DATE: February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Bob Brown, Airspace & Procedures Specialist, ANM-534, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2534.

SUPPLEMENTARY INFORMATION: The Redmond, Oregon, Transition Area was established to ensure segregation of aircraft operating in instrument weather conditions, and other aircraft operating in visual weather conditions or instrument weather conditions.

Removal of the Roberts NDB from the National Airspace System requires revocation of that controlled airspace established to protect aircraft executing the Roberts NDB approach to Roberts Field Airport Oregon. Since this amendment merely revises the description of the transition area to delete the portion of the description predicated on a now defunct NDB, notice and public procedure on the rule are unnecessary and the amendments may be made effective in less than 30 days.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular 70-3, dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., *when published*, as follows:

Redmond, Oregon (REVISED)

Delete the words; "within 2 miles each side of a 302° bearing from the Roberts RBN extending from the RBN to 6 miles northwest of the RBN;".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (Sec. 1165 of the Federal Aviation Regulations and 14 CFR 11.69))

Note. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. For this reason and the reasons given earlier in the preamble, it therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, February 2, 1984.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-2942 Filed 2-2-84; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 16

Commercial Categories for Option Traders

AGENCY: Commodity Futures Trading Commission.

ACTION: Rule Related Notice.

SUMMARY: On January 10, 1983, the Commission published in the **Federal Register** notification of the availability of its revised list of occupational categories (48 FR 1047). This list forms the basis from which the Commission will measure commercial participation in the pilot program for domestic exchange-traded commodity options. Futures commission merchants and members of contract markets are required under Commission rule 1.37(a), 17 CFR 1.37(a) (1982), to record for each option customer account they carry an appropriate occupation category from a list of such categories set forth by the Commission and a symbol indicating whether the option customer is commercial or noncommercial. In order to accommodate foreign currency options, the Commission has determined to revise its current list of occupational categories by adding two categories to the Financial Instruments group. Category 24, Importers/Exporters of Goods and Services is included in order to identify commercial entities whose activities affect the current account of the balance of payments. Category 25, Investors/Issuers of Foreign Currency Denominated Securities is included in order to identify commercial entities whose activities affect capital account balances. As with the existing categories, the appropriate classification for a customer is based on the primary activity of the customer in using the option market in conjunction with its cash market activities. For example, a commercial bank primarily hedging the currency risks of its own balance sheet would be classified in category 17, Commercial Bank. If a commercial bank's option trading was primarily related to its dealer activities in the foreign exchange market it would be classified as a dealer in category 21, Broker/Dealer.

FOR FURTHER INFORMATION CONTACT: Eugene Moriarty, Senior Financial Economist, Division of Economics and Education, (202) 254-6990, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: The Commission has revised the list of

occupational categories for determining commercial participation in its pilot program for options to be as follows:

Commodity	Occupation categories
Sugar	1. Producer. 2. Merchant or Dealer. 3. Refiner. 4. Manufacturer or Processor. 5. Other Commercial.
Gold	6. Producer. 7. Refiner. 8. Dealer. 9. Commercial End User. 11. Other Commercial.
Heating Oil	12. Refiner. 13. Distributor. 14. End User. 15. Other Commercial.
Financial Instruments/Foreign Exchange.	16. Savings and Loan, Mortgage Bank and Thrift Institutions. 17. Commercial Bank. 18. Insurance Company. 19. Pension and Retirement Fund. 20. Mutual Fund. 21. Broker/Dealer. 22. Foundation and Endowment. 23. Other Commercial. 24. Importers/Exporters of Goods and Services. 25. Investors/Issuers of Foreign Currency Denominated Securities.

Issued by the Commission in Washington, D.C., on January 30, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-3019 Filed 2-2-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for Use In Externally Applied Drugs and Cosmetics; Postponement of Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use as color additives in externally applied drugs and cosmetics. The new closing date will be April 4, 1984. This postponement will provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37.

DATES: Effective February 3, 1984, the new closing date for D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 will be April 4, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of February 3, 1984, for the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 for use in externally applied drugs and cosmetics by a final rule published in the **Federal Register** of November 29, 1983 (48 FR 53695). The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of these color additives, see 48 FR 38814 for D&C Red No. 19 and D&C Red No. 37 and 48 FR 44774 for D&C Orange No. 17.

FDA extended the closing date for the provisional listing of these color additives on these occasions to permit the agency to consider the scientific and legal aspects of the submissions by the petitioner, the Cosmetic, Toiletry and Fragrance Association, Inc., in support of the safety of the external uses of these color additives. Although D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 have been shown to be animal carcinogens upon ingestion, the agency believes that somewhat different questions are raised by the request to list these color additives for noningested use. It has taken more time to evaluate the data involved in resolving these questions than the agency anticipated. FDA finds that it still needs additional time to determine the applicability of the statutory standard for the listing of color additives for noningested use to D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37. The regulations set forth below will postpone the February 3, 1984 closing date for the provisionally listed uses of these color additives until April 4, 1984. This postponement will also provide additional time for the agency to prepare and to publish **Federal Register** documents setting forth its final decision on the petitions for the permanent listing of these color additives for external use. The continued use of these color additives in externally applied products for the short time needed for the adequate evaluation of the data and for the preparation of **Federal Register** documents that will announce the agency's decision on these color additives will not pose a hazard to the public health.

Because of the short time until the February 3, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing the postponement as a final rule. This final rule will permit the uninterrupted use of these color additives until April 4, 1984. To prevent any interruption in the provisional listing of D&C Orange No. 17, D&C Red No. 19, and D&C Red No. 37 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective February 3, 1984.

List of Subjects in 21 CFR Part 81

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (b) to read "April 4, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "D&C Orange No. 17," "D&C Red No. 19," and "D&C Red No. 37" in paragraph (d) to read "April 4, 1984."

Effective date. This final rule shall be effective February 3, 1984.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note))

Dated: January 12, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-2952 Filed 2-2-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of FD&C Red No. 3 and of FD&C Yellow No. 5 in Cosmetics and Externally Applied Drugs and of Their Lakes in Food and Ingested Drugs; Provisional Listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 in Drugs and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing dates for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of these color additives for use in coloring food and ingested drugs; of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in drugs and cosmetics. The new closing date for the provisional listing of all of these color additives will be April 4, 1984. This postponement will provide additional time for the agency to determine the applicability of the statutory standard for the listing of color additives to the results of the scientific investigations of FD&C Red No. 3, FD&C Yellow No. 5, D&C Red No. 8, D&C Red No 9, and D&C Red No. 33.

DATES: Effective February 3, 1984, the new closing date for FD&C Red No. 3 and its lakes, FD&C Yellow No. 5 and its lakes, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 will be April 4, 1984.

FOR FURTHER INFORMATION CONTACT: Gerad McCowin, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of February 3, 1984, for the provisional listing of FD&C Red No. 3 and of FD&C Yellow No. 5 for use in cosmetics and in externally applied drugs and for the provisional listing of the use of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 in food and ingested drugs by a rule published in the **Federal Register** of November 29, 1983 (48 FR 53694). Additionally, the agency established the current closing date of February 3, 1984, for the provisional listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in drugs and cosmetics in that same **Federal Register** document. The agency had previously extended the closing dates for these color additives on several occasions. For a full procedural history of the provisional listing of the other color additives, see 48 FR 45237 for FD&C Red No. 3, 48 FR 45760 for FD&C Yellow No. 5, 48 FR 42807 for D&C Red No. 8 and D&C Red No. 9, and 48 FR 44773 for D&C Red No. 33.

FDA extended the closing dates for the provisional listing of each of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5 to permit the agency to consider the scientific and legal aspects of the data concerning the safety of their provisionally listed uses. FDA expected that these closing dates would provide time for the agency to prepare and to publish appropriate regulations in the **Federal Register** regarding the agency's final decision on the petitions for the permanent listing of the aforementioned uses of these color additives and of the lakes of FD&C Red No. 3 and of FD&C Yellow No. 5.

FDA's review and evaluation of the data relevant to the provisionally listed uses of FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes, D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 have required more time than anticipated, however. The agency finds that it still needs additional time to determine the applicability of the statutory standard for listing color additives to D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, as well as to FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes. The regulations set forth below will postpone the February 3, 1984 closing date for the provisionally listed uses of these color additives until April 4, 1984. This postponement will also provide additional time for the agency to prepare and to publish the appropriate **Federal Register** documents setting forth its decision on the petitions for the permanent listing of FD&C Red No. 3 and FD&C Yellow No. 5 for use in coloring cosmetics and externally applied drugs and of the lakes of FD&C Red No. 3 and FD&C Yellow No. 5 for use in coloring food and ingested drugs and for the permanent listing of D&C Red No. 8, D&C Red No. 9, and D&C Red No. 33 for use in coloring drugs and cosmetics. The continued use of these color additives for the short time needed for the adequate evaluation of the data and for the preparation of the **Federal Register** documents will not pose a hazard to the public health.

Because of the short time until the February 3, 1984 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing this postponement as a final rule. This final rule will permit the uninterrupted use of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes until April 4, 1984. To prevent any interruption in the provisional listing of D&C Red No. 8, D&C Red No. 9, D&C Red No. 33, as well as FD&C Red No. 3 and FD&C Yellow No. 5 and their lakes and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on February 3, 1984.

List of Subjects in 21 CFR Part 81

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drug (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing dates for "FD&C Yellow No. 5" and "FD&C Red No. 3" in paragraph (a) to read "April 4, 1984" and by revising the closing dates for "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 33" in paragraph (b) to read "April 4, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing dates for "FD&C Yellow No. 5," "FD&C Red No. 3," "D&C Red No. 8," "D&C Red No. 9," and "D&C Red No. 33" in paragraph (d) to read "April 4, 1984" and by revising the closing dates for "FD&C Red No. 3" and "D&C Red No. 33" in paragraph (e) to read "April 4, 1984."

Effective date. This final rule is effective February 3, 1984.

(Secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376(b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: January 12, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-3072 Filed 2-2-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 83-12, Notice 2]

Truck Size; Interim Network Provision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule for interim network.

SUMMARY: This document provides an interim network of highways other than Interstate on which commercial motor vehicles with dimensions authorized by sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), as amended, may operate in the States of Alabama, Florida, Georgia, Pennsylvania and Vermont. The interim network is intended to provide increased productivity for the commercial motor carrier industry which may ultimately result in lower transportation cost to consumers.

EFFECTIVE DATE: February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426-0153, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97-424, 96 Stat. 2097, as amended by Pub. L. 98-17, 97 Stat. 59, require the States to permit certain size vehicles to operate on the Interstate System and those Federal-Aid Primary System (FAP) highways designated by the Secretary of Transportation. The Secretary of Transportation has delegated this function to the Federal Highway Administration (FHWA).

On April 5, 1983 (48 FR 14844), FHWA published a notice which designated, on an interim basis, those FAP routes on which commercial motor vehicles authorized by the STAA could operate.

Prior to the April 5 Notice, FHWA had requested that the States submit recommended routes. The FHWA added supplemental routes to those State submissions which were determined to be inadequate to achieve route continuity essential for geographic coverage and interstate commerce. Subsequently, Alabama, Florida, Georgia, Pennsylvania, and Vermont brought suits in the U.S. Distirct Courts to enjoin the FHWA from including routes in the interim network beyond those proposed by the States. On April 22, 1983 (48 FR 17347), and May 12, 1983 (48 FR 21317), the supplemental routes added to the routes proposed by these five States were withdrawn leaving interim designations of only 741 miles in these States.

On August 31, 1983 (48 FR 39592), a notice of proposed rulemaking (NPRM) for these five States was published in the **Federal Register.** The purpose of that NPRM was to provide the States and the public with an opportunity to comment on the proposed interim truck route network in these five States as set out in the Appendix to the proposed rule.

Subsequently, on September 14, 1983 (48 FR 41276), an NPRM proposing the final network of highways in 45 States, the District of Columbia, and Puerto Rico was published in the **Federal Register.** The purpose of that NPRM was to provide the States and the public with an opportunity to comment on the proposed final network for these 47 jurisdictions, as well as proposed regulations regarding width, length and weight of vehicles, grandfather clauses, reasonable access and specialized equipment which will apply to all 50 States, the District of Columbia and Puerto Rico.

In making the interim designations in the April 5 Notice, and in proposing the interim designations in the five States covered by the August 31 NPRM, FHWA has attempted to provide consistency in routing among the States, so that a national network of highways which serves major points of economic activity would be available for use by the larger vehicles allowed by the STAA. The States, the commercial motor vehicle industry, and all other interested parties were encouraged to comment on the proposed designated routes specified in the Appendix to the proposed rule. Since safety has always been of paramount concern to FHWA, all interested parties were invited to submit any information they may have on any potential adverse safety consequences that might result from allowing vehicles authorized under the STAA to use these roads.

Analysis of Comments to the Docket

The FHWA has received 94 submittals, several of which commented on more than one State. Members of Congress, trucking interests, motorist clubs, safety interests, manufacturers, shippers, State and local agencies, and private individuals were represented among the commenters.

The majority of the commenters endorsed the proposed interim network. However, there were requests for additional mileage in all States, and particularly Georgia. A brief State-by-State overview of the comments follows:

- Alabama—Five comments were received. The Alabama State Highway Department requested the deletion of five routes and portions of six other routes of 38 proposed routes on the basis of safety. The FHWA concurs with the State's safety analysis. With regard to the additional routes requested by four commenters, the FHWA and the Alabama State Highway Department made a safety assessment and concluded that each of the routes had safety deficiencies and, therefore, have not been designated as part of the interim network. As set forth in the Appendix to this rule, the interim network in Alabama will consist of those routes identified in the August 31 NPRM with the following routes deleted: AL 59, AL 85, AL 87, AL 92, AL 134 and portions of US 431, US 72, US 78, US 84, US 43, and US 231. This action increases the interim network in Alabama from 2 to 932 miles of FAP routes, in addition to the Interstate System.

- Florida—Seven comments were received. In two separate submittals, the Florida Department of Transportation requested the addition of one route and the deletion of 10 of 26 proposed routes on the basis of safety. The FHWA concurs with the State's safety analysis. With regard to the additional routes requested by five commenters, the FHWA and the Florida Department of Transportation made a safety assessment and concluded that each of the routes had safety deficiencies and therefore they have not been designated as part of the interim network. As set forth in the appendix to this rule, the interim network in Florida will consist of those routes identifed in the August 31 NPRM with the following routes deleted: FL 60, FL 84, US 441, FL 436, US 92, US 231, two portions of US 301, and a portion of US 41. Route CR 672 has been added to the Florida interim network for connectivity purposes. This action increases the interim network in Florida from 12 to 724 miles of FAP routes, in addition to the Interstate System.

- Georgia—Eighty-two comments were received, and of these 80 requested additions. The Georgia Department of Transportation (Ga DOT) has endorsed the routes identified in the NPRM and has recommended the addition of three other routes, two of which were requested by other commenters (GA 53 and US 82). The Ga DOT is establishing a process by which candidate routes may be identified, appraised, and recommended to FHWA for addition to the network. The additional routes requested by the other commenters will

be appraised by Ga DOT under this process, and a recommendation will be provided to FHWA. At this time FHWA is establishing an interim network in Georgia which consists of the routes proposed in the August 31 NPRM, plus routes GA 21, GA 53, and US 82. This action increases the interim network in Georgia from 81 miles to 564 miles of FAP routes, in addition to the Interstate System.

• Pennsylvania—Four comments were received. The Pennsylvania Department of Transportation (Penn DOT) endorsed the 654 miles identified in the NPRM, and recommended an additional 65 miles. Three other commenters requested additions. The FHWA has decided to increase the interim network as requested by Penn DOT and has referred the other requests to Penn DOT for consideration under a formal procedure endorsed by FHWA. Under this procedure, Penn DOT will receive requests, review route conditions, and make recommendations to FHWA. Currently, requests for over 700 additional miles are under consideration. Further information on the Pennsylvania procedure may be obtained from the Pennsylvania Department of Transportation, Commonwealth & Forster Streets, Harrisburg, Pennsylvania 17120. Attention: Bureau of Maintenance and Operations. This action increases the interim network in Pennsylvania from 618 to 691 miles of FAP routes, in addition to the Interstate System.

• Vermont—Four comments were received. Two of the commenters requested additions. An appraisal of the additional routes requested by these commenters was conducted by the FHWA and the Vermont Agency of Transportation. Both of the routes were found to have safety deficiencies, therefore they have not been designated as part of the interim system. The Vermont Agency of Transportation, which responded twice, requested deletions based on its safety appraisal. The FHWA concurs in the appraisal and, therefore, US 4 east of Rutland, VT 100 and VT 107 are not included in the interim network. This action increases the interim network in Vermont from 0 to 30 miles of FAP routes, in addition to the Interstate System.

The interim network, as established by this Notice for the five aforementioned States, totals approximately 2,900 miles, and represents a 2,200 mile increase in mileage and service over that previously available.

A comment was received listing several assertions that FHWA's proposed designation of highways in Alabama, Florida, Georgia, Pennsylvania and Vermont, under Section 411 and Section 416 of the 1982 Surface Transportation Assistance Act, would violate statutory directives and congressional intent. One assertion was that FHWA must make an affirmative finding of safety adequacy for each proposed route. The STAA does not require the Secretary to independently investigate each designated route prior to placing it on the National Newtork. The FHWA is working closely with the States to see that designated routes are capable of safely accommodating these vehicles. To illustrate, FHWA has deleted over 15,000 miles since the initial interim network was established for all States on April 6, 1983.

Another assertion was that FHWA cannot balance productivity or other economic considerations against safety in its determination of qualifying Federal-aid highways, However, a regulatory evaluation must include an analysis of the economic consequences of a regulation. The FHWA draft regulatory evaluation concludes that there may be some minor safety costs associated with this regulation, but these are likely to be outweighed by productivity benefits. This is not the same as saying that specific routes would or should be designated on the basis of a benefit/cost calculation. In fact, FHWA will delete routes on safety grounds alone.

This same commenter also asserted that FHWA is shifting its statutory responsibilities to the States. The STAA states that the Secretary shall designate as qualifying those primary system highways that are capable of safely accommodating the large vehicles. The STAA did not dictate, outside of the rulemaking requirements for the final system, the method by which the Secretary should designate routes. Instead, Congress deferred to agency expertise. The FHWA believes that State cooperation and participation are essential to this designation process.

The same commenter further asserted that FHWA has ignored studies and research that have shown the danger of longer trucks. However, FHWA has identified studies with conflicting results, to make the valid point that there is disagreement among experts with respect to findings regarding the safety of larger vehicles authorized by the STAA.

It was also asserted that FHWA is illegally establishing an identical system of highways for both longer and wider trucks. Pub. L. 98–17, 97 Stat. 59, amended the STAA to add section 416, which requires all States except Hawaii to establish a vehicle width limitation of 102 inches on the Interstate and designated qualifying highways with a lane width designed to be 12 feet or more. This provision was added to the STAA to provide uniform dates and a uniform highway network on which longer vehicles and 102-inch wide vehicles would operate. It would be impractical to establish one system of highways to accommodate vehicles subject to the length provisions of the STAA and another system to accommodate vehicles subject to the width provision. Unless a roadway can accommodate both longer and wider vehicles, it has not been designated.

In conclusion, we emphasize that this Notice establishes an interim network, available for immediate use. This places economic interests in the five States in essential parity with the remainder of the Nation. A Notice will be published shortly that will propose a final network for the five States.

Regulatory Impact

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

Based on submittals to the docket established for the NPRM which preceded this final rule, the major issues raised by the establishment of the interim network contained in this rulemaking action are productivity and safety. The majority of commenters sought a more extensive network that would allow the vehicles authorized by the STAA to serve a greater number of origins and destinations. Although the comments seeking deletion of segments from the proposed interim network on safety grounds were few, they did raise significant issues about the safety of some segments. These comments are addressed in the section "Analysis of Comments to the Docket."

The FHWA has sufficient flexibility to remove specific segments of the interim network on the basis of adverse safety consequences. Segments can also be added to the network to serve additional origins and destinations if such segments are found to be capable of safely accommodating the vehicles authorized by the STAA.

A regulatory evaluation/regulatory flexibility analysis has been prepared and a copy may be obtained by contacting Mr. Sheldon G. Strickland at the address under the heading **"FOR FURTHER INFORMATION CONTACT."** Although submittals to the docket

indicate that some small business entities in some States may be adversely affected because they are not served by routes that were included on the proposed interim network, the number of comments received does not indicate that this final rule for the interim network in the five States will result in a significant economic impact on a substantial number of small entities. This determination of no significant impact is further supported by the fact that there is sufficient flexibility for small entities to propose to FHWA that routes be added. Such proposals can then be evaluated in terms of both productivity and safety.

The FHWA has determined that this action will not individually or cumulatively have a significant effect on the environment. This action falls within the categorical exclusions set out at 23 CFR 771.115(b), since it is a regulation for which a regulatory impact analysis is not required pursuant to section 3 of Executive Order 12291, which superseded Executive Order 12044 (see 23 CFR 771.115(b)(27)). Therefore, no environmental assessment or environmental impact statement is required.

Since it is important for this interim network to be available as soon as possible, FHWA finds good cause to waive the 30-day delay in the effective date. This waiver will provide FHWA and the States additional time with which to monitor actual use of the interim system. This experience will provide FHWA and the States valuable information and data with which to comment on a proposed final system to be published shortly. Therefore, this interim final rule is effective immediately.

In consideration of the foregoing, the Federal Highway Administration hereby amends Chapter I of Title 23, Code of Federal Regulations, by adding Part 658, and Appendix for the States of Alabama, Florida, Georgia, Pennsylvania and Vermont to read as set forth below.

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carriers—size.

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

Issued on: January 31, 1984.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

The Federal Highway Administration hereby amends Chapter I of Title 23, Code of Federal Regulations, by adding Part 658 and Appendix for the States of Alabama, Florida, Georgia, Pennsylvania, and Vermont to read as set forth below.

PART 658—TRUCK SIZE

Sec.

658.2 Interim designated network.

Appendix—Interim Designated Truck Routes on the Federal-Aid Primary System.

Authority: Sections 411 and 416, Pub. L. 97-424, 96 Stat. 2159, as amended by Pub. L. 98-17, 97 Stat. 59 (49 U.S.C. 2311); 23 U.S.C. 315; 49 CFR 1.48.

§ 658.2 Interim designated network.

The States of Alabama, Florida, Georgia, Pennsylvania, and Vermont shall not prohibit the operation of commercial motor vehicles authorized to operate by Sections 411 and 416 of the Surface Transportation Assistance Act of 1982, as amended, on any route set out in the attached appendix.

APPENDIX.—INTERIM DESIGNATED TRUCK ROUTES ON THE FEDERAL-AID PRIMARY SYSTEM

Posted Route No.	From—	To—
Alabama		
US 431	AL 210 in Dothan	US 431/AL 173 in Headland.
US 431	I-20 Anniston	I-59 Gadsden.
US 431	AL 77 Attalla	AL 79 near Columbus City in Marshall County.
US 431	Co Rd 8 near New Hope in Madison County.	Tennessee St. Line.
US 72	Mississippi St. Line	Jackson County Road 33 near Hollywood.
US 31	AL 152 Montgomery	AL 14 north of Prattville.
US 31	End of I-65 north of Birmingham.	I-65 north of Kimberly.
US 78	Beginning of four-lane west of AL 5 at Jasper in Walker County.	I-59 Birmingham.
US 78	End of I-20 in Irondale.	I-20 west of Leeds.
US 82	Coker (west of Northport).	Eoline (west of Brent).
US 82	AL 206 Prattville	US 31 Prattville.
US 80	AL 14 west of Selma	AL 152 Montgomery.
US 84	AL 92 (east of Daleville).	AL 210 Dothan.
US 84	AL 210 Dothan	End of four-lane east of Dothan.
US 43	I-65 north of Mobile	Sunflower in Washington Co.
US 43	AL 5 near Russellville.	US 72 Tuscumbia.
US 43	US 72 Florence	Tennessee St. Line.
US 29	Fairfax	Georgia St. Line.
AL 20	US 72 Tuscumbia	US 231 Huntsville.
AL 21	US 31 at Atmore	I-65 north of Atmore.
AL 21	US 431 Anniston	Jacksonville.
US 280	US 31 Mountain Brook.	AL 22 at Alexander City.
US 280	I-85 Opelika	Georgia St. Line.
US 98	I-10 Daphne	End of four-lane near Fairhope.
US 231	Florida St. Line	AL 210 Dothan.
US 231	AL 210 Dothan	AL 152 Montgomery.
US 231	AL 152 Montgomery	End of 4-lane north of Wetumpka.
US 231	Arab	US 431 Huntsville.
AL 67	I-65 near Priceville	AL 20 west of Decatur.
AL 77	I-59 Gadsden	US 431 Attalla.
AL 79	I-59 Birmingham	Pinson.
AL 152	US 31 (north of Montgomery).	I-65 north of Montgomery.
AL 210	Dothan Circle (Beltway around Dothan).	
AL 248	US 84 Enterprise	Ft. Rucker.
AL 249	Ft. Rucker	US 231.
Florida		
US 27	Fla. Turnpike Extension.	FL 84 at Andytown.
US 27	South Bay	Leesburg.
US 27/US 441.	Leesburg	Belleview.
US 27/ US301.	Belleview	Ocala.
US 27	US 301 in Ocala	I-75.
US 301	SR 24 in Waldo	I-10.
FL 24	SR 331 in Gainesville	US 301 in Waldo.
FL 263	US 90 West of Tallahassee.	I-10.
FL 331	I-75 (South of Gainesville).	FL 24.
US 41	Big Bend Road (CR 672) near Adamsville.	I-4 Tampa.
CR 672 (Big Bend Road).	US 41 near Adamsville.	I-75 near Adamsville.
FL 202	In Jacksonville from I-95.	FL A-1-A.
Florida Tpk	South end of Homestead Extension.	I-75 at Wildwood.
FL 528/FL 407.	I-4 at Orlando	Cape Canaveral.
20th Street Expressway.	In Jacksonville at I-95.	Adams Street.
FL 397	Entrance Eglin AFB	FL 85 Valparaiso.
FL 85	FL 397 Valparaiso	I-10 near Crestview.

Note.—Alligator Alley (FL 84) from Golden Gate to Andytown is a designated part of the Interstate system but is unsigned. Access from I-75 to the Golden Gate Toll Plaza will not be available until late 1984.

CR 672—This is not an FAP route. However, this route has been identified by the Florida Department of Transportation as available to the larger vehicles on a temporary basis pending the completion of I-75.

Posted Route No.	From—	To—
Georgia		
GA 400	I-285, near Atlanta	GA 60.
GA 365	I-85	US 441 near Cornelia.
US 411/US 41.	US 27 at Rome	I-75 near Emerson.
US 129	I-16	North to Gray.
GA 25 Spur	US 17/US 84 near Brunswick.	Northerly to I-95.
US 280	Alabama St. Line	Fort Benning.
US 82	Dawson	I-75 Tifton.
GA 300	US 82 Albany	I-75 near Cordele.
US 25	I-16	North of Statesboro.
GA 316	I-85 easterly	Near Lawrenceville (5 mile).
GA 21	I-95 Monteith	GA 204 Savannah.
GA 14 Spur	I-85/I-285 Interchange.	East to Welcome All Road.
GA 410	Valleybrook Rd.	SR 10.
GA 411	End of I-185	South to US 280 near Columbus.

APPENDIX.—INTERIM DESIGNATED TRUCK ROUTES ON THE FEDERAL-AID PRIMARY SYSTEM—Continued

Posted Route No.	From—	To—
GA 85	I-85	Fayetteville.
GA 2	US 27	I-75.
US 76	I-75	US 411.
GA 85	GA 411	Ellerslie.
US 41	I-75	Near Barnsville.
US 19	US 82	Near Pelham.
GA 247/US 129.	I-75	Warner Robins.
US 84	Waycross	I-95.
US 78/US 29.	GA 138	GA 8 near Athens.
GA 138	I-20	US 78.
GA 53	Rome	I-75 Calhoun.

Posted route No.	Route description
Pennsylvania	
US 1	From Morrisville to US 13.
US 13	Controlled access segment south from US 1.
US 15	From Pennsylvania Turnpike (I-76) Interchange 17 northeast to Harrisburg Expressway south of Camp Hill.
US 15	From PA 642 in Milton to the White Deer Exit.
US 15	Controlled access segment north of junction with US 220 at Williamsport.
US 22	From I-279 west to the Pennsylvania-West Virginia St. Line east of Steubenville, Ohio.
US 22	From west of PA 100 near Fogelsville east to the Pennsylvania-New Jersey St. Line at Easton.
US 30	Greensburg Bypass south of Greensburg.
US 30	From a junction with PA 462 west of York to a junction with PA 462 east of Lancaster, excluding the 4-mile uncontrolled access segment north of York.
US 119	Limited access Bypass west of Uniontown.
US 119	From Pennsville north to Pennsylvania Turnpike (I-76) Interchange 8 at New Stanton.
US 202	From the south terminus of the West Chester Bypass north and east to I-76 near King of Prussia.
US 219	From vicinity of Pennsylvania Turnpike southeast of Somerset north to US 422 west of Ebensburg.
US 219	From the PA-New York St. Line to just south of Bradford.
US 220	From Pennsylvania Turnpike Interchange 11 north to King.
US 220	From US 15 and the terminus of I-180 in Williamsport west to western terminus of controlled access segment at Linder.
US 220	From just south of Athens north to NY 17 at the Pennsylvania-New York St. Line.
US 222/422	Warren Street Bypass and Extension from Pricetown Road north of Reading west to Wyomissing.
US 322	Commodore Barry Bridge in Chester.
US 422	From eastern terminus of limited access segment southeast of Reading northwest to the Warren Street Bypass.
PA 9	Northeast Extension of Pennsylvania Turnpike from Exit 25 (I-276) southeast of Norristown to Exit 38 at I-81 north of Scranton.
PA 28	From PA 8 near Etna northeast to Creighton, east of the Pennsylvania Turnpike.
PA 33/US 209	From US 22 near Wilson north to I-80 at Interchange 46 near Stroudsburg via US 209 at Snydersville.
PA 60/US 422	From I-80 Interchange 1 southeast of Sharon south to and including the New Castle Bypass.
PA 60	From PA 51 west of Beaver Falls south to US 22, excluding the uncontrolled access segment near the Greater Pittsburgh International Airport.
US 222	From US 30 northeast of Lancaster to Pennsylvania Turnpike (I-76) Interchange 21 near Adamstown.
PA 283	From junction of US 30 north of Lancaster west to I-283 near the Pennsylvania Turnpike Interchange 19. Harrisburg Expressway (LR 767) from I-83 west to US 11 west of Camp Hill.
	Airport Access Road (LR 1081 Spur A) from PA 283 south to the Harrisburg International Airport at Middletown.
	Reading Outer Loop (LR 1035) from PA 183 near Leinbachs northeast to US 222 near Tuckerton.
US 6	From the Borough of Conneaut Lake east to just north of Meadville at the terminus of the North-South Bypass.
US 11	From Pennsylvania Turnpike Interchange 16 east to the western terminus of the Harrisburg Expressway near Camp Hill.
US 20	From I-90 Interchange 12 west to North East (PA 89).
US 30	Uncontrolled access segment of York Bypass from North Hills Road west to a point one mile north of the junction of PA 74.
US 119	Uncontrolled access segment northeast of Uniontown to Pennsville.
US 119	Uncontrolled access segment from the Pennsylvania Turnpike (I-76) Interchange 8 to the Greensburg Bypass.
US 202	From the PA-Delaware St. Line north to West Chester Bypass.
US 322	From the junction of I-83 and I-283 east to the junction of US 422.
US 422	From the junction of US 322 east to the junction of LR 139 at the west end of Hershey.
PA 3	From West Chester Bypass (US 202) east to Garrett Road at Upper Darby.
US 13	Uncontrolled access segment from PA 413 west of Bristol northeast to the limited access segment just south of US 1.
PA 42	From I-80 Interchange 34 south to Bloomsburg at US 11.
PA 51	From US 119 near Uniontown north to the Monongahela River at Elizabeth.
PA 54	From I-80 Interchange 33 south to Danville at US 11.
PA 60	Uncontrolled access segment in the vicinity of the Greater Pittsburgh International Airport.
PA 61	From US 222 near Tuckerton north to I-78 Interchange 9 at Hamburg.
PA 93	From I-81 Interchange 41 east and south to PA 924 at west end of Hazleton.
PA 114	From US 11 near Hogestown north to I-81 Interchange 18.
PA 132	From I-95 near Cornwells Heights northwest to Pennsylvania Turnpike Interchange 28 via US 1 connection.
PA 924	From junction with PA 93 west to I-81 Interchange 40 near Hazleton.
PA 100	From US 202 near West Chester north to the Budd Company Plant located approximately 1.1 miles north of Pennsylvania Turnpike (I-76) Interchange 23 (Dowington Interchange).
PA 924	From I-81 west to proposed Ryder/PIE Nationwide terminal near Hazleton.
US 220 Business	From the PA Turnpike (I-70 & 76) Exit 11 at Bedford north to the first interchange of US 220.
US 220	From King north to I-80 Interchange 23 including the overlapping section with US 22 from west of Duncansville to east of Duncansville.
Greenwood Road (LR 07027, Spur E).	From US 220 west to Second Avenue in Altoona.
Second Avenue	From Greenwood Road (LR 07027, Spur E) north to the Ward Trucking Company Terminal in Altoona.

Note.—PA 147 and US 220 from I-80 Interchange 31 near Milton north and east to US 15 in Williamsport were approved as part of the Interstate System on September 23, 1983.

Posted route No.	From—	To—
Vermont		
VT 9	I-91 Interchange 3 north of Brattleboro.	New Hampshire St. Line.
US 7	Southern Terminus of the four lane divided highway in the town of Wallingford.	US 4 Rutland City.
US 4	New York St. Line	East Limit of Rutland City.

[FR Doc. 84-3026 Filed 2-2-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7939]

Allocation and Apportionment of Deductions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the Income Tax Regulations relating to the allocation and apportionment of deductions for purposes of computing taxable income from sources within the United States and taxable income from other sources. Prior to these amendments, the rules for allocation and apportionment of deductions contained in § 1.861–8 and § 1.882–5 applied only for taxable years beginning after December 31, 1976. These amendments provide taxpayers the option to apply the rules in § 1.861–8 or § 1.882–5 to taxable years beginning before January 1, 1977.

EFFECTIVE DATE: The changes made by this Treasury decision are effective for taxable years beginning after December 31, 1953.

FOR FURTHER INFORMATION CONTACT: Charles Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR–215–78), or call 202–566–3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION: .

Background

On August 30, 1982, the **Federal Register** published a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 861 (b) of the Internal Revenue Code of 1954 (47 FR 38149). The

amendment proposed was a revision of the effective date provision of § 1.861–8 to permit a taxpayer to apply the rules of § 1.861–8(e) to taxable years beginning before January 1, 1977. Written comments were received on the proposed amendment, but a public hearing was not requested. The proposed amendment is adopted in this Treasury decision but modified to apply to all of the rules of § 1.861–8 instead of only the rules of paragraph (e) of that section. In addition, the effective date of § 1.882–5, relating to apportionment of interest expenses of foreign corporations for purposes of determining the taxable income of such corporations connected with a U.S. trade or business, is modified to permit a taxpayer to apply the rules of § 1.882–5 to taxable years beginning before January 1, 1977.

Explanation of Provisions

Section 1.861–8 provides rules for the allocation and apportionment of deductions. This allocation and apportionment may be necessary to compute taxable income from specific sources or activities in order to apply a separate operative section of the Internal Revenue Code of 1954.

Prior to amendment by this Treasury decision, § 1.861–8 was effective for taxable years beginning after December 31, 1976. For taxable years beginning before January 1, 1977, the process of allocation and apportionment of deductions was governed by those rules formerly under § 1.861–8 which were in effect on October 23, 1957 (T.D. 6258), as amended on August 22, 1966 (T.D. 6892) and on September 29, 1975 (T.D. 7378). Therefore, the taxpayer was required to allocate and apportion deductions for those taxable years on a basis which was supportable under § 1.861–8 as in effect for those years. For this purpose, the past, supportable practices of the taxpayer for allocation and apportionment of deductions were taken into account.

Pursuant to this Treasury decision, paragraph (a)(5) of present § 1.861–8 is revised to give taxpayers the option to apply the rules of present § 1.861–8 to open taxable years beginning before January 1, 1977. The amendment proposed on August 30, 1982, would have applied only to the rules of paragraph (e) of § 1.861–8. This Treasury decision has modified the amendment to make it apply to all of the rules of § 1.861–8. The rules of § 1.861–8 may be applied on a deduction-by-deduction basis if the rules are applied consistently to all taxable years beginning before January 1, 1977, with respect to which action by the Internal Revenue Service is not barred.

Section 1.882–5 sets forth the methods to be used by a foreign corporation in computing the amount of interest expense it may deduct from its gross income effectively connected with a U.S. trade or business. Prior to amendment by this Treasury decision, § 1.882–5 was effective for periods after February 6, 1981 or, at the option of the taxpayer, to taxable years beginning after the last taxable year ending before February 6, 1981 or, at the further option of the taxpayer, to open taxable years beginning after 1976. For taxable years beginning before January 1, 1977, the process of allocation and apportionment of interest expense was governed by § 1.861–8. A comment was received which recommended that foreign corporate taxpayers also be permitted to apply the rules of § 1.882–5 to taxable years beginning before January 1, 1977. That suggestion has been adopted in this Treasury decision.

Regulatory Flexibility Act

The Internal Revenue Service has concluded that these regulations are interpretative and thus the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Regulatory Impact Analysis

Pursuant to Executive Order 12291, a final regulatory impact analysis has been prepared with respect to these regulations and is available for public inspection and copying at the Internal Revenue Service, Room 4429, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Drafting Information

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

List of Subjects in 26 CFR 1.861–1–1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credits, Sources of income, U.S. investments abroad.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

The following amendments to 26 CFR Part 1 are hereby adopted:

Paragraph 1. Paragraph (a) (5) of § 1.861–8 is revised to read as follows:

§ 1.861–8 Computation of taxable income from sources within the United States and from other sources and activities.

(a) *In general*—* * *

(5) *Effective date*—(i) *Taxable years beginning after December 31, 1976.* The provisions of this section apply to taxable years beginning after December 31, 1976.

(ii) *Taxable years beginning before January 1, 1977.* For taxable years beginning before January 1, 1977, § 1.861–8 applies as in effect on October 23, 1957 (T.D. 6258), as amended on August 22, 1966 (T.D. 6892) and on September 29, 1975 (T.D. 7378). The specific rules for allocation and apportionment of deductions set forth in this section may, at the option of the taxpayer, apply to those taxable years on a deduction-by-deduction basis if the rules are applied consistently to all taxable years with respect to which action by the Internal Revenue Service is not barred by any statute of limitations. Thus, for example, a calendar year taxpayer may choose to have the rules of paragraph (e)(2) of this section apply for the allocation and apportionment of all interest expenses for the two taxable years ending December 31, 1975 and 1976, which are open years under examination, and may justify the allocation and apportionment of all research and development expenses for those years on a basis supportable under § 1.861–8 as in effect for 1975 and 1976 without regard to the rules of paragraph (e)(3) of this section.

* * * * *

Par. 2. Paragraph (d) of § 1.882–5 is revised to read as follows:

§ 1.882–5 Determination of interest deduction.

* * * * *

(d) *Effective date.* This section applies to periods after February 6, 1981, or, at the option of the taxpayer, to:

(1) Taxable years beginning after the last taxable year ending before February 6, 1981, or

(2) All open taxable years beginning after 1976, or

(3) All open taxable years.

This Treasury decision is issued under the authority contained in sections 882 (c) and 7805 of the Internal Revenue Code of 1954 (80 Stat. 1556; 26 U.S.C. 882(c) and 68A Stat. 917; 26 U.S.C. 7805).

Approved: January 16, 1984.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84-3039 Filed 2-2-84; 8:45 am]

BILLING CODE 4830-01-M

POSTAL SERVICE

39 CFR Part 111

Detached Address Labels for Third-Class Flat Mailings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: In order to clear up any uncertainty caused by the language of the current regulation governing use of detached address labels for saturation mailings of third-class flats, the Postal Service is rephrasing the regulation to make it clear that the mail piece, which consists of an address card and other mail matter in the form of a flat, is handled and delivered by the Postal Service as a single mail piece.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Grayson M. Poats, (202) 245-4602.

SUPPLEMENTARY INFORMATION: An unanticipated problem has arisen with regard to the Postal Service regulation governing use of detached address labels for third-class flat mailings. Material other than that specified by the regulation is being printed on the front of some address cards and reports have been received of instances where the card is not being delivered with the rest of the contents of the mail piece of which it is a part. Neither of these circumstances was intended by the Postal Service and this rule is designed to so clarify the regulation.

To make it absolutely clear that the detached address label is a part of the mail piece and is to be delivered with the remainder of the contents of the mail piece, the statement that is required to be printed on the address card by Domestic Mail Manual § 661.331 is changed to read, "Postal Service regulations require that this address card be delivered together with its accompanying postage paid mail. If you should receive this card without its accompanying mail, please notify your local postmaster."

Section 661.331 is also changed to specifically state that only the recipient's address, the mailer's return address, the required statement and the indicia of postage payment may appear on the front of the card used as a detached address label.

For the above reasons, the Postal Service has determined that the following change to section 661.331 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1), is necessary to ensure the correct understanding of the Postal Service's practice of permitting the mailing of third-class flats with detached address labels.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

Chapter 6—Third-Class Mail

661—Addressing.

In 661.33, change 661.331 to read as follows:

.331 The address for each flat must be placed on an address card. There must be one and only one address card for each flat. The card must be mailable and of standard size (see 650). The address card must contain the recipient's address and the mailer's return address. Each address card must carry the following words in a bold type size of at least ⅛ inch: "Postal Service regulations require that this address card be delivered together with its accompanying postage paid mail. If you should receive this card without its accompanying mail, please notify your local postmaster." Nothing other than addresses, identification, the above quoted language, and indicia of postage payment may appear on the front of the card.

A transmittal letter making this change in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 410(a), 403)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-3067 Filed 2-2-84; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in 47 CFR Parts 73 and 74 of the FCC rules. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements, to execute editorial revisions as needed for purposes of clarity and ease of understanding.

EFFECTIVE DATE: January 27, 1984.

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

FOR FURTHER INFORMATION CONTACT: Steve Crane (202) 632-5414, Mass Media Bureau.

List of Subjects in 47 CFR Parts 73 and 74

Radio broadcasting, Television broadcasting.

Order

In the matter of oversight of the Radio and TV Broadcast Rules.

Adopted: January 24, 1984.

Released: January 27, 1984.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) The Commission has a number of equipment authorization procedures, two of which are type acceptance and type approval.

Type acceptance requires the applicant to make all measurements and tests and submit the data to the FCC laboratory in the Office of Science and Technology for review pursuant to the requirements in Part 2 of the rules.

Type approval requires the manufacturer to submit equipment to the FCC for tests and measurements to be made by the laboratory to determine if our specifications and requirements are met.

In Section 73.53, we find the term type *acceptance* used when type *approval* is correct. The incorrect term is used in the Section title and in several places within the rule. Corrections are made herein. (See Appendix item 2.)

(b) When the TV Sixth Report and Order was adopted by the Commission in April 1952, it instituted transmission standards for the fledgling TV service. The standards Section, an integral part of the rules to this day (Section 73.682), contains an instructive paragraph which describes the Commission's willingness to consider proposed changes or

modifications of these standards. It also delineates the showing expected from a petitioner for such changes.

The procedure for changing technical standards, as set forth in this rule, is general in nature and could apply to petitions for technical standards changes in any of the broadcast services. No such set of instructions has ever been adopted for the aural services, although the procedure could apply there as well as in TV.

Therefore, paragraph (b) of § 73.682 will be removed from Subpart E of Part 73 (TV rules) and relocated into Subpart H (Rules Applicable to All Broadcast Stations). It will be designated § 73.1695 and titled Changes in transmission standards. Henceforth, it will serve as an instruction for petitioners to follow when asking the Commission to consider a technical standards modification in any of the broadcast services. (See Appendix items 5 and 9.)

(c) Section 508 of the Communications Act, entitled Disclosure of Certain Payments, was redesignated section 507 (same Section title) by Pub. L. 96–507, 94 Stat. 2747, December 8, 1980. The requirements of former section 508 (now 507) are referenced in § 73.1212, Sponsorship identification; list retention; related requirements. The reference to Section 508 of the Act is found in paragraph (c) of the rule, and is corrected herein to read "Section 507". (See Appendix item 6.)

(d) The proceeding which eliminated operating and maintenance logs was terminated by the Commission with the adoption of the Report and Order in BC Docket 82–537 on July 14, 1983. 48 FR 38473, August 24, 1983. In addition to eliminating the operating and maintenance log rule sections, many rules, which referred to such logs, were modified to conform to the excised logging requirements.

One such change was made, unintentionally, in § 73.1515, Special field test authorizations. This rule pertains to special authorizations issued to conduct field strength surveys to aid in selecting sites for transmission facilities, to determine coverage areas, or to study factors influencing signal propogation. Reports of findings via such field testing must be submitted to the FCC, and such reports must include, among other things, the record of observations each half hour of the input power to the final amplifier stage, and the AM antenna current or the FM or TV transmitter output power. The rule stated that such observations must be *"logged"* at certain time intervals and that *"copies of the station logs"* be submitted with the required report. The terms "logged" and "station logs" are purely a term of art here, having no relationship to operating or maintenance logs. In our efforts to excise references in the rules to operating and maintenance logging, this subparagraph was erroneously eliminated. Obviously, the observing and reporting of the station tests are necessary to complete the required report; field results without power observations and a record thereof are of no value to us for analysis. In this Order, the term "logged" is given its exact meaning by replacing it with "observed and recorded"; and the requirement to submit "copies of the station logs" is changed to read "copies of these records. * * *". Subparagraph (c)(4) is reinstated into § 73.1515 to set forth the revised text as outlined above. (See Appendix item 7.)

(e) A similar inadvertence occurred in the rules pertaining to the determination of operating power: Sections 73.51 (AM); 73.267 (FM); and 73.663 (TV). Corrections in these rules are made in this Order as follows:

(i) In § 73.51(e)(2), the value of F (Efficiency Factor) applicable to each mode of operation was formerly entered in the operating log. In the Report and Order in BC Docket 82–537, in which operating logs were eliminated, an entry was required in the *station* log (instituted in the same Report and Order). It was never our desire to switch from an operating log requirement to a station log requirement. We merely meant to require licensees to retain the value of F, after making the determination, in their station files. The rule is modified here to correct (and eliminate) the station logging requirement and will direct the mere retention of the determined F value in the station file.

(ii) In the rules "Determining Operating Power" for FM and TV (§§ 73.267 and 73.663 respectively), a slightly different aberration took place than that described in (e)(i) above for AM stations. In determining operating power by the indirect method, both the FM and TV rules stated that the value of F was to be established and *a record was to be kept thereof.* (Emphasis added). Further, in the case of composite transmitters, or those which the final amplifier stages were modified pursuant to FCC approval, the licensee was required to furnish the FCC and *also retain with the station records.* (Emphasis added) the measurement data used as a basis for determining the value of F. In our rule's review to eliminate references to operating or maintenance logging requirements, these provisos, regarding retention of F value data in the station's files, were erroneously removed. They, of course, need to be retained for technical record purposes in the station files. We will reenter the filing requirements into the subject rules via this Order. (See Appendix items 1, 3 and 4.)

(f) Two errors are found in § 73.1570, Modulation levels: AM, FM and TV aural, in subparagraph (b)(3)(ii).

The limitation of the "modulation of the main carrier by the arithmetic sum of the subcarriers to not more than 10 percent * * *" is corrected to read "* * * to not more than 15 percent* * *", which conforms to the rules for TV transmission standards, specifically § 73.682(a)(23)(ii).

Also in § 73.1570(b)(3)(ii), an exception to the 15 percent modulation is made where the rule states "* * * unless some other subcarrier modulation level is specified in the instrument of authorization." Whereas, the Commission in the past formally authorized multiplexing, the practice now, pursuant to § 73.682(a)(23), permissively allows it without formal request for authorization to operate. Section 73.1570(b)(3)(ii) is amended accordingly by excising the incorrect phrase quoted above. (See Appendix item 8.)

(g) Pursuant to §§ 73.3526 and 73.3527 (Local public inspection file rules), each applicant for renewal of license must place in the station public inspection file a statement certifying compliance with the requirement to present pre-filing and post-filing announcements as required by § 73.3580, local public notice of filing of applications. Paragraph (e) of § 73.3526 and paragraph (g) of § 73.3527 specify the periods of retention for the various records in the public files. These paragraphs are silent regarding the retention period for pre- and post-filing announcements. However, § 73.3580(h) states the retention period in the public file will be "as long as the application to which it refers." Clarification is made herein by entering this retention period into §§ 73.3526 and 73.3527.

These two local public file rules are subject to modification of another filing requirement, of which TV licensees and permittees were relieved in a Commission Order effective in October 1980. In the Matter of Cable TV Syndicated Program Exclusivity Rules, Report and Order in Dockets 20988 and 21284. 79 FCC 2d 663. Via this final Order the Commission eliminated the syndicated exclusivity rules from Part 76, Subpart F of the Cable TV Service regulations. One of the excised rules, § 76.157, stated that copies of exclusivity contracts were to be kept in the TV licensee's or permittee's public inspection files. While this proviso was removed from the Cable TV Service rules, it survives in the local public file rules for commercial and noncommerical TV stations. (§ 73.3526(a)(13) and 73.3527(a)(9).) Also,

the period of retention for these contracts appears in § 73.3527(g). (The period of retention paragraph in § 73.3526 is silent on retention provisions.) All references to such contract filing and retention thereof are removed herein to conform to the Commission's action in the Report and Order in Dockets 20988 and 21284. (See Appendix items 10 and 11.)

(h) As stated in paragraph (g) above, applicants for renewal of broadcast stations must give notice of the filing of the renewal application by broadcasting pre- and post-filing announcements. The text of the announcements is set forth in subparagraphs (d)(4) (i) and (ii) of § 73.3850, Local public notice of the filing of broadcast applications. In the announcements, reference is made to "programing during the next three years" for certain types of stations, a statement indicating the former triennial license period for stations. License renewal periods were extended from three years to five years for TV and seven years for radio stations in the Omnibus Budget Reconciliation Act enacted into law on August 13, 1981. Pub. L. 97–35, 95 Stat. 357, Section 1241(a). In conforming our rules to the newly enacted license period legislation, corrections in the pre- and post-filing announcements texts in this rule were overlooked. The text stating "* * * during the next three years", is changed to read "* * * during the next license term." (See Appendix item 12.)

(i) One of the significant deregulatory benefits resulting from the elimination of operating and maintenance logs (see paragraph (d) above), was the Commission's excision of onerous requirements to follow a schedule of certain meter and monitor readings, inspections, observations and measurements as well as the requirement to enter the results into the log. One such schedule of inspections eluded our review of the rules. It is found in § 74.933, Remote control operation (ITFS) in subparagraph (a)(3), wherein, after advising that "transmitting apparatus shall be inspected as often as may be necessary to insure proper operation", the rule continues by adding a schedule to follow by stating "and in any event at least once a day." The "schedule" of once a day is eliminated in this Order thus conforming the rule to the Commission's intent as expressed in the Report and Order. (See Appendix item 13.)

(2) No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

(3) These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

(4) Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

(5) Therefore, it is ordered, that pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached Appendix, effective January 27, 1984.

(6) For further information on this *Order*, contact Steve Crane, (202) 632–5414, Mass Media Bureau.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 73—[AMENDED]

1. 47 CFR 73.51 is amended by revising paragraph (e)(2) to read as follows:

§ 73.51 Determining operating power.

* * * * *

(e) * * *

(2) The value of F applicable to each mode of operation must be determined and a record kept thereof with a notation as to its derivation. This factor is to be established by one of the methods described in paragraph (f) of this section and retained in the station records.

* * * * *

2. 47 CFR 73.53 is amended by revising paragraph (a)(1), the introductory text of paragraph (c), and paragraph (c)(11) to read as follows:

§ 73.53 Requirements for type approval of antenna monitors.

(a) General requirements:

(1) Any manufacturer desiring to submit a monitor for type approval shall submit an application to the FCC in accordance with the procedure set forth in § 2.561 of this chapter, and subject to the fee schedule in § 1.1120 of this chapter.

* * * * *

(c) An antenna monitor eligible for type approval by the FCC shall meet the following specifications:

* * * * *

(11) The monitor shall be accompanied by complete and correct schematic diagrams and operating instructions. For the purpose of type approval, these diagrams and instructions shall be considered as part of the monitor.

* * * * *

3. 47 CFR 73.267 is amended by revising the introductory text of paragraph (c)(3) and paragraph (c)(3)(i) to read as follows:

§ 73.267 Determining operating power.

* * * * *

(c) * * *

(3) The value of F is to be determined and a record kept thereof by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (b) of this Section or the most recent measurements made by the licensee establishing the value of F. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC and also retain with the station records the measurement data used as a basis for determining the value of F.

* * * * *

4. 47 CFR 73.663 is amended by revising the introductory text of paragraph (d)(3) and paragraph (d)(3)(i) to read as follows:

§ 73.663 Determining operating power.

* * * * *

(d) * * *

(3) The value of F is to be determined and a record kept thereof by one of the following procedures listed in order of preference:

(i) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (c) of this section or the most recent measurements made by the licensee establishing the value of F. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to FCC approval, the licensee must furnish the FCC and also retain with the station records the measurement data used as a basis for determining the value of F.

* * * * *

§ 73.682 [Amended]

5. 47 CFR 73.682 is amended by removing paragraph (b) and redesignating present paragraph (c) as (b).

6. 47 CFR 73.1212 is amended by revising paragraph (c) to read as follows:

§ 73.1212 Sponsorship identification; list retention; related requirements.

* * * * *

(c) In any case where a report has been made to a broadcast station as required by section 507 of the Communications Act of 1934, as amended, of circumstances which would have required an announcement under this section had the consideration been received by such broadcast station, an appropriate announcement shall be made by such station.

* * * * *

7. 47 CFR 73.1515 is amended by revising paragraph (c)(4) as follows:

§ 73.1515 Special field test authorizations.

* * * * *

(c) * * *

(4) The input power to the final amplifier stage, and the AM antenna current or the FM or TV transmitter output power must be observed and recorded at half hour intervals and at any time that the power is adjusted or changed. Copies of these records must be submitted to the FCC with the required report.

* * * * *

8. 47 CFR 73.1570 is amended by revising paragraph (b)(3)(ii) to read as follows:

§ 73.1570 Modulation levels: AM, FM, and TV aural.

* * * * *

(b) * * *

(3) * * *

(ii) TV stations transmitting multiplex signals on the aural carrier for telemetry, or Subscription Television Service, must limit the modulation of the main carrier by the arithmetic sum of the subcarriers to not more than 15%.

* * * * *

9. New 47 CFR 73.1695 is added to the rules to read as follows:

§ 73.1695 Changes in transmission standards.

The FCC will consider the question whether a proposed change or modification of transmission standards adopted for broadcast stations would be in the public interest, convenience, and necessity, upon petition being filed by the person proposing such change or modification, setting forth the following:

(a) The exact character of the change or modification proposed;

(b) The effect of the proposed change or modification upon all other transmission standards that have been adopted by the FCC for broadcast stations;

(c) The experimentation and field tests that have been made to show that the proposed change or modification accomplishes an improvement and is technically feasible;

(d) The effect of the proposed change or modification in the adopted standards upon operation and obsolescence of receivers;

(1) Should a change of modification in the transmission standards be adopted by the FCC, the effective date thereof will be determined in the light of the considerations mentioned in this paragraph (d);

(e) The change in equipment required in existing broadcast stations for incorporating the proposed change or modification in the adopted standards; and

(f) The facts and reasons upon which the petitioner bases the conclusion that the proposed change or modification would be in the public interest, convenience, and necessity.

10. 47 CFR 73.3526 is amended by removing paragraph (a)(13) and marking it Reserved and revising the introductory text of paragraph (e) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) * * *

(13) [Reserved]

* * * * *

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the period specified in § 73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in § 73.1202 (3 years). The "issues/programs" list specified in paragraph (a)(14) of this section shall be retained for the term of the license (7 years). The certification specified in paragraph (a)(15) of this section shall be retained for the period specified in § 73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a) (1), (2), (3), (5), (8), (9), (11), and (12) of this section shall be retained as follows:

* * * * *

11. 47 CFR 73.3527 is amended by removing paragraph (a)(9) and marking it Reserved and by revising the introductory text of paragraph (g) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

(a) * * *

(9) [Reserved]

(g) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the period specified in § 73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The donor list specified in paragraph (a)(8) of this section shall be retained for two years as specified in § 73.1840. The certification specified in paragraph (a)(10) of this section shall be retained for the period specified in § 73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a) (1), (2), (3), (5), (7), (b) and (c) of this section shall be retained as follows:

* * * * *

12. 47 CFR 73.3580 is amended by revising the introductory texts of paragraphs (d)(4) (i) and (ii) to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

* * * * *

(d) * * *

(4) * * *

(i) *Pre-filing announcements.* During the period and beginning on the first day of the sixth calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On *(date of last renewal grant) (Station's call letters)* was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until *(expiration date).*

Our license will expire on *(date).* We must file an application for license renewal with the FCC *(date four calendar months prior to expiration date).* When filed, a copy of this application will be available for public inspection during our regular business hours. It contains information concerning this station's performance during the last *(period of time covered by the application),* (only TV and noncommercial radio say the remainder of this paragraph) and projections of our programming during the next license period.

Individuals who wish to advise the FCC of

facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, D.C. 20554.

* * * * *

(ii) *Post filing announcements.* During the period beginning on the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applications for renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (*date of last renewal grant*) (*Stations call letters*) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (*expiration date*).

Our license will expire on (*date*). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection during our regular business hours. It contains information concerning this station's performance during the last (*period of time covered by the application*), (only TV and noncommercial radio say the remainder of this paragraph) and projections of our programming during the next license period.

* * * * *

PART 74—[AMENDED]

13. 47 CFR 74.933 is amended by revising paragraph (a)(3) to read as follows:

§ 74.933 Remote control operation.

(a) * * *

(3) Facilities shall be provided at the control position which will permit the operator to turn the transmitter on and off at will. The control position shall also be equipped with devices suitable for observing the overall characteristics of the transmissions and a carrier-operated device which will give a continuous visual indication whenever the transmitting antenna is radiating a signal. The transmitter apparatus shall be inspected as often as may be necessary to insure proper operation.

* * * * * *

[FR Doc. 2978 Filed 2-2-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31222-248]

Foreign Fishing Provisions

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to revise the conditions that require redetermination of domestic annual processing capacity in the Atlantic silver and red hake fishery. The rule is intended to minimize administrative procedures and provide opportunity for public comment on redeterminations of domestic processing capacity.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Peter Colosi, 617-281-3600, ext. 272.

SUPPLEMENTARY INFORMATION: The proposed rulemaking was published in the **Federal Register** on August 30, 1983 (48 FR 39254), and requested public comment for 30 days ending September 29, 1983. No comments, either written or verbal, were received. Therefore, this final rule is established as originally proposed and described below.

The foreign fisheries for Atlantic silver and red hake have been governed since 1977 by the Preliminary Fishery Management Plan for the Hake Fisheries of the Northwestern Atlantic (PMP) and by the foreign fishing regulations (50 CFR 611.51). The regulations contain procedures for processing joint venture permits, and an associated reassessment of domestic annual processing capacity (DAP). The 1983 amendment to the PMP (48 FR 414) specified DAPs for the Georges Bank and Southern New England/Mid-Atlantic management units of silver hake which are less than the corresponding Domestic Annual Harvest (DAH); this results in surplus amounts above the U.S. harvests which may be available for joint ventures. Foreign fishing applications requesting amounts of silver and red hake up to specified levels may be approved without triggering formal procedures of this final rule.

However, if a joint venture permit application is received and if the amount of U.S.-harvested hake requested by the applicant exceeds the surplus available, the Secretary will reassess DAP for hake to determine whether additional JVP may be made available. This reassessment procedure, contained in § 611.51 (b) and (c), requires that the Director, Northeast Region, National Marine Fisheries Service (NMFS) shall, on behalf of the Secretary, make an updated estimate of domestic annual processing capacity (DAP) and publish it in the **Federal Register**. A determination and notice must be published each time an application is received. If the new DAP estimate is less than the initial estimate of domestic annual harvest (DAH), then the surplus U.S. harvest is available for joint venture processing (JVP). If the new DAP estimate is equal to or greater than the initial DAH then no U.S.-harvested fish may be made available for joint venture processing.

This rulemaking clarifies the definition of JVP in § 611.51(a) and revises § 611.51(b) to provide for public comment on redetermination of DAP estimates (i.e. whether and to what extent U.S.-harvested hake will be processed by U.S. fish processors). This increases the opportunity for public participation in the process of reviewing joint venture permit applications in this fishery and will increase the information available to the Regional Director in revising DAP estimates.

Classification

The Regional Director determined that this regulatory amendment is necessary for the conservation and management of the Atlantic silver and red hake fishery and that it is consistent with the Magnuson Act and other applicable law.

On October 5, 1982, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) determined, based upon an environmental assessment, that there will be no significant environmental impact resulting from this action. Accordingly, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

The proposed revision of 50 CFR 611.51 represents procedural changes designed to (1) reduce the frequency of determinations of DAP and (2) provide for public comment in this procedure. These procedural adjustments are of housekeeping nature and will have no economic impacts. The Assistant Administrator has determined, based upon the fact that this regulatory change is within the scope of the approved PMP, that this action is not major under Executive Order 12291. Accordingly, preparation of a regulatory impact analysis is not required.

Voluntary telephone surveys of projects domestic harvesting and processing capacity are conducted two or three times a year to support DAP

redeterminations. This rule therefore contains a collection of information requirement for purposes of the Paperwork Reduction Act. NOAA has obtained approval from the Office of Management and Budget (OMB) to include the burden hours for this telephone survey under OMB #0648–0114. Voluntary catch reports on hakes are submitted to NOAA under the Three-Tier Fisheries Information Collection System (OMB #0848–0018). No increase in the previously approved number of burdens hours for the voluntary reporting will result from this final rulemaking.

The General Counsel for the Department of Commerce has certified to the Small Business Administration that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Summary published at 48 FR 39254, August 30, 1983. As a result, a regulatory flexibility analysis was not prepared.

The Regional Director has determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

List of Subjects in 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: January 30, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set out in the preamble, 50 CFR Part 611, Subpart C is amended as follows:

1. Authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. *et seq.* unless otherwise noted.

2. Section 611.51 is amended by revising paragraphs (a) and (b) and removing paragraph (c) to read as follows:

§ 611.51 Hake fishery.

(a) *Definitions.* For purposes of this section (1) JVP means the estimated U.S. harvest of hakes in excess of the amount which can and will be utilized by U.S. fish processors; JVP may be available for transfer to foreign-flag processing vessels; and (2) DAP means the part of the estimated U.S. harvest of hake which can and will be utilized by U.S. fish processors.

(b) *Procedures to reassess DAP.* (1) *Preliminary reassessment.* (i) If a foreign fishing permit application is received for a joint venture and if the amount of U.S.-harvested hake requested by the applicant exceeds the amount of JVP that can be made available to the applicant, the Secretary will reassess DAP for hake to determine whether additional JVP may be made available.

(ii) The Secretary will consult with the New England and Mid-Atlantic Fishery Management Councils and consider the following factors in making the reassessment:

(A) U.S. catch and participation in the fishery to date;

(B) Projected U.S. catch and participation in the fishery for the remainder of the fishery year;

(C) U.S. processing performance to date; and

(D) Projected U.S. processing performance for the remainder of the fishing year.

(iii) The preliminary reassessment will be published in the **Federal Register** and a public comment period of 15 days will be provided.

(2) *Final reassessment.* The Secretary will make a final reassessment of DAP after taking into consideration all information received under paragraph (b)(1)(ii) of this section, and any additional relevent information that may become available. The final reassessment will be published in the **Federal Register** with the reasons for the determination.

(3) *Availability of data.* All data relevent to the reassessment will be available in aggregate form for public review at the Regional Director's office during the public comment period.

[FR Doc. 84–2976 Filed 2–2–84; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 49, No. 24
Friday, February 3, 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

Agricultural Stabilization and Conservation Service

7 CFR Part 717

[Amdt. 4]

Holding of Referenda

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations at 7 CFR Part 717 to provide that return postage paid envelopes will no longer be furnished to producers voting in a referendum which is conducted by mail. The proposed regulations would conform with regulations of the United States Postal Service which do not permit the use by Federal agencies of postage paid envelopes for private benefit.

DATES: Comments on the proposed rule must be received on or before February 21, 1984 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in room 5750, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jay S. Poole, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–2715.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

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

Eligible producers may vote in a referendum to determine whether marketing quotas will be in effect for a specified commodity. If more than one-third of the producers voting in such referendum disapprove marketing quotas, such quotas will not be in effect and price support will not be available for such commodity. Currently producers may vote by mail and are provided return postage paid envelopes at the time ballots are distributed. Producers may use such envelopes to deliver or mail their ballots to their local county ASCS offices. The regulations of the United States Postal Service (39 CFR 111.1) incorporate by reference the Domestic Mail Manual, a publication of the U.S. Postal Service. Section 137.25 of the Domestic Mail Manual (Issue 9, 5–1–82) provides that Federal agencies may not permit the use of return postage paid envelopes for private benefit. It is proposed that ASCS no longer provide return postage paid envelopes to producers when a commodity referendum is conducted. As an alternative to paying postage, producers voting in such referendum may deliver their ballots to the local county ASCS office in accordance with the provisions of 7 CFR Part 717.

List of Subjects in 7 CFR Part 717

Marketing quotas, Holding of referenda.

Proposed Rule

PART 717—[AMENDED]

Accordingly, 7 CFR Part 717 is amended as follows:

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

Authority: Secs. 312, 317, 336, 343, 344, 354, 358, 375, 52 Stat. 46, as amended, 79 Stat. 66, 52 Stat. 55, as amended, 56, as amended, 79 Stat. 1197, 52. Stat. 61, as amended, 55 Stat. 88 as amended, 52 Stat. 66 as amended; 7 U.S.C. 1312, 1314c, 1336, 1343, 1344b, 1354, 1358, 1375.

2. Section 717.19 paragraph (a) is revised to read as follows:

§ 717.19 Manner of voting.

(a) *Voting procedure.* Each person to whom a ballot is issued by mail or in person may vote in the referendum by marking the ballot so as to indicate clearly how the vote is cast, placing the ballot in a plain envelope, sealing the plain envelope, inserting it in an envelope provided by ASCS which is marked clearly with the voter's name and return address, signing the certification on such envelope or making his mark thereto (which mark shall be witnessed), sealing such envelope, and delivering or mailing it to the office of the county committee for the county in which he is eligible to vote.

* * * * *

Signed in Washington D.C. on January 30, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84–2443 Filed 2–2–84; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

7 CFR Part 1942

Community Facility Loans; Extension of Comment Period

AGENCY: Farmers Home Administration, USDA.

ACTION: Extension of comment period of proposed rule.

SUMMARY: On December 5, 1983, the Farmers Home Administration issued a notice of proposed rulemaking to amend its regulations regarding Community Facility Loans [48 FR 54485, December 5

1983]. The comment period is being extended at the request of the public.

DATE: Written comments must be received no later than March 2, 1984.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346–S, 14th and Independence Avenue, SW., Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

FOR FUTHER INFORMATION CONTACT: Wallis B. McArthur, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, Room 6322–S, or Gary J. Morgan, Civil Engineer, Program Support Staff, Room 6334–S, Washington, D.C. 20250, telephone (202) 382–8583.

SUPPLEMENTARY INFORMATION: Interested parties have requested additional time to comment on the substantive issues in the proposed rule.

The agency is granting the request to extend the comment period. Notice is hereby given that an extension of time for the filing of comments is granted to March 2, 1984.

Authorities: (7 U.S.C. 1989, 7 CFR 2.23; 7 CFR 2.70)

Dated: January 30, 1984.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 84–2960 Filed 2–2–84; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 201, 270, and 271

[Docket Nos. RM 83–72–000 and RM 82–16–000]

First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978; Public Hearing

Issued: January 30, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Public Hearing.

SUMMARY: On December 28, 1983, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (49 FR 70, January 3, 1984) proposing to establish regulations for first sales of pipeline production under the Natural Gas Policy Act of 1978. The Commission received requests for a public hearing on this proposal and has scheduled a public hearing.

DATES: The public hearing will be held on Thursday, February 23, 1984, at 10:00 a.m. Requests to participate and the amount of time requested should be received by the Secretary no later than February 16, 1984.

ADDRESSES: The hearing will be held at:

Second Floor, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426

Requests to participate and questions regarding participation should be directed to:

Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426

FOR FURTHER INFORMATION CONTACT: Nancy M. Rizzo, 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: The Commission panel will receive comments of persons who request to participate. Requests to participate in the hearing should be received by February 16, 1984, in the Office of the Secretary. These requests should indicate the amount of time required for the oral presentation. Persons participating at the hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information and at the designated hearing room on the morning the hearing is convened.

This hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing.

Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM83–72–000, and may be ordered from the Commission's Office of Public Information.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2883 Filed 2–2–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

[DoD Directive 5400.xx]

Withholding of Technical Data From the Public; Extension of Comment Period

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule; extension of comment period.

SUMMARY: As a result of the impact of the proposed rule published in the Federal Register on December 22, 1983 (48 FR 56603) the Office of the Secretary of Defense is extending the comment period to give interested persons additional time to respond to the proposed rule.

DATE: Written comments must be received by February 29, 1984.

ADDRESS: Principal Director of Counterintelligence and Security Policy, Office of the Deputy Under Secretary of Defense (Policy), Room 3C276, The Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. L. Britt Snider, 202–695–6609.

Dated: January 31, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–2981 Filed 2–2–84; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A—5–FRL 2517–4]

Michigan State Implementation Plan; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking, notice of extension of comment period.

SUMMARY: The USEPA is giving notice that the comment period for the notice of proposed rulemaking on the Michigan Fugitive Dust Rules 336.371 and 336.372 published December 2, 1983 (48 FR

54377), has been extended (30 days from date of publication). The U.S. EPA is taking this action because an extension was requested by the State of Michigan and a Wayne County Air Agency.

DATE: Comments are now due on or before March 5, 1984.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Specialist, Air and Radiation Branch, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: This notice extends the period for submitting comments on the notice published December 2, 1983 (48 FR 54377) which proposed to withdraw USEPA's final approval action of November 15, 1982, and to disapprove Michigan rules 336.371 and 336.372. Additionally, the proposal addresses the effects of the National Resources Defense Council's (NRDC's) challenge to USEPA's approval.

The Michigan Department of Natural Resources (MDNR) and the Wayne County Department of Air Pollution Control Division requested that the comment period be extended an additional 60 days. USEPA has reviewed these requests and decided that a 30-day extension of the public comment is appropriate in order to expedite its final rulemaking and comply with the Agency's legal duties under the Clean Air Act.

The comment period is hereby extended to March 5, 1984.

Dated: January 24, 1984.

Dale S. Bryson,

Acting Regional Administrator.

[FR Doc. 84-3003 Filed 2-2-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[WH-FRL 2518-6]

Oregon Department of Environmental Quality Underground Injection Control Primacy Application

AGENCY: Enviromental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the State of Oregon requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Oregon Department of Environmental Quality (ODEQ) to regulate Classes I, II, III, IV, and V injection wells. This application is made under Section 1422 of the Safe Drinking Water Act.

DATES: Requests to hold public hearing and to present oral testimony should be filed within thirty (30) days of this notice. The Public Hearing will be held on March 8, 1984, from 1:00 p.m. to 3:00 p.m. The public comment period closes March 15, 1984. If sufficient public interest in holding the hearing is not expressed within thirty (30) days of this notice, EPA reserves the right to cancel the hearing. If the hearing is canceled, those persons having expressed interest in attending the hearing will be notified of the cancellation either by phone or letter. Other persons should contact EPA in Portland at (503) 221–3250 to confirm date and time.

ADDRESSES: Comments and requests to testify should be mailed to Gerald Opatz, M/S 409, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the application and pertinent material are available during normal business hours at the following locations:

Environmental Protection Agency, Region X, Library, 1200 Sixth Avenue, Seattle, Washington 989101;

Environmental Protection Agency, 522 S.W. Fifth Avenue, Yeon Building, Second Floor, Portland, Oregon 97204;

Department of Environmental Quality, Water Quality, Water Quality Division, 522 S.W. Fifth Avenue, Portland, Oregon 97204;

Department of Environmental Quality, Northwest Regional Office, 522 S.W. Fifth Avenue, Portland, Oregon 97204;

Department of Environmental Quality, Willamette Valley Regional Office, 895 Summer Street N.E., Salem, Oregon 97310;

Department of Environmental Quality, Southwest Regional Office, 201 W. Main Street, Room 202, Medford, Oregon 97501;

Department of Environmental Quality, Central Regional Office, 2150 N.E. Studio Road, Bend, Oregon 97701; and

Department of Environmental Quality, Eastern Regional Office, 700 S.E. Emigrant Street, Suite 330, Pendleton, Oregon 97801.

The hearing will be held at Department of Environmental Quality Headquarters, 14th Floor Conference Room, 522 S.W. Fifth Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Gerald Opatz, M/S 409, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington, 98101 PH: (206) 442–1223 or FTS 399–1223. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. At present, the State of Oregon has one Class I injection well and 707 inventoried Class V injection wells. Class V wells will be studied to assess whether further regulatory measures are required. The State of Oregon does not intend to exempt any aquifers at this time.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Indians—land, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

Requests for a public hearing should include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the UIC program and of information that the requesting person intends to submit at such hearing; and,

(3) The signature of the individual making the request, or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

This application from the Oregon Department of Environmental Quality is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement

between the Oregon Department of Environmental Quality and the Region X office of the Environmental Protection Agency.

(42 U.S.C. 300)

Dated: January 27, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-3001 Filed 2-2-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[WH-FRL 2518-5]

Vermont Agency of Environmental Conservation Underground Injection Control Primacy Applicaton

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the State of Vermont requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Vermont Agency of Environmental Conservation to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by March 1, 1984. The Public Hearing will be held on March 8, 1984, at 10:00 a.m. Written comments must be received by March 1, 1984. Should EPA not receive sufficient public comment or requests to present oral testimony by March 1, 1984, the Agency reserves the right to cancel the Public Hearing.

ADDRESSES: Comments and requests to testify should be mailed to Jerome J. Healey, Water Supply Branch, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203. Copies of the application and pertinent material are available between 9:00 a.m. and 5:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region I Library, 21st Floor, JFK Federal Building, Boston, Massachusetts 02203, PH: (617) 223-5791, and

Vermont Agency of Environmental Conservation Department of Water Resources and Environmental Engineering, Ground Water Section, State Office Building, Montpelier, Vermont 05602, PH: (802) 828-2761.

The hearing will be held in the Auditorium of the Pavilion Office Building, 109 State Street, Montpelier, Vermont.

FOR FURTHER INFORMATION CONTACT: Jerome J. Healey, Water Supply Branch, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203. PH: (617) 223-6486. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The Vermont Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. At present, the State of Vermont has no known Class I, II, III, or IV injection wells. The latest inventory identified 1 Class V well. Class V wells will be studied to assess whether further regulatory measures are required. The State of Vermont does not intend to exempt any aquifers at this time.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

This application from the Vermont Agency of Environmental Conservation is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the Vermont Agency of Environmental Conservation and Region I office of the Environmental Protection Agency.

(42 U.S.C. 300)

Dated January 27, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-3002 Filed 2-2-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, and 3830

Oil and Gas Leasing; Reinstatement of Leases and Conversion of Certain Claims; Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rulemaking would provide procedures to facilitate the reinstatement of oil and gas leases automatically terminated for the failure to timely pay the required rental and to permit conversion of certain unpatented oil placer mining claims deemed conclusively abandoned into noncompetitive oil and gas leases. The proposed rulemaking would implement provisions contained in Title IV of the Federal Oil and Gas Royalty Management Act of 1982.

DATE: Comments should be submitted by April 3, 1984. Comments postmarked or received after the above date may not be considered as part of the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lois Mason (202) 653-2190; or Robert C. Bruce (202) 343-8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would establish procedures for the reinstatement of oil and gas leases and would include related changes to the existing regulations to facilitate the reinstatements. The proposed rulemaking would also provide procedures for issuance of noncompetitive oil and gas leases resulting from the conversion of unpatended oil placer mining claims deemed conclusively abandoned. These amendments are being made to carry out the provisions of Title IV of the Federal Oil and Gas Royalty

Management Act of 1982, which amended section 31 of the Mineral Leasing Act of 1920 (30 U.S.C. 188) which give the Secretary of the Interior additional discretionary authority to administratively reinstate certain types of oil and gas leases that have been automatically terminated for the failure to timely and fully pay the required rental and new authority to convert certain qualifying unpatented oil placer mining claims into noncompetitive oil and gas leases. Until the passage of the Act, the Secretary of the Interior had very limited authority to administratively reinstate oil and gas leases that had been terminated for failure to timely and fully pay the required rental for adequate reason if payment was made within a statutorily granted grace period. The Secretary had no authority to reinstate a lease if the rent was paid after such grace period. This limited administrative authority resulted in many entities seeking reinstatement through private relief bills introduced in the Congress. This procedure created a burden on the Congress which resulted in the enactment of the reinstatment provisions of the Federal Oil and Gas Royalty Management Act.

The Federal Oil and Gas Royalty Management Act represents a generic act that grants the Secretary of the Interior discretionary authority to reinstate terminated oil and gas leases and to convert abandoned oil placer mining claims to leases, both with specified minimum rentals and royalties. This proposed rulemaking would establish the procedures to be used in carrying out the Secretary's discretionary authority to reinstate terminated leases and to convert abandoned mining claims to leases.

Title IV of the Federal Oil and Gas Royalty Management Act specifically provides that any reinstatement of a terminated lease dates back to the date of its termination by the operation of law. Congress specifically intended that as consideration for reinstating a terminated oil and gas lease, the affected parties should be required to pay substantially increased rental and royalty payments. Title IV also provides that claimants with unpatented oil placer mining claims deemed conclusively abandoned shall make minimum royalty and rental payments from the date of abandonment as consideration for conversion to a lease.

In its report on the Federal Oil and Gas Royalty Management Act, the Congress made clear its intention that former lessees and claimants who petition for reinstatement of terminated leases or to have leases issued in lieu of a conclusively abandoned, unpatented oil placer mining claim pursuant to Title IV of the Act should not benefit, at the expense of both Federal and State Governments and the general public, from their own errors and/or acts of omission and should not be enriched due to their own inadvertence, oversight or negligence in failing to comply with the law. Therefore, the Congress specifically provided for substantially increased rental payments from the date of termination or abandonment and substantially increased royalty payments on all production made subsequent to the date of termination or abandonment. The Secretary of the Interior is directed to require that repayment of back rentals and royalties be equal to the amounts which are established as minimum future rentals and royalties for each such reinstated or converted lease and to include such terms in, and as part of, any reinstated or converted lease prior to its execution.

The procedures set forth in the proposed rulemaking are in addition to existing reinstatement procedures and provide three classes of reinstatements. The existing regulations on oil and gas lease reinstatements at 43 CFR 3108.2, called Class I reinstatements in this proposed rulemaking, provide that the authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that: (1) Such rental is paid or tendered within 20 days after the anniversary date; (2) it is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and (3) a petition for reinstatement together with a nonrefundable filing fee of $25 and the required rental is filed within 15 days after receipt of the Notice of Termination.

This proposed rulemaking changes the time period within which a petition for Class I reinstatements may be filed to 60 days after the receipt of the Notice of Termination instead of 15 days after receipt of the Notice. The proposed rulemaking also provides for the Notice to be sent regardless of whether the rental is actually paid late.

The time period in which the authorized officer cannot issue a lease for lands covered by a lease which automatically terminated by operation of law would also be changed by the proposed rulemaking from 60 days to 90 days after the date of termination.

Title IV of the Federal Oil and Gas Royalty Management Act provides for reinstatement of oil and gas leases: (1) No matter when the rental is paid after termination because of nonpayment of rental, when it is shown that such failure to pay was inadvertent; and (2) when the rental was not paid or tendered within 20 days of the termination date and it is shown that such failure was justified or not due to a lack of reasonable diligence. Reinstatements under this provision are called Class II reinstatements in this proposed rulemaking.

The conversion, under specified conditions, of an abandoned, unpatented oil placer mining claim to a noncompetitive lease as provided by the Federal Oil and Gas Royalty Management Act is called a Class III reinstatement in the proposed rulemaking. The Act authorizes the conversion when the oil placer claim has been deemed conclusively abandoned for failure to timely file the instruments or copies thereof required under section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744). The likelihood of these provisions being used will be rare because there are very few oil placer mining claims and the provisions of the Mineral Leasing Act of 1920, which made oil a leasable mineral, prevent the establishment of any additional oil placer claims.

Specific provisions of Title IV of the Federal Oil and Gas Royalty Management Act allow the Secretary of the Interior to reinstate an oil and gas lease when a petition for reinstatement was filed on or before May 12, 1983, when: (1) The lessee tendered late rental prior to January 12, 1983; (2) where the failure to timely pay rental was inadvertent; and (3) a final determination that the lease terminated was made less than 3 years before January 12, 1983. Also, provisions of the Act allow the conversion of an oil placer mining claim that was deemed conclusively abandoned on or before January 12, 1983, when a petition for conversion to a noncompetitive lease was filed on or before May 12, 1983. Because the required time for filing a petition under Title IV has passed, the proposed rulemaking does not include these provisions of the Act. Procedures for handling these specific cases are included in Bureau of Land Management Instruction Memorandum No. 83-355. No further petitions can be accepted for reinstatement or conversion under those provisions of the Act.

The proposed rulemaking includes provisions for increased annual rentals

and royalties for each succeeding time a specific lease is reinstated. Each succeeding reinstatement for a lease would require the annual rental to increase an additional $5 per acre per year for leases originally issued noncompetitively and an additional $10 per acre per year for leases originally issued competitively. Royalty would be increased an additional 2 percentage points for each subsequent reinstatement.

This proposed rulemaking would also amend the rental and royalty provisions of the existing regulations in 43 CFR Subpart 3103 to bring them into compliance with the provisions of the Federal Oil and Gas Royalty Management Act.

The principal author of this proposed rulemaking is Raul E. Martinez, Division of Fluid Mineral Leasing, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The procedures provided in the proposed rulemaking will be limited to those situations detailed in the Act. Any entity, large or small, if it meets the conditions provided in the proposed rulemaking, can apply for reinstatement or conversion. The procedure should reduce the legislative burden on the Congress by reducing the number of private bills introduced and should shorten the period required for reinstatement or conversion.

This proposed rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects

43 CFR Part 3100

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—classification, Public lands—mineral resources, Surety bonds.

43 CFR Part 3110

Administrative practice and procedure, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3800

Mining claims under the General Mining Law.

PART 3103—[AMENDED]

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1976 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Independent Office Appropriations Act of 1952 (31 U.S.C. 483a), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 226), and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen 41), it is proposed to amend Parts 3100 and 3110 of Group 3100 and Part 3830 of Group 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

§ 3103.2-2 [Amended]

1. Section 3103.2–2 is amended by adding new paragraphs (j) and (k) as follows:

* * * * *

(j) On terminated leases that were originally issued noncompetitively and are reinstated under § 3108.2–3 of this title, and on noncompetitive leases that were originally issued under § 3108.2–4 of this title, the annual rental shall be $5 per acre or fraction thereof. For terminated leases that were originally issued competitively, the annual rental shall be $10 per acre or fraction thereof. For terminated leases that are determined to be within a known geologic structure outside of Alaska, or a favorable geologic province in Alsaka, prior to the filing of a petition to reinstate a lease or convert an abandoned, unpatented oil placer mining claim, the annual rental shall be an additional $2 per acre or fraction thereof beginning with the first lease year after such determination. The provisions of this paragraph shall supersede the provisions of paragraphs (a) and (d) of this section for all leases reinstated or issued under §§ 3108.2–3 and 3108.2–4 of this title.

(k) Each succeeding time a specific lease is reinstated under § 3108.2–3 of this title, the annual rental on that lease shall increase by an additional $5 per acre or fraction thereof for leases that were originally issued noncompetitively and by an additional $10 per acre or fraction thereof for leases that were originally issued competitively.

§ 3103.3-1 [Amended]

2. Section 3103.3–1 is amended by revising paragraph (a) to read:

(a) Royalty on production shall be payable only on the mineral interest owned by the United States. The following royalty rates shall be paid in amount or value of the production removed or sold from the lease:

(1)(i) 12½ percent royalty on noncompetitive leases;

(ii) 16⅔ percent royalty on leases reinstated under §3108.2–3 of this title, plus an additional 2 percentage point increase (e.g., to 18⅔; 20⅔, etc.) added for each succeeding reinstatement;

(iii) 12½ percent royalty on noncompetitive leases issued in lieu of unpatented oil placer mining claims under § 3108.2–4 of this title.

(2)(i) Such rates as are prescribed in the notice of sale in the case of all leases issued by competitive bidding;

(ii) On leases reinstated under § 3108.2–3 of this title, royalty shall increase 4 percentage points over the competitive royalty schedule in force and used for royalty determination for competitive leases, plus an additional 2 percentage point increase added for each succeeding reinstatement (e.g., 12½ plus 4, plus 2; 12½ plus 4, plus 2, plus 2; etc.).

(3) From lands within exchange and renewal leases, the rate of royalty shall be identical to that prescribed in the prior leases, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States, the royalty rate shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110, the royalty rate shall be 12½ percent;

Over 110, but not over 130, the royalty rate shall be 18 percent of all production;

Over 130, but not over 150, the royalty rate shall be 19 percent of all production;

Over 150, but not over 200, the royalty rate shall be 20 percent of all production;

Over 200, but not over 250, the royalty rate shall be 21 percent of all production;

Over 250, but not over 300, the royalty rate shall be 22 percent of all production;

Over 300, but not over 350, the royalty rate shall be 23 percent of all production;

Over 350, but not over 400, the royalty rate shall be 24 percent of all production; and

Over 400, the royalty rate shall be 25 percent of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide and all other natural gases and mixtures thereof, and on casinghead gasoline and other liquid products obtained from gas when the production per well per calendar day for the month is:

Not in excess of 5 million cubic feet, the royalty rate shall be 12½ percent of the amount or value of the gas and liquid products produced; and

In excess of 5 million cubic feet, the royalty rate shall be 16⅔ percent of the amount or value of the gas and liquid products produced.

(iii) On leases reinstated under § 3108.2–3 of this title, the royalty shall increase 4 percentage points over the percentages listed in subparagraphs (i) and (ii) of this paragraph, but in no case less than 16⅔ percent, plus an additional 2 percentage point increase for each succeeding reinstatement.

* * * * *

§ 3103.3–2 [Amended]

3. Section 3103.3–2 is amended by adding a new paragraph (d) to read:

* * * * *

(d) The minimum royalty provisions of this section shall be applicable to leases reinstated under § 3103.2–3 of this title and leases issued under § 3108.2–4 of this title.

§ 3103.4–1 [Amended]

4. Section 3103.4–1 is amended by adding a new paragraph (d) to read:

* * * * *

(d) Petition may be made for reduction of royalty under § 3108.2–3(f) for leases reinstated under § 3108.2–3 of this title and under § 3108.2–4(i) for noncompetitive leases issued under § 3108.2–4 of this title. Petitions to waive, suspend or reduce rental or minimum royalty for leases reinstated under § 3108.2–3 of this title or for leases issued under § 3108.2–4 of this title may be made under this section.

PART 3107—[AMENDED]

3107.6 [Amended]

5. Section 3107.6 is amended by removing the figure "§ 3108.2" where it appears and replacing it with the figure "§ 3108.2–1", by removing paragraph (a) in its entirety, by redesignating paragraphs (b) and (c) as paragraphs (a) and (b) and by amending new paragraph (b) by adding at the end thereof the words ", but in no event for more than 2 years from the date the reinstatement is authorized and so long thereafter as oil or gas is produced in paying quantities."

PART 3108—[AMENDED]

6. Section 3108.2 is amended by revising the heading to read:

§ 3108.2 Termination by operation of law and reinstatement.

§ 3108.2–1 [Amended]

7. Section 3108.2–1 is amended by:

A. Revising the heading to read:

§ 3108.2–1 Automatic termination.

B. Removing paragraph (c) in its entirety.

8. New §§ 3108.2–2, 3108.2–3 and 3108.2–4 are added to read:

§ 3108.2–2 Reinstatement at existing rental and royalty rates—Class I reinstatements.

(a) Except as hereinafter provided, the authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(1) Such rental was paid or tendered within 20 days after the anniversary date; and

(2) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of the rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and

(3) A petition for reinstatement, together with a nonrefundable filing fee of $25 and the required rental, including any back rental which has accrued from the date of the termination of the lease, is filed with the proper BLM office within 60 days after receipt of Notice of Termination of Lease due to late payment of rental.

(b) The burden of showing that the failure to pay or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee.

(c) Under no circumstances shall a terminated lease be reinstated if:

(1) A valid oil and gas lease has been issued prior to the filing of a petition for reinstatement affecting any of the lands covered by that terminated lease; or

(2) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.

(d) The authorized officer shall not issue a lease for lands which have been covered by a lease which terminated automatically until 90 days after the date of termination.

§ 3108.2–3 Reinstatement at higher rental and royalty rates—Class II reinstatements.

(a) The authorized officer may, if the requirements of this section are met, reinstate an oil and gas lease which was terminated by operation of law for failure to pay rental timely when the rental was not paid or tendered within 20 days of the termination date and it is shown to the satisfaction of the authorized officer that such failure was justified or not due to a lack of reasonable diligence, or no matter when the rental was paid, it is shown to the satisfaction of the authorized officer that such failure was inadvertent.

(b)(1) For leases that terminate on or after January 12, 1983, consideration may be given to reinstatement if the required back rental and royalty at the increased rates accruing from the date of termination, together with a petition for reinstatement, are filed on or before the earlier of:

(i) Sixty days after the receipt of the Notice of Termination or the return of the rental check, or any other form of actual notice; or

(ii) Fifteen months after termination of the lease.

(2) A petition for reinstatement may be filed by an assignee holding an assignment executed prior to the date the lease terminated, provided that the assignment, if not already on file, is filed with the petition and that the assignment meets all of the requirements contained in subpart 3106 of this title and related sections of Part 3100 of this title. For purposes of reinstatement of a lease under this section, deficiencies in an assignment may be cured if the authorized officer determines that it is equitable to allow such cure.

(3) After determining that the requirements for filing of the petition for reinstatement have been timely met, the authorized officer may reinstate the lease if:

(i) No valid lease has been issued prior to the filing of the petition for reinstatement affecting any of the lands covered by the terminated lease, whether such lease is still in effect or not;

(ii) The oil and gas interests of the United States in the lands have not been disposed of or have not otherwise become unavailable for leasing;

(iii) Payment of all back rentals and royalties at the increased rates, including the lease to the United States of all funds being held in escrow, has been made;

(iv) An agreement has been signed by the lessee and attached to and made a part of the lease specifying future

rentals at the applicable rates specified for reinstated leases in § 3102.2–2 of this title and future royalties at the rates set in § 3103.3–1 of this title for all production removed or sold from such lease or shared by such lease from production allocated to the lease by virtue of its participation in a unit or communitization agreement or other form of approved joint development agreement or plan;

(v) A notice of the proposed reinstatement of the terminated lease and the terms and conditions of reinstatement has been published in the **Federal Register** at least 30 days prior to the date of reinstatement for which the lessee shall reimburse the Bureau for the full costs incurred in the publishing of said notice; and

(vi) The lessee has paid the Bureau a nonrefundable administrative fee of $500.

(c) The authorized officer shall not, after the receipt of a petition for reinstatement, issue a new lease affecting any of the lands covered by the terminated lease until after a reasonable time, as determined by the authorized officer, has elapsed.

(d) The authorized officer shall furnish to the Chairpersons of the Committee on Interior and Insular Affairs of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, at least 30 days prior to the date of reinstatement, a copy of the notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the authorized officer considers significant in making the determination to reinstate.

(e) If the authorized officer reinstates the lease, the reinstatement shall be as of the date of termination, for the unexpired portion of the original lease or any extension thereof remaining on the date of termination, and so long thereafter as oil or gas is produced in paying quantities. Where a lease is reinstated under this section and the authorized officer finds that the reinstatement of such lease either (1) occurs after the expiration of the primary term or any extension thereof, or (2) will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of the reinstated lease for such period as determined reasonable, but in no event for more than 2 years from the date of the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(f) The authorized officer may, either in acting on a petition for reinstatement or in response to a request filed after reinstatement, or both, reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the lands covered by the lease after the rental had become due and had not been paid; or if the authorized officer determines it is equitable to do so for any other reason.

§ 3108.2–4 Conversion of unpatented oil placer mining claims—Class III reinstatement.

(a) For any unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, and has been or is deemed after January 12, 1983, conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable or not due to lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the act (30 U.S.C. 226(e)). The effective date of any lease issued under this section shall be from the statutory date that the claim was deemed conclusively abandoned.

(b) The authorized officer may issue a noncompetitive oil and gas lease if a petition has been filed in the proper BLM office for the issuance of a noncompetitive oil and gas lease accompanied by the required rental and royalty, including back rental and royalty accruing, at the rates specified in §§ 3103.2–2 and 3103.3–1 of this title, for any claim deemed conclusively abandoned after January 12, 1983. The petition shall have been filed on or before the 120th day after the final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim.

(c) The authorized officer shall not issue a noncompetitive oil and gas lease under this section if a valid oil and gas lease has been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of the petition for issuance of a noncompetitive oil and gas lease.

(d) After the filing of a petition for issuance of a noncompetitive oil and gas lease covering an abandoned oil placer claim, the authorized officer shall not, until after the lapse of what he/she determines to be a reasonable period of time, issue any new lease affecting any lands covered by such petition.

(e) Any noncompetitive lease issued under this section shall include:

(1) Terms and conditions for the payment of rental in accordance with § 3103.2–2(j) of this title. Payment of back rentals accruing from the date of abandonment of the oil placer mining claim, at the rental set by the authorized officer, shall be made prior to the lease issuance.

(2) Royalty rates set in accordance with § 3102.3–1 of this title. Royalty shall be paid at the rate established by the authorized officer on all production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the date the claim was deemed conclusively abandoned prior to the lease issuance.

(f) Noncompetitive oil and gas leases issued under this section shall be subject to all regulations in Part 3100 of this title except for those terms and conditions mandated by Title IV of the Federal Oil and Gas Royalty Management Act.

(g) A notice of the proposed conversion of the oil placer mining claim into a noncompetitive oil and gas lease, including the terms and conditions of conversion, shall be published in the **Federal Register** at least 30 days prior to the issuance of a noncompetitive oil and gas lease. The mining claim owner shall reimburse the Bureau for the full costs incurred in the publishing of said notice.

(h) The mining claim owner shall pay the Bureau a nonrefundable administrative fee of $500 prior to the issuance of the noncompetitive lease.

(i) The authorized officer may, either in acting on a petition to issue a noncompetitive oil and gas lease or in response to a request filed after issuance, or both, reduce the royalty in such lease, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production.

PART 3110—[AMENDED]

§ 3110.1–3 [Amended]

9. Section 3110.1–3(a) is amended by adding at the end thereof the sentence "This paragraph shall not apply to offers made under § 3108.2–4 of this title."

§ 3110.3 [Amended]

10. Section 3110.3(c) is amended by removing the figure "60" and replacing it with the figure "90".

PART 3111—[AMENDED]

§ 3111.1–1 [Amended]

11. Section 3111.1–1(a) is amended by inserting after the first sentence thereof the sentence "For noncompetitive leases processed under § 3108.2–4 of this title, the current lease form shall be used."

§ 3111.2–1 [Amended]

12. Section 3111.2–1 is amended by adding a new paragraph (e) to read:

* * * * *

(e) The requirements of this section shall apply to applications for conversion of abandoned unpatented oil placer mining claims made under § 3108.2–4 of this title, except that deficiencies shall be curable.

PART 3833—[AMENDED]

§ 3833.4 [Amended]

13. Section 3833.4 is amended by adding a new paragraph (c) to read:

* * * * *

(c) Title IV of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188(f)) provides that where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) to be effective from the statutory date the claim was conclusively abandoned. The conditions and requirements for issuance of such leases are contained in § 3108.2–4 of this title.

Dated: November 25, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–2945 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

Disaster Assistance; Eligibility of Costs of Public Assistance to State and Local Governments

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes changes to the Federal Emergency Management Agency (FEMA) disaster assistance regulations implementing the Disaster Relief Act of 1974, Pub. L. 93–288. Changes are made in the eligibility of costs of public assistance to State and local governments. This is being done in recognition of the commitment to the disaster effort now being made by applicants in the form of cost sharing of eligible costs.

DATES: Comments by: June 4, 1984.

ADDRESS: Send Comments to: Rules Docket Clerk, Office of General Counsel, Room 835, Federal Emergency Management Agency, 500 C Street SW, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Charles B. Stuart Federal Emergency Management Agency, 500 C Street SW., Washington, D.C. 20472, telephone 202/287–0580.

SUPPLEMENTARY INFORMATION: Federal disaster assistance under Pub. L. 93–288 is intended to supplement State and local capabilities and efforts to cope with a disaster, but not to supplant them. A Governor's request for a declaration of a major disaster or emergency must be supported by certification that State and local applicants have committed or will commit a reasonable amount of funds to cope with the disaster. Past commitments were accepted recognizing that some disaster related costs of the types not eligible under Pub. L. 93–288 were defrayed by grant recipients from their own funds. Other disaster related costs may be incurred by grant recipients directly or indirectly for which auditable records are not maintained and for which no Federal assistance could be claimed.

Currently the commitment by the State and local grantees is partially satisified by a contribution of a percentage of the cost of eligible grant assistance. The amount of this percentage is determined on a case-by-case basis for each disaster. Taking into consideration this cost sharing as a portion of the State and local commitment, and the statutory requirement that the public assistance be supplementary, FEMA is considering changes to the eligibility of costs. Discussions were held with representatives of the National Emergency Management Association (NEMA) on this subject. Their recommendations have been taken into account in formulating the proposed changes.

S. 1525, a bill to amend the Disaster Relief Act of 1974 is currently pending in the Senate. S. 1525 is essentially the same as the bill (S. 2250) which passed the Senate during the 97th Congress. S. 1525 addresses the issue of State and local commitments and would establish a cost sharing formula as part of the law. The changes in cost eligibility in this proposed rule are consistent with FEMA's proposed changes to Pub. L. 93–288 and with the intent of the Senate expressed in the passage of S. 2250.

Passage of S. 1525 may require changes to disaster assistance regulations in areas other than cost eligibility. the following changes in the cost eligibility subsection of the regulation (44 CFR 205.76) are proposed:

(a)(1) Definitions of total eligible costs and net eligible costs are given to reflect sharing of costs by Federal and non-Federal interests. Selected other criteria are clarified.

(a)(7)(i) Administrative Expenses—A previous revision to these regulations (August 13, 1980) considered whether certain costs should be made eligible in accordance with OMB Circular 74–4 (Now A–87). At that time the decision on certain indirect costs was deferred until further consultation could be conducted with the Office of Management and Budget. This proposed change makes eligible an allowance for administrative expenses and provides a method for calculation of such an allowance. The percentage allowances for applicants' administrative costs were arrived at through FEMA's experience in dealing with disaster claims. While these costs have not been eligible in the past and therefore were not included in assistance claims, applicants have frequently advised us of the impact of these costs. In accordance with the supplementary nature of FEMA assistance under Pub. L. 93–288 the allowance will cover only the extraordinary expenses incurred as a direct result of a disaster. The percentage is an average of a sample of a number of different communities. It will be the same for all applicants. This practice has worked well for a number of years in the allowances for the use of applicant owned equipment to perform eligible disaster work.

(a)(7)(iii) The proposed change makes the cost of State audits required by FEMA an eligible cost.

(a)(7)(iv) The proposed change makes certain costs of State inspectors eligible.

(a)(19) National Guard—Most types of National Guard expenses would now be eligible, including security work.

(a)(22) Prison Labor—Certain costs of guards and food and lodging for prisoners and guards would be eligible.

(b)(2)(iv) Fringe Benefits—These costs have also been considered in accordance with the guidance of OMB Circular A–87. Certain fringe benefits paid by an employer for an applicant's employees would be eligible for reimbursement. The fringe benefits for which an allowance is made are those which represent extraordinary costs as a direct result of the disaster. Disaster recovery work generally results in the diversion of an applicant's employees from their regular duties. The increased hours of work will affect only certain types of fringe benefits such as the employer's Social Security contribution and similar payments. Other benefits, such as vacation or sick leave, are not affected by overtime work. The principal of paying only for certain costs is in accordance with the supplementary nature of Federal disaster assistance under Pub. L. 93–288. A fixed percentage allowance is proposed because the costs of the benefits included vary among the different state and local governments. In addition, in some states not all employees are covered by the particular benefits. A percentage of 10.5 percent was arrived at after consultation with other Federal agencies. It is made up of the following allowances: employee retirement (Social Security or other)—7 percent; unemployment insurance—1.5 percent; and worker's compensation—2 percent. For those grants where payment is based on the estimate of the cost of work, this percentage shall be used for fringe benefits. Grants in this category are flexible funding, grants-in-lieu, and small project grants (under $25,000). For other categorical grants, the applicant will have a choice of using this percentage or of submitting documentation in support of different rates for the three coverages. The use of a set percentage would expedite the processing of these grants. Estimating and accounting for these costs for each applicant could result in delays. This would be particularly significant for the 80 percent of applicants which receive small project grants under $25,000. This is because Pub. L. 93–288 provides simplified procedures to expedite payment to these applicants. It would be inconsistent to complicate the procedures unnecessarily.

Environmental Considerations—This amendment is administrative in nature and is categorically excluded from the requirements of 44 CFR Part 10 concerning preparation of environmental assessments.

Executive Order 12291, "Federal Regulations"—This rule is not a "major rule" within the context of Executive Order 12291. It will not have an annual effect on the economy of $100 million or more.

The rule will not have a significant economic impact on small entities, within the meaning of 5 U.S.C. 605 (the Regulatory Flexibility Act). Therefore, no regulatory analysis will be prepared.

This rule does not call for the collection of any information.

Authority: This rule is issued under authority of Section 601 of the Disaster Relief Act of 1974 (Pub. L. 93–288), as amended by Pub. L. 96–446.

Lists of Subjects in 44 CFR Part 205

Disaster assistance, Grant programs, Housing and community development.

PART 205—FEDERAL DISASTER ASSISTANCE

Accordingly, Subchapter D of Chapter 1, Title 44 is proposed to be amended as follows:

1. Section 205.76 is amended by revising paragraph (a)(1) to read as follows:

§ 205.76 Eligibility of costs.

(a) *General.* (1) This section provides policies and guidelines for determining eligibility of costs of work eligible under the Act that may be paid to any eligible applicant or other recipient of this grant assistance. As used in this section, eligible costs include total costs that are subject to cost sharing and are otherwise reimbursable under these regulations. The applicable cost sharing percentages must be used to determine net eligible costs which may be approved and reimbursed by FEMA. The subparagraphs which follow are generally applicable to eligibility of costs. Only reasonable costs of eligible work are reimbursable.

* * * * *

2. Section 205.76 is amended by revising paragraphs (a)(2) (i), (iv) and (vii) to read as follows:

(a) * * *

(2) * * *

(i) Be necessary and reasonable for proper and efficient administration of the grant programs, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State, local or Federally-recognized Indian tribal governments. Costs of projects must be directly attributable to the performance of eligible work. Indirect costs incurred as a result of the disaster are covered by the allowance for administrative expenses (see § 205.76(a)(7)).

* * * * *

(iv) Be consistent with policies, regulations, and procedures (of the applicant) that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

* * * * *

(vii) Be net of all applicable credits which offset or reduce eligible disaster costs. Examples are purchase discounts, insurance recoveries and salvage.

* * * * *

3. Section 205.76 is amended by revising paragraph (a)(4) to read as follows:

(a) * * *

(4) The amount of Federal reimbursement made to an applicant under categorical funding or under a small project grant is limited to the net eligible cost of performing work approved by FEMA. This limitation is not intended to restrict the type and cost of work which the applicant may choose to undertake. If the applicant performs work in excess of the approved amount, Federal assistance is limited to the net costs of eligible work approved by the Regional Director. Flexible funding under section 402(f) of the Act is limited to 90 percent of the net estimated costs of eligible permanent restorative work.

* * * * *

4. Section 205.76 is amended by revising paragraph (a)(7) to read as follows:

(a) * * *

(7) Administrative Expenses.

(i) An allowance to cover expenses atributable to requesting, obtaining, and administering FEMA grant assistance is eligible in accordance with the following:

(A) For those applicants whose total eligible costs are less than $100,000, such allowance shall be three percent of total eligible costs (estimated costs for recipients of small project grants).

(B) For those applicants whose total eligible costs exceed $100,000 but are less than $1,000,000, such allowance shall be $3,000 plus two percent of total eligible costs in excess of $100,000.

(C) For those applicants whose total eligible costs exceed $1,000,000 but are less than $5,000,000, such allowance shall be $21,000 plus one percent of total eligible costs in excess of $1,000,000.

(D) For those applicants whose total eligible costs exceed $5,000,000 such allowance shall be $61,000 plus one-half percent of total eligible costs in excess of $5,000,000.

(ii) Subject to the limitations stated in subsection (7)(i) above, the allowance for administrative expenses includes, but is not limited to, the following types of work:

(A) Preparation of project applications, reports, appeals, inspection reports, materials for audits, and claims for payment.

(B) Performance of owners' responsibilities.

(C) Operation of Emergency Operations Center.

(D) Salaries, wages, fees, and expenses of individuals or firms while engaged in the preparation and processing of damage assessments, damage survey reports, project applications, claims for payment and supporting documentation.

(E) Office supplies and equipment.

(F) Rent.

(G) Telephone and telegraph expenses.

(iii) Reasonable actual costs of State audits, when determined necessary by FEMA, are eligible to be included in total eligible costs. Costs of such audits shall not exceed one percent of audited eligible costs, unless written justification for higher costs is submitted to FEMA.

(iv) Reasonable actual costs, as determined by FEMA, of State inspectors engaged in preparation of Damage Survey Reports and Final Inspection Reports and related field inspections, are eligible. These costs are subject to the following limitation: Reimbursement may be made for travel, per diem, and overtime, but not regular time salaries.

* * * * *

5. Section 205.76 is amended by revising paragraphs (a) (19) and (20) to read as follows:

(a) * * *

(19) National Guard—Actual costs paid by the State for eligible work performed by the National Guard including salaries of Guardsmen directly engaged in eligible work or in direct supervision of such work are eligible. Eligible work includes public safety or security measures as well as other types of work eligible under these regulations.

(20) Cooperative agreements.

(i) Eligible: Costs for work performed under cooperative arrangements between State or local governments, but limited to those direct costs of the performing entity which the applicant is legally obligated to pay and which would be eligible if the applicant had performed the work.

(ii) Not eligible: Costs for work performed under an arrangement between a State or political subdivision of a State and a Federal agency, except when approved in advance by the Regional Director.

* * * * * *

6. Section 205.76 is amended by revising paragraph (a)(22) to read as follows:

(a) * * *

(22) Prison labor.

(i) Eligible: Out-of-pocket costs of prison labor performing eligible disaster work, limited to the amount paid the prisoners in accordance with rates established prior to the disaster, and the cost of transportation. In addition the portion of the following costs which are in excess of regular budgeted amounts, are eligible for reimbursement:

(A) Cost of food and lodging for prisoners, and

(B) Salaries of guards.

* * * * *

7. Section 205.76 is amended by revising paragraph (a)(29) to read as follows:

(a) * * *

(29) Other. Any costs not allowable under OMB Circular A–87 are ineligible for FEMA reimbursement.

* * * * *

8. Section 205.76 is amended by adding paragraph (b)(2) (iii) and (iv) as follows:

* * * * *

(b) * * *

(2) * * *

(iii) An allowance in the amount of 10.5 percent of each regular or extra employee's eligible gross pay to cover employer's contributions for Social Security, unemployment insurance coverage and worker's compensation insurance is eligible. This eligibililty will apply only to the extent that total compensation for employees is eligible as defined by paragraphs § 205.76(b) (i) and (ii).

(iv) Actual payment for fringe benefits for small project grants, grants-in-lieu, and flexible funding will be the percentage established in § 205.76(b)(2)(iii). Payment for fringe benefits for categorical grants may be such percentage or actual costs for such coverages at the applicant's choice. Documentation of actual costs of retirement benefits, unemployment insurance and worker's compensation must be provided with the applicant's final claim if that method of payment is chosen.

9. Section 205.76 is amended by revising paragraph (b)(3)(ii) to read as follows:

* * * * *

(b) * * *

(3) * * *

(ii) For vehicles or equipment utilized by police, firemen, and other employees whose duties do not change because of the major disaster or emergency; and for permanently installed fixed equipment, such as pumping stations, only disaster-related actual costs in excess of average costs are eligible. Average costs shall be calculated by using a like duration of time, or the closest duration for which auditable records are available, for the previous three years. Years in which a Presidentially declared major disaster occurred during the period being examined shall not be included in the average.

10. Section 205.76 is amended by removing paragraph (b)(3)(iii).

11. Section 205.76 is amended by revising paragraph (d)(7) to read as follows:

* * * * *

(d) * * *

(7) *Vector control.* Only disaster-related actual costs in excess of the average cost for a like duration of time, or the closest duration for which auditable records are available, for the previous three years, are eligible. Years in which a Presidentially declared major disaster occurred during the period being examined shall not be included in the average.

12. Section 205.76 is amended by revising paragraph (e)(2) to read as follows:

* * * * *

(e) * * *

(2) *Engineering and design.* Reimbursement for eligible engineering, planning, design, supervision, or inspection services is based upon reasonable actual direct costs but shall not exceed the amount approved on the project application, or on a supplemental project application. Applicants may not contract for architect/engineers' services on the basis of a percentage of project construction cost, nor make compensation on such basis. The Regional Director may approve special services, such as engineering surveys, soil investigations, resident engineers, and additional construction inspection when justified.

Dated: January 30, 1984.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84-2966 Filed 2-2-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-1350]

Low Power Television and Television Translator Service; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: Action taken herein extends time for filing of comments and reply comments in response to the Notice of Proposed Rule Making ("NPRM") in MM Docket No. 83-1350. The NPRM seeks comments on proposed rule changes for low power television and television translator service which would modify the present cut-off rules, eliminate the requirement to file financial information with applications and create a priority class of service for television translator applications. Petitioners, National Translator/LPTV Association and National Association of Public Television Stations state that additional time is needed to fully prepare comments in this proceeding.

DATES: Comments must be filed on or before February 13, 1984, and reply comments must be filed on or before February 28, 1984.

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

FOR FURTHER INFORMATION CONTACT: Larry A. Miller, Mass Media Bureau (202) 632-3894.

Order Extending Time for Filing Comments and Reply Comments

In the matter of low power television and television translator service; MM Docket No. 83-1350.

Adopted: January 26, 1984.
Released: January 27, 1984.

By the Chief, Mass Media Bureau:

1. On December 14, 1983, the Commission adopted a Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding, 49 FR 908, published January 6, 1984. The NPRM sought comments on proposed rule changes for low power television and television translators which would: (1) Modify the present cut-off procedures; (2) eliminate the requirement to file financial information; and (3) create a priority class of service for television translator applications. The dates initially established for filing comments and reply comments were January 30, 1984, and February 14, 1984, respectively.

2. On January 20, 1984, the National Translator/LPTV Association ("NTA") filed a motion requesting a two week extension of time for filing comments, to and including February 13, 1984. On January 23, 1984, the National Association of Public Television Stations ("NAPTS") filed a motion requesting a three week extension of time for the filing of comments, to and including February 20, 1984.

3. In support of its request, NTA states that the collection of responses to the NPRM has been delayed because of the intervening holidays and the location of its membership in isolated rural areas. Further, NTA states that the equipment manufacturers who are helping it prepare comments will not be able to meet until January 30, 1984, at a previously scheduled convention. Because of the complexity of the issues contained in the NPRM, NTA urges that it is important for the Commission to obtain the informed comments of parties affected. In its motion, NAPTS also states that additional time is required for the filing of meaningful comments. It states that this request is necessitated by the intervening holidays that have delayed collection of responses from members.

4. It is the policy of the Commission that extensions of time are not routinely granted.[1] In the instant matter, because of the relatively short comment period and because of the intervening holidays additional time to comment may be appropriate. Because we wish to have the benefit of thoughtful and complete comments, we shall therefore extend the comment and reply comment dates by two weeks, to February 13, 1984, and February 28, 1984, respectively. The Commission does not contemplate that any further extensions of time will be granted in this proceeding.

5. Accordingly, it is ordered, That the motion for extension of time filed by NTA is granted, and that the motion for extension of time filed by NAPTS is granted to the degree stated herein and is in all other respects denied, and the dates for the filing of comments and reply comments are hereby extended to and including February 13, 1984, and February 28, 1984, respectively.

6. This action is taken pursuant to Sections 4(i), 5(c)(l), and 303(r) of the Communications Act of 1934, as amended, and Section 0.283 of the Commission's Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Service Division, Mass Media Bureau.

[FR Doc. 84-2979 Filed 2-2-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Section 1.46(a) of the Commission's Rules

Notices

Federal Register
Vol. 49, No. 24
Friday, February 3, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: This notice announces the availability of, provides information about, and invites comments on a proposed Programmatic Memorandum of Agreement on Historic Preservation Consideration in the Solar Energy and Energy Conservation Bank Program (Solar Bank) of the Department of Housing and Urban Development (HUD).

Comments due: Comments must be submitted on or before March 5, 1984.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue NW., Suite 809, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Copies of the Agreement and additional information are available from Dr. Janet Friedman, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue NW., Suite 803, Washington, DC 20004 (202) 786–0505.

SUPPLEMENTARY INFORMATION: The Solar Bank of HUD assists the financing of solar energy systems and provides loan subsidies and matching grants for a variety of cost-effective energy conservation measures. The program operates through the award of funds to States. The funds are passed on to qualified financial institutions which assist eligible applicants who are owners of or tenants in individual residential, multi-family residential, commercial, and agricultural buildings.

The activities of the Solar Bank potentially may affect historic properties. Therefore, HUD has responsibility for considering the effects of the program on properties listed in or eligible for the National Register of Historic Places. HUD and the Advisory Council on Historic Preservation propose to develop a Programmatic Memorandum of Agreement (PMOA) per the Council's regulations 36 CFR Part 800.0. This PMOA will identify categories of properties and activities which do not require further consideration under Section 106 of the National Historic Preservation Act. Additionally, the PMOA will establish a process for those activities likely to affect historic properties whereby historic values will be identified and protected. HUD will ensure that State Historic Preservation Officers are involved in identifying historic values, are informed about Solar Bank projects, and are given the opportunity to participate in developing a plan to minimize or mitigate adverse impacts on historic properties. The purposes of the Memorandum are to ensure that no property will be denied consideration for assistance because of its historic value, that historic significance will not be unnecessarily impacted as a result of a Solar Bank project, and that Solar Bank projects will not be unnecessarily delayed because of consideration of historic values.

Dated: January 31, 1984.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 84–3040 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

The Committee of State Foresters; Meeting

The Committee of State Foresters will meet in Atlanta, Georgia on March 8, 1984. The meeting will convene at 8:00 a.m. on March 8 in Tower Room 2 of the Westin Peachtree Plaza, Peachtree at International Boulevard, Atlanta, Georgia.

The Committee, comprised of the seven members of the Executive Committee of the National Association of State Foresters, consults with the Secretary of Agriculture and various agencies of the Department on the implementation of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313). The Assistant Secretary for Natural Resources and Environment will chair the meeting. He and representatives of the Forest Service and other interested agencies will attend from the Department of Agriculture.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, John H. Ohman, Deputy Chief for State and Private Forestry, USDA—Forest Service, P.O. Box 2417, Washington, DC 20013, telephone (202) 447–6657. Written statements may be filed with the Committee before or after the meeting.

Dated: January 27, 1984.

F. Dale Robertson,

Associate Chief.

[FR Doc. 84–3055 Filed 2–2–84; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Wells Rural Electric Company; Environmental Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–20:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to approval of a large power contract and approval of a construction contract to Wells Rural Electric Company (Wells), of Wells, Nevada. Wells intends to construct a 120 kV transmission line and associated facilities between Elko, Nevada and the Carlin Gold Mining Quarry located near Carlin, Nevada. The proposed facilities would be located in Elko and Eureka Counties.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and the Bureau of Land Management's (BLM) Environmental Assessment Report (EAR) may be reviewed at or

obtained from Mr. William E. Davis, Director, Western Area—Electric, Rural Electrification Administration, Room 0207, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or Wells Rural Electric Company, P.O. Box 365, Wells, Nevada 39835, telephone: (702) 752–3328, during regular business hours.

SUPPLEMENTARY INFORMATION: BLM has prepared an EAR for the proposed facilities. REA has reviewed the BLM EAR submitted by Wells and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project would consist of approximately 40 km (25 miles) of 120 kV transmission line which would extend from the Elko Switching Station to the substation at the Carlin Gold Mining Quarry.

The EAR adequately considered potential impacts of the proposed project to resources including threatened and endangered species, important farmlands, cultural resources, floodplains and wetlands.

Alternatives examined included no action, upgrading the existing Carlin Feeder, alternative routes and alternative substation sites. The proposed route would extend north 2.4 km (1.5 miles) from the Elko Switching Station, then southwesterly approximately 28.3 km (17.4 miles) to the proposed Carlin Substation. The line would then extend in a northwesterly direction 9.4 km (6 miles) to the Carlin Gold Mining Quarry site. Another alternative corridor would generally extend in a westerly direction from the Elko Switching Station to Dry Susie Creek and then southwesterly along Susie Creek. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets Wells' need with a minimum of adverse impact.

Based upon the EAR and other related data, REA prepared an EA and Finding of No Significant Impact concerning the proposed construction. REA has independently evaluated the proposed project and has concluded that approval of a large power contract and approval of a construction contract for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850-Rural Electrification Loans and Loan Guarantees.

Dated: January 30, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–3056 Filed 2–2–84; 8:45 am]

BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Week Ended January 27, 1984.

Subpart Q applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Jan. 23, 1984	41958	Bering Air, Inc., c/o James D. Rowe, P.O. Box 1650, Nome, Alaska 99762. Application of Bering Air, Inc., pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property, and mail between the terminal point of Kotzebue to the intermediate points of Ambler, Buckland, Cape Lisburne, Deering, Kiana, Kivalina, Kobuk, Noatak, Noorvik, Point Hope, Selawik, and Shungnak, Alaska, and between the terminal point of Nome to the intermediate points of Brevig Mission, Elim, Gambell, Golovin, Koyuk, Moses Point, Port Clarence, Savoonga, Shaktoolik, Shishmaref, St. Michael, Stebbins, Teller, Tin City, Unalakleet, Wales, and White Mountain, Alaska. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 21, 1984.
Jan. 25, 1984	41961	Airwest International, Inc., c/o Michael J. Roberts, Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Application of Airwest International, Inc., pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled interstate and overseas air transportation of passengers, property, and mail. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 22, 1984.
Jan. 27, 1984	41964	British Caledonian Airways (Charter) Limited, T/A British Caledonian Charter, c/o Leonard N. Bebchick, Suite 700, 1220 Nineteenth Street NW., Washington, D.C. 20036. Application of British Caledonian Airways (Charter) Limited, T/A British Caledonian Charter pursuant to section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for a foreign air carrier permit to perform charter foreign air transportation of persons and property between points in the United States and points outside thereof. Answers may be filed by February 24, 1984.
Do	41647	Cayman Airways Limited, c/o Joseph H. Dettmar, Garvey, Schubert, Adams & Barer, 30th Floor, The Bank of California Center, Seattle, Washington 98164. Amendment to the Application of Cayman Airways Limited hereby amends its application by deleting Cuba as a proposed intermediate point between Grand Cayman, on the one hand, and points in the United States, on the other.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–3034 Filed 2–2–84; 8:45 am]

BILLING CODE 6320–01–M

[Docket No. 40662]

Aero West Airlines, Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-titled matter is assigned to be held on February 16, 1984, at 10:00 a.m. (local time), in Room 1027, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 30, 1984.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 84–3036 Filed 2–2–84; 8:45 am]

BILLING CODE 6320–01–M

[Docket No. 41919]

Airmark Corporation Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 7, 1984, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. before the undersigned Administrative Law Judge.

Dated at Washington, D.C., January 31, 1984.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 84-3038 Filed 2-2-84; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing Standard Foreign Fare Level

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. The SFFL thus computed becomes the benchmark for measuring the statutory nonsuspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in sec. 1002(d) of the Federal Aviation Act of 1958, as amended. Order 80-2-69 established the first interim SFFL and subsequent Order 83-11-98 established the currently effective two-month SFFL applicable through January 31, 1984.

In establishing the SFFL for the two-month period starting February 1, 1984, we have projected nonfuel costs based on the year ended September 30, 1983 and have determined fuel prices on the basis of experienced monthly fuel cost levels as reported to the Board.

By Order 84-1-124 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	1.1905
Western Hemisphere	1.2001
Pacific	1.1409
Canada	1.2184

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: Robert I. Stein, (202) 673-5116.

By the Civil Aeronautics Board: January 27, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3035 Filed 2-2-84; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing International Cargo Rate Flexibility Policy

The Board, by Policy Statement PS-109, effective February 27, 1983, adopted a policy of not suspending international cargo rate changes within a specified zone, except in extraordinary circumstances. That policy, implemented by Regulation ER-1322, effective February 27, 1983 (14 CFR Part 221), eliminates the requirement of economic justification for international cargo rates which are within Board established zones of flexibility. As stated in ER-1322, the Board has taken action to allow air carriers to respond more quickly to changing costs and competitive conditions.

In establishing the SFRL for the two-month period starting February 1, 1984, we have projected nonfuel costs based on the year ended September 30, 1983 and have determined fuel prices on the basis of experienced monthly fuel cost levels.

By Order 84-1-125 fares may be increased by the following adjustment factors over the April 1, 1982, level:

Atlantic	1.0132
Western Hemisphere	1.0486
Pacific	.9335

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: John D. Coakley, (202) 673-5196.

By the Civil Aeronautics Board: January 27, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-3037 Filed 2-2-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for General Permit; Scan Ocean, Inc.

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. Fishery Conservation Zone during 1984 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Applicant: Scan Ocean, Inc., 42 Rogers Street, Gloucester, Massachusetts 01930

has applied for a Category 1: Towed or Dragged Gear general permit to take up to 15 small cetaceans and 5 harbor seals in the North Atlantic Ocean.

This application is available for review in the following office: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Interested parties may submit written comments on this application within thirty (30) days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: January 30, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-3032 Filed 2-2-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 military resale commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 3, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 14, 1983, October 28, 1983, and November 10, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 46832, 48 FR 49904, and 48 FR 51679) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has detrmined that the military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will nt result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the military resale commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide military resale commodities and services procured by the Government.

Accordingly, the following military resale commodities and services are hereby added to Procurement List 1984:

Item No. and Description

940, Towel, Heritage Design
942, Dish Cloth, Heritage Design (PG of 2)
943, Towel, Modern Design
944, Dish Cloth, Modern Design
947, Oven Mitt, Modern Design
948, Pot Holder, Modern Design
973, Towel, Contemporary Design
974, Dish Cloth, Contemporary Design
977, Oven Mitt, Contemporary Design
978, Pot Holder, Contemporary Design
971, Towel, Dish, Traditional Design
972, Dish Cloth, Traditional Design
075, Oven Mitt, Traditional Design
979, Pot Holder, Traditional Design

SIC 7349

Janitorial Service, FAA Facilities, ARTCC. Hampton, Georgia
Janitorial Service, Wallace Ranger District of the Panhandle National Forest, Coeur d'Alene, Idaho
Janitorial/Custodial, Supervisor's Office, Umpqua National Forest, 2900 N.W. Stewart Parkway, Roseburg, Oregon

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 84–3021 Filed 2–2–84; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 commodities and military resale commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: March 7, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities, military resale commodities, and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities, military resale commodities, and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 7330

Pad, Bakery: 7330–00–379–4439, GSA Regions 1,2,4,7,9 and 10

Class 7530

Folder, File, Kraft: 7530–00–811–7169

Military Resale Item Nos. and Names

No. 503, Bowl Deodorizer
No. 504, Bowl Deodorizer

SIC 0782

Grounds Maintenance, Parcels P,Q,R,S,T, Naval Air Station, Mirmar, San Diego, California
Grounds Maintenance, USAR Facility, Grant County Airport, Moses Lake, Washington

SIC 7349

Janitorial/Custodial Services, USAR Facility, Grant County Airport, Moses Lake, Washington

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 84–3020 Filed 2–2–84; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Army

United States Army Medical Research and Development Advisory Committee, Subcommittee on Parasitic Disease; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, Sections 1–15), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Parasitic Diseases.

Date of Meeting: 5 and 6 March 1984.

Time and Place: 0830 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: This meeting will be open to the public from 0830–1015 hrs on 5 March for the administrative review and discussion of the scientific research program of the Parasitic Diseases Group, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), United States Code. Title 5 and Sections 1–15 of appendix, the meeting will be closed to the public 1030–1630 hrs on 5 March and from 0900–1200 hrs on 6 March for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldge 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307 (202/576–2436) will furnish summary minute, roster of Subcommittee members and substantive programs information.

Harry G. Dangerfield, M.D.,
Colonel, MC, Deputy Commander.

[FR Doc. 84–3010 Filed 2–2–84; 8:45 am]
BILLING CODE 3710–08–M

Privacy Act of 1974; Amendments to and Deletion of Notices for Systems of Records

Correction

In FR Doc. 84–2331 appearing at page 3506 in the issue of Friday, January 27, 1984, on page 3511, in the middle column, before the "System Name: Junior ROTC/NDCC Instructor Files", insert the System Identification Number "A1005.01 TRADOC".

BILLING CODE 1505–01–M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee Terrorism Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Terrorism Task Force will meet on February 21–22, 1984, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to terrorism and the formulation of an updated Navy Policy on Terrorism and Counter/Anti-Terrorism. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Alexandria, Virginia 22311. Telephone: (703) 756–1205.

Dated: January 31, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84–2962 Filed 2–2–84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities.

Date and Time: February 21, 1984, 9:00 a.m.—5:00 p.m.; February 22, 1984, 9:00 a.m.—4:00 p.m.

Place: U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue SW., Washington, D.C. 20585.

Contact: Howard Perry, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/252–5316.

Purpose of the Panel: To Study and report to the Department of Energy on alternative approches to managing the construction and operation of civilian radioactive waste facilities, pursuant to Section 303 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425). The panel's report will include a thorough and objective analysis of the advantages and disadvantages of each alternative approach.

Tentative Agenda

February 21, 1984

- AMFM Subcommittee Reports (Facilities, Financing, Organization)
- Other Panel Business
- Description of Systems for Nuclear Waste Storage, Transportation and Disposal
- DOE Program Management and Budget
- DOE Mission Plan
- Public Comment

February 22, 1984:

- Viewpoints of
—Congress
—Other Federal Agencies
—States
—Indian Tribes
—Utilities
—Environmental Organizations
—Other Interested Groups
- Public Comment

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Howard Perry at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 31, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84–2984 Filed 2–2–84; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Proposed Methodology for Determining the Average System Cost of Resources for Electric Utilities Participating in the Residential Exchange Established by Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice; request for comments (*BPA File No.:* ASC–83).

SUMMARY: Bonneville Power Administration (BPA) proposes a new methodology for determining the average system cost (ASC) of resources for regional electric utilities that participate in the so-called "residential exchange" authorized by section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839c(c). The ASC methodology determines the level of monetary benefits paid by BPA to each utility participating in the residential exchange. The statute gives the BPA Administrator discretionary authority to determine ASC based on a methodology to be developed by BPA in consultation with the Pacific Northwest Power and Conservation Planning Council, BPA customers and state regulatory agencies in the Pacific Northwest. The existing methodology was adopted by BPA and first approved by the Federal Energy Regulatory Commission in 1981. The Administrator initiated the current consultation on October 7, 1983, with a notice soliciting public comment on 17 specific issues pertaining to the ASC methodology (48 FR 45829). Based in part on the comments received, the methodology proposed by BPA in this notice redefines the types of capital and expense items includable in ASC, changes the sources from which ASC data are to be derived, and changes the nature and timing of BPA procedures for review of ASC filings by utilities participating in the residential exchange. The notice also contains detailed procedures for continued public participating in the ongoing consultation proceeding.

DATES: Written comments on issues relevant to BPA's proposed Average System Cost methodology, or on possible alternative methodologies, will be accepted until March 15, 1984. Written replies to the first round of comments will be accepted thereafter until April 9, 1984.

ADDRESSES: Written comments should be submitted to the Public Involvement

Manager, Bonneville Power Administrator, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathleen S. Johnson, Public Involvement Office, at the address listed above, 503–230–3478. Oregon callers outside Portland may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main St., Boise, Idaho 83707, 208–334–9138.

SUPPLEMENTARY INFORMATION:

I. Background

A. Relevant Statutory Provisions

Section 5(c)(1) of the Northwest Power Act, 16 U.S.C. 839c(c)(1), provides that BPA shall acquire certain amounts of power offered for sale by Pacific Northwest electric utilities. In exchange, BPA shall offer to sell "an equivalent amount of electric power to such utility for resale to that utility's residential users within the region." [1] BPA "shall offer to sell the same amount of power back to the utility. . . ." H. Rep. 976–I, 96th Cong., 2d Sess. at 60 (1980). Sales to the utility may not be restricted below the amount of power acquired from the utility. See, section 5(c)(6). Under this "residential exchange," there is no power transferred either to or from BPA.[2]

Currently, the "equivalent amount of electric power" exchanged by BPA with the participating utility is priced at the same rate as that for general requirements sales to BPS's preference customers (the "priority firm rate"). See, section 7(b)(1) of the Northwest Power Act, 16 U.S.C. 839e(b)(1). Because this exchange power must be treated as resold to the participating utility's residential users within the region, "wholesale rate parity" is established between the residential consumers of BPA's preference utility customers and the residential consumers of all participating utilities.[3] This wholesale rate parity is the first attribute of the residential exchange.

In contrast, the amount paid by BPA to the participating utility is not a conventional wholesale power rate. Section 5(c)(1) states that BPA is to pay "the average system cost of that utility's resources." Section 5(c)(7) of the Northwest Power Act gives BPA's Administrator the discretionary authority to determine average system cost (ASC) on the basis of the methodology to be established in consultation proceedings. The only express statutory limits on the Administrator's authority are found in section 5(c)(7) (A), (B) and (C).

Generally, the BPA priority firm rate has been lower than participating utilities' ASC under the current methodology. The resulting monetary benefits paid by BPA to participating utilities, or "net cost of the exchange," is the second attribute of the residential exchange. As noted above, the residential exchange is not a conventional power transaction. System schedulers do not dispatch the exchange; line losses are not incurred. The power sale concept was created by Congress for BPA ratemaking purposes. E.g., section 7(b)(1).[4] Practically speaking, the purpose of the residential exchange is to exchange costs for the benefit of the residential ratepayers of exchanging utilities. When the BPA priority firm rate is lower than a participating utility's ASC, BPA pays the net cost to that utility. However, when the priority firm rate is higher than the ASC, i.e., when the net cost of the exchange is negative, the statute has been construed to give the utility a unilateral right to "deem" its ASC equal to the priority firm rate, so that no payment ever flows form the utility to BPA.[5] The residential exchange only works to the advantage of participating utilities; it never lowers the rates of BPA customers.

The monetary benefits of the residential exchange must be passed through directly to the participating utility's residential loads in accordance with section 5(c)(3), guarding against the possibility that the utility might set retail residential rates which counteracted the benefits of the residential exchange. However, it is incumbent on BPA to establish an ASC methodology which ensures that the net cost of the exchange not exceed the limits established by Congress in the Northwest Power Act. E.g., section 5(c)(7) (A), (B) and (C).

The ASC methodology must also be designed so that BPA does not become the "deep pocket" to which participating utilities may shift excessive or improper resource costs. The ASC methodology should give participating utilities an incentive to minimize their costs. Otherwise, BPA could be faced with either of two statutorily impermissible alternatives. First, BPA may not be able to set reasonable rates for its customers,

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[1] The exchange was set equal to 50 percent of a participating utility's qualifying residential and small farm load as of July 1, 1980, and has been increasing in equal increments toward 100 percent of such load. See, section 5(c)(2).

[2] Section 5(c)(5) allows BPA to acquire an "equivalent amount of electric power from other sources to replace power sold to [a participating] utility," if the cost of such replacement acquisition is less than the applicable ASC. Once again, however, the key phrase is "equivalent amount." In any event, such alternative purchases have been construed to require seven years advance notice. See, section 4(a), Residential Purchase and Sale Agreement, Contract No. DE–MS79–81BP9. BPA designates this contract as part of the record of this consultation proceeding.

[3] However, Congress has recognized that this wholesale rate parity may change as of July 1985. See, section 7(b)(2) and 7(b)(3), 16 U.S.C. 839e(b)(2) and (b)(3).

[4] The outcome of this consultation proceeding willl not change the way in which BPA establishes rates under section 7 of the Northwest Power Act. The resource concept was devised by Congress to allocate the benefits and costs of the Federal Base System among competing classes of BPA customers. BPA has faithfully implemented Congress' ratemaking directives. However, the resource concept should not obfuscate the nature of the residential exchange as a transfer payment from BPA to the participating utilities.

[5] However, BPA does keep an account of such unpaid amounts, which are offset against subsequent BPA payments to the utility. See, section 10, Residential Purchase and Sale Agreement, Contract No. DE–MS79–81BP9.

Furthermore, section 5(c)(4), 16 U.S.C. 839c(c)(4), recognizes that BPA's priority firm rate, insofar as it applies to the residential exchange, may carry one or more "supplemental rate charges" after July 1, 1985, due to implementation of section 7(b)(3) of the Northwest Power Act, 16 U.S.C 839e(b)(3). Were this to occur and cause the applicable priority firm rate to exceed a participating utility's ASC, that utility could terminate its participation in the residential exchange. See, section 9 of the Residential Purchase and Sale Agreement, id.

who must pay for the net cost of the residential exchange. Second, if net exchange costs cause rates to rise to the level where loads decline, BPA may not be able to satisfy the requirement of section 7(a) of the Northwest Power Act that its rates recover total revenue requirement. BPA is a self-financing government agency, which must recover its costs through rates for sales of electric power and energy.

Through June of 1985, BPA's rates for service to direct-service industrial (DSI) customers are to recover, inter alia, the "net costs incurred by the Administrator pursuant to section 5(c) of this Act . . . to the extent that such costs are not recovered through rates applicable to other customers." See, section 7(c)(1)(A). However, beginning in July of 1985, a new ratemaking methodology for recovering the net cost of the residential exchange is to be established. Then, residential exchange costs may have a greater effect on the rates of all customer classes.

B. The Current Average System Cost Methodology

The first average system cost methodology (1981 methodology) was established pursuant to section 5(c)(7) on August 26, 1981, in an Administrator's Record of Decision. That decision was based on a settlement agreement, which had resolved nearly all issues raised by parties in the consultation proceeding.

The Administrator filed the 1981 methodology with the Federal Energy Regulatory Commission (FERC or Commission) on August 27, 1981. The Commission approved the 1981 methodology, on an interim basis, on October 14, 1981 (46 FR 50517–538 (1981)) (corrected at 46 FR 55952–954). Final Commission approval was received on October 17, 1983, in an order that made no substantive change to the methodology proposed by BPA (48 FR 46970).

Under the 1981 methodology, a preliminary "Appendix 1" must be filed with BPA by each participating utility whenever that utility commences a retail rate change proceeding before a regulatory authority. 1981 Methodology, § III. Appendix 1 is a form that identifies the "Contract System Costs" and "Contract System load" used in the calculation of ASC. Later, the Appendix 1 is revised when the regulatory authority approves final retail rates. The ASC of each participating utility includes the costs approved by the regulator.

BPA reviews each Appendix 1 for conformance with criteria specified in the 1981 methodology. The first Appendix 1 filed by a utility is subject to review for 180 days following the effective date of its residential exchange contract. Subsequent Appendix 1 filings are subject to review for 120 days from the start of the relevant exchange period. BPA customers and other interested persons are provided an opportunity to submit comments on each Appendix 1 filed. 1981 Methodology, § IV(D). All such comments are due no later than 20 days prior to the end of BPA's review period. If BPA has not issued a report by the last date of the review period, then the ASC proposed on the basis of a utility's revised Appendix 1 becomes the ASC for the relevant exchange period.

Pursuant to section V(A) of the 1981 Methodology, each utility subject to FERC jurisdiction under Part II of the Federal Power Act 16 U.S.C. 824, et seq., must file BPA's written report, the ASC determined by BPA, and the revised Appendix 1 with FERC within 15 days of BPA's determination. During the period between the date of BPA's determination and the date of the final FERC order, the ASC determined by BPA is used, subject to later refund.

This reliance on state regulatory agencies to determine the level of costs included in the ASC of a participating utility, the "jurisdictional costing approach," has caused several problems of administration for BPA. Routinely, the orders of regulatory agencies do not contain the specific numbers necessary for ASC computation. In such instances, values for ASC accounts must be imputed. Also, the jurisdictional approach produces a great number of utility filings. One participating utility, regulated in each Pacific Northwest state, may make two or three revised Appendix 1 filings for each state.[6]

Another drawback to the jurisdictional approach is that state rate regulators are not responsible for enforcing the requirements of section 5(c). Instead, they are charged by state law or local ordinance with setting reasonable rates, which maintain the financial health and stability of the regulated utility. The interests of utility ratepayers and shareholders are commonly viewed as somewhat antagonistic. The courts have accorded regulators the latitude of a "zone of reasonableness" in which to set rates that balance these interests. *Federal Power Commission v. Natural Gas Pipeline Company,* 315 U.S. 575, 585 (1942). However, the choice of rates within this zone undoubtedly is affected by BPA's obligation under the 1981 methodology to provide whatever exchange payment a retail rate order dictates.

With BPA in the picture, higher retail rates do not necessarily produce higher bills for residential ratepayers. This phenomenon favors the establishment of retail rates at the upper end of the zone. A participating utility may not be given an adequate incentive to control its costs. Yet, BPA simply cannot intervene and participate in every regional rate proceeding to protect the interests of its own customers and its ability to recover revenue requirements.[7]

There have been instances when serious concern has been raised that costs approved for retail ratemaking purposes, and thus added to ASC under the 1981 methodology, have included terminated plant costs prohibited under section 5(c)(7)(C). In one case, terminated plant costs were removed from an ASC filing during BPA review. See, BPA's Average System Cost Report for Portland General Electric Company, Jurisdiction: Oregon (May 13, 1983). In another case, terminated plant issues were debated but became moot when another adjustment was made by BPA to an ASC filing. See, Average System Cost Report for Pacific Power & Light Company, Jurisdiction: Oregon (November 2, 1983). Terminated plant issues, in aprticular, have caused all BPA's DSI customers to request a chagne in ASC methodology by involing paragraph VI, Appendix C, of the 1981 Methodology. Many of BPA's public agency customers have also requested that a new consultation proceeding be commenced.

For these reasons, the ongoing consultation proceeding was initiated on October 7, 1983 (48 FR 45,829)—nearly two years after FERC first approved the 1981 methodology. The jurisdictional costing approach is not producing satisfactory results. BPA therefore proposes to eliminate the jurisdictional costing approach embodied in Exhibit C to the 1981 methodology. In its place, a uniform cost approach is proposed as the new ASC methodology. Full details of this initial proposal are set forth later in this notice.

[6] There are currently over 60 ASC filings awaiting FERC review. BPA hopes that the Commission will support a new methodology which reduces this backlog.

[7] BPA does not take issue with the way in which any Pacific Northwest rate regulator is following the dictates of its governing statute or ordinance. We are not necessarily suggesting that retail residential rates have been set above the zone of reasonableness before application of the BPA exchange payment. BPA's problems with the jurisdictional costing approach focus on the dissimilarities between the Northwest Power Act and state regulatory laws and policies.

C. Public Participation In The Ongoing Consultation Proceeding

The procedures adopted by BPA in this ongoing consultation are intended to facilitate the compilation of a full record on which the Administrator will base his decision. Comments have already been filed by groups, including investor-owned utilities, state regulatory agencies, preference customers and DSI customers. This notice solicits a new round of initial and reply comments from interested members of the public.

All comments and reply comments should be directed to the Public Involvement Manager at the address listed in the address section of this notice. Written comments received by the Public Involvement Manager by March 15, 1984, will be reproduced and mailed to those who request copies. Requests for copies of comments must be made in writing. Mailings will take place subsequent to March 15, although requests may be made prior to that date. Written replies to this first round of comments will be accepted until April 9, 1984. The efficiency of this procedure will be enhanced greatly if commenters would submit 15 copies of their comments to the Public Involvement Manager.

After the written comment stage, an opportunity will be provided for oral presentations before the Administrator, which will be transcribed for inclusion in the record. The date, time, and location of this proceeding will be specified in a future communication. Only those persons who participate in the written comment stage of the consultation will have the option of making an oral presentation before the Administrator. During any stage of the proceeding, negotiated resolutions of issues, raised by BPA or by commenters, may be incorporated into the record by means of written stipulations.

All procedures adopted by BPA in this consultation are consistent with Exhibit C, paragraph VI, of the 1981 methodology. After completion of these procedures, the Administrator will adopt a new ASC methodology which, accompanied by a Record of Decision, will be submitted for review and approval by the Federal Energy Regulatory Commission.

II. The Proposed Average System Cost Methodology

A. Introduction

The methodology proposed by BPA in this notice is intended to resolve the problems caused by the jurisdictional approach to ASC determination. We believe that the proposal is complete, in the sense that every issue of concern to BPA is definitively resolved. Aspects of the 1981 methodology not addressed in this proposal remain unchanged.

It is inevitable that BPA's proposal will not satisfy every commenter. Also, comments will raise other issues that may not have been apparent to BPA. We stress the importance of written comments which precisely state each commenter's position on issues of concern. BPA intends that a complete record be compiled. Numerical analyses and examples will be of particular assistance to BPA in developing a new ASC methodology. Until the end of the written comment phase of this proceeding, little use would be served by negotiations on possible settlement of issues.

B. The Uniform Cost Approach To Determining Average System Cost

With the elimination of the jurisdictional approach, BPA must propose a replacement source of ASC data. This source should be objective, to reduce controversy and facilitate ease of administration. Such data can be found in the FERC Form No. 1, a compilation of financial and operating information prepared annually in accordance with FERC's Uniform System of Accounts for Public Utilities and Licensees (18 CFR Part 101).

For each exchange period under the proposed methodology, i.e., each calendar year, the participating utility may only include in its ASC actual costs documented in that Form 1. There are limited exceptions. First, equity return and taxes for participating investor-owned utilities would be determined in accordance with procedures described later in this notice. Second, fuel purchases from utility affiliates pose special regulatory problems which will also be treated separately in this notice. Third, participating utilities not required to submit Form 1 will submit audited, actual data in a calendar-year format comparable to FERC Form 1.

Each participating utility would receive one determination of its ASC "in each year." See, section 5(c)(1) of the Northwest Power Act. This would replace the multiple determinations in each year now made by BPA for each jurisdiction in which a participating utility provides retail residential service.

The new methodology has characteristics similar to ratemaking based on an historical, calendar test year incorporating end-of-year data. Each participating utility would be permitted to include the same types of costs in ASC, based on actual data from the same calendar-year period. It is uniform in comparison to the current methodology, which relies on data from retail rate proceedings throughout the Northwest, each using different ratemaking methodologies and test years.

BPA stresses that it will not accept at face value the numbers included in FERC Form 1 accounts by participating utilities. Filings will continue to be scrutinized by BPA and all improper costs will be disallowed. Each ASC filing must contain a statement, signed by the participating utility's auditor, stating that all data submitted by the utility were compiled in strict compliance with FERC's Uniform System of Accounts and with procedures for reporting the costs of conservation and affiliate fuel transactions. Any filing which does not contain this auditor's statement will not be accepted by BPA for determination of ASC.

BPA invites comments on alternative sources of verifiable data for use in determining ASC. Such comments should contain detailed explanations of the verification safeguards inherent in any proposed alternative. Commenters should bear in mind that BPA does not intend to conduct hearings on data submitted by each individual utility.

C. Resource Costs Includable Under The Proposed Average System Cost Methodology

1. *Transmission investments and expenses are not resource costs includable in Average System Cost; however, a limited transmission adder is proposed.*

Transmission investments and expenses were included in the first ASC methodology as the outcome of a negotiated settlement, agreed to by all parties. The Administrator's 1981 decision is silent on the justification for inclusion of such transmission costs, except to note certain practical considerations unique to the first ASC consultation.[8] Neither does FERC Order No. 337 address the merits of including transmission costs in ASC. On further reflection and analysis of the Northwest Power Act, BPA believes that the term "resources" in section 5(c)(1) should be construed as limited to electric generating facilities and appropriate conservation measures.

BPA is directed by section 5(c)(7) to develop a methodology for calculating

[8] The Administrator's decision, at 1–2, explains the process by which most issues, including the propriety of adding transmission costs to ASC, were resolved through a negotiated settlement in the first consultation. It is understandable that consensus was an important factor in the Administrator's decision on the first methodology, due to the experimental nature of the initial undertaking and the "limited time available" under the statute. *Id.*

"the average system cost of that [participating] utility's resources. * * *" *See* section 5(c)(1). Resource is narrowly defined by section 3(19) of the Northwest Power Act as:

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

Elsewhere in the statute, the terms "resource" and "resources" are used synonomously with generating facility and conservation measure.[9] Where Congress intended to define the cost of resources to include more than generation, it did so expressly. Section 3(4)(B) of the Northwest Power Act defines "cost-effective" resource by reference to a number of ancillary costs including "* * * if applicable, the cost of distribution and transmission to the consumer * * *." BPA concludes that there is no requirement in the Northwest Power Act that transmission investments and expenses be included in the determination of average system cost.[10]

It may appear unusual that BPA would exclude transmission costs from the calculation of the average system cost of what the Act describes as a "sale" of electric power. However, as discussed above, the power sale concept was created by Congress for ratemaking purposes. The significance of section 5(c) of the Northwest Power Act, and the ASC methodology developed pursuant thereto, relates to the calculation of the net exchange cost paid by BPA to participating utilities. The scope of these monetary benefits should not include transmission costs not expressly authorized by statute. The average system cost of a participating utility's "resources," as the term is used in section 5(c)(1), will be construed to include only the costs of electric power generation (including purchased power) and appropriate electric power conservation measures, i.e., only costs appropriately functionalized to generation. Transmission investments and expenses need not be included in the calculation of ASC.

BPA perceives no inconsistency between excluding transmission costs from ASC and including BPA transmission costs in the priority firm rate. Congress has expressly directed the agency to set its rates to recover "in accordance with sound business principles, the costs associated with the acquisition, conservation and transmission of electric power * * *." See, section 7(a)(1) of the Northwest Power Act, 16 U.S.C. 839e(a)(1). In contrast, Congress did not direct BPA to pay participating utilities for their transmission costs. BPA broadly construes the directive that its rates be set to recover revenue requirements, while it narrowly construes statutory provisions which add to, and possibly inhibit recovery of, such revenue requirements.

Nevertheless, for reasons of equity, BPA proposes to allow certain transmission costs in the determination of ASC. BPA proposes the inclusion in the ASC methodology of an ASC transmission adder, which shall not exceed the level of transmission costs included by BPA in the priority firm rate (conservatively estimated at 3 mills/Kwh). Thus, BPA's transmission costs would be the upper limit, or cap, on the proposed transmission adder. Participating utilities that elected to qualify for the adder would be required to include in their ASC filings FERC Form 1 account data on costs functionalized to transmission. No radial line costs may be included in the calculation of the adder. All wheeling revenues must be credited against Form 1 transmission costs.

BPA is concerned that inclusion of a transmission adder in ASC provides a financial incentive for some participating utilities to construct unnecessary transmission facilities. The ASC methodology should not distort economic evaluation of the merits of constructing a transmission line.[11] Accordingly, BPA will review all ASC filing to assure that such distortions do not occur. We invite commenters to address this point. Of course, participating utilities remain free to build facilities as they see fit, so long as such construction does not impact payments under the residential exchange.

2. *Construction work in progress will not be included in rate base for purposes of the average system cost methodology.*

One of the costs a utility recovers while constructing new plant is that of financing capital investment, interest and return on equity, which may be collectively referred to as carrying charges. There are two alternative methods by which carrying charges incurred during the construction period can be recovered from ratepayers.

One method capitalizes the carrying charges during the construction period as an Allowance for Funds Used During Construction (AFUDC). Under this method the carrying charge are computed periodically (usually monthly) and are added to the direct cost of the construction (FERC Account 107). The total cost of the completed construction will include not just direct costs of land, labor, and materials; it will also include all the carrying charges recorded during the construction period. These charges and the other costs just mentioned will be fully recovered from the ratepayers during the life of the plant as depreciation expense. AFUDC is recorded as income by the utility as the carrying charges are accrued during the construction period. Actual cash payments from ratepayers to cover the carrying charges begin when the plant under construction is completed and begins to provide service.

The second method for recovering carrying charges during the construction period is through inclusion of Construction Work In Progress (CWIP) in rate base. Under this method CWIP is treated like plant service. The utility recovers carrying charges currently from taxpayers, rather than adding the carrying charges to the cost of construction. The carrying charges are determined by the allowable return (debt and equity) that is applied to utility investment which is used and useful. The return on CWIP is recorded as income on a current basis (just as AFUDC) and actual cash payments are made by the ratepayers currently (unlike AFUDC).

BPA does not intend to prejudge the choice between the AFUDC and the CWIP methods by any state regulatory body. However, the inclusion of CWIP in rate base causes legal problems that forestall its recognition in the ASC methodology.

BPA must comply with the proscription of section 5(c)(7)(C) 16 U.S.C. 839c(c)(7)(C), which states that

[9] See, e.g., the definitions of "Federal base system resources" in section 3(10), "major resource" in section 3(12) and "renewable resource" in section 3(16), 16 U.S.C. §§ 839a(10), (12) and (16), respectively; and section 6 (conservation and resource acquisition), 16 U.S.C. § 839d. Resources characteristically "serve [a BPA customer's] firm load," 16 U.S.C. § 839c(b)(1)(A) and (B), or "meet, on a planning basis, the load requirement * * *," 16 U.S.C. § 839c(c)(4)(C)(i).

[10] However, it does not follow that the 1981 Methodology included improper costs. The Act does not contain a specific prohibition of including transmission costs in ASC. There is nothing in the statute that would lock the Administrator into a single methodology. And, when revising the ASC methodology the Administrator is not limited to excluding the types of costs identified in section 5(c)(7). "[A] additional exclusions may be incorporated in the methodology for determining average system cost under [section 5(c)]." S. Rep. 272, 96th Cong., 1st Sess. at 27 (1979).

[11] Excluding Construction Work in Progress (CWIP) from rate base for purposes of ASC calculation, discussed below, should be adequate to remove distortions from the economic evaluation of proposed generating facilities which require longer time for construction.

ASC shall not include "any costs of any generating facility which is terminated prior to initial commercial operation." This provision requires BPA to recover amounts included in ASC for CWIP on construction projects which are subsequently terminated. See, Administrator's 1981 decision at 8. However, it is quite difficult to reverse the effects of allowing a CWIP return in ASC when construction on a project is terminated. The mechanism contained in the 1981 Methodology is by no means precise. Yet, BPA is aware of no practical substitute.

The better approach is to include resources in the calculation of ASC only when they go into commercial operation. Thus, no CWIP will be allowed in rate base under the proposed ASC methodology.

3. *Only generating costs incurred in the production of electric power and energy to meet retail loads will be included in ASC.*

The proposed methodology would not make any basic change to the way in which costs functionalized to generation are included in ASC. We are concerned, however, that costs may be included for generating units used exclusively for the production of secondary power and energy. Only the costs of resources used to serve residential loads may be exchanged. Therefore, the proposed methodology must contain a qualification.

No generating resource may be included in ASC that has not been included in rate base for retail ratemaking purposes by at least one rate regulatory authority in the Pacific Northwest. Each ASC filing must contain a statement separately identifying the costs of qualified and disqualified generating resources, using FERC Form 1 as the source of all cost data.

4. *Conservation costs are resource costs and therefore includable in ASC.*

BPA proposes to allow in ASC conservation costs conservation contract changing ASC, subject to two limitations. First, such costs must be incurred as part of a program that is consistent in terms of cost and timing, with the conservation plan developed by the Pacific Northwest Electric Power and Conservation Planning Council. The participating utility must include a statement to this effect with each ASC filing that proposes to include conservation costs. Second, conservation cost incurred pursuant to model standards included in the Council Plan are not includable in ASC.

5. *Includable equity return will be based on a generic determination.*

The jurisdictional costing approach has caused serious concern that equity returns allowed by regulatory agencies have indirectly compensated participating utilities for the costs of generating facilities terminated prior to initial commercial operation. Although not necessarily inconsistent with relevant state laws, such allowances violated section 5(c)(7)(C) of the Northwest Power Act if included in ASC. BPA therefore proposes to change the method for determining the equity return component of ASC for investor-owned utilities.[12]

In developing an ASC methodology the BPA Administrator has considerable discretion in deciding whether to permit inclusion of an equity return allowance and, if so, how that component is to be determined.[13] We do not intend to determine independently an equity return for each participating utility. To do so might be viewed as an attempt to circumscribe the authority of state regulators. Instead, a generic method is proposed. Compare, Generic Determination of Rate Return on Common Equity for Electric Utilities, FERC Docket No. RM80-36-000, 47 FR 38 332 (1982).

In the first quarter of each year, BPA proposes to determine and publish a national-average equity return allowed by retail rate regulators for electric utilities during the preceding calendar year. Equity return data would be derived from published statistical sources on publicly traded electric utility securities. E.g., Merrill Lynch, Utility Industry, Quarterly Regulatory Report This national-average number would be used as the equity return allowance for each participating investor-owned utility throughout the relevant exchange period.

This national-average number might be excessive for two reasons. First, it is reasonable to expect that regulators throughout the nation increase equity returns to compensate for terminated plant costs—either implicitly or explicitly. See, e.g., *Consumers Council v. Public Utilities Commission*, 447 N.E.2d 749 (1983). As noted earlier, such costs cannot be included in ASC. Second, provisions of the Northwest Power Act should reduce the equity return requirements of Pacific Northwest utilities vis-a-vis the national average. The residential exchange, the opportunity to purchase firm power for load growth under section 5(b(1), the conservation funding available from BPA under section 6, and other provisions of the Nortwest Power Act reduce the financial risks for regional utilities in relation to utilities not affected by the Northwest Power Act.

BPA proposes to compensate for these two circumstances by reducing the national-average equity return one percentage point (100 basis points) for use in the ASC methodology. Equity return should be limited. Amounts paid to provide a return to utility investors become part of the revenue requirement recoverable from BPA's customers.

BPA invites commenters to address the level of this proposed one-percent reduction. We also invite comments on other administratively feasible methods of generically setting equity returns for purposes of the ASC methodology.

6. *Fuel costs will be included in ASC with necessary safeguards to protect against unreasonable profits to utility affiliates.*

Under the proposed methodology, fuel costs included in the ASC determination will normally be derived from FERC Form 1—subject to BPA review. However, special criteria will apply to instances where the participating utility acquires fuel from a corporate affiliate. BPA defines "corporate affiliate" as a parent or subsidiary corporation, a fuel trust that to any degree is owned or controlled by a participating utility, or a corporation that has a parent corporation in common with a participating utility. Affiliate transactions are not characterized by arm's-length bargaining. The natural incentive of both parties to such transactions is to maximize the seller's profit. The net cost of the residential exchange, which becomes part of BPA's revenue requirement, must not be used as a means for passing excessive profits on to affiliates of participating utilities.

In expressing concern about affiliate fuel transactions, BPA follows the lead of FERC (and its predecessor the Federal Power Commission) which has long held that such transactions have an obvious potential for abuse. *Williams Pipe Line Company*, 21 FERC ¶61,123, at p. 61,245 (1981); *Montana Power Company*, 4 FPC 213 (1945); and *Pacific Power & Light Company*, 3 FPC 329 (1942). The FPC was not bound by the pricing provisions of affiliate contracts; an independent determination of costs was authorized. *Safe Harbor Water Power Corp.*, 1 FPC 230, 237-40 (1940). Neither will BPA be bound by the

[12] Under the proposed methodology, no change would be made in the way that the embedded costs of debt and preferred stock are computed. Neither would there be any change in the way that capital costs are determined for publicly-owned and cooperative utilities.

[13] Some initial comments have contained arguments that no equity return component should be permitted in ASC.

affiliated fuel costs claimed by participating utilities.

Regulatory scrutiny is normally exercised in one of two ways. First, the cost of affiliate commodities or services may be determined through a cost-of-service analysis. Second, a market test may be performed to determine the price such commodities or services would command in an arm's-length transaction between an independent buyer and seller. The market test requires determination of the price of comparable fuel, transportation cost differentials, etc. Both approaches pose administrative problems for BPA, which is neither required nor able to undertake such complex regulatory burdens. Yet, the concern about inflated prices remains.

Therefore, BPA proposes the following administratively feasible alternative. In each ASC filing, the participating utility will be required to identify specifically all fuel purchases from affiliates during the preceding calendar year. FERC Form 1 information must be supplied for all fuel purchases. The utility must also identify the unit cost of each such transaction allowed for ratemaking purposes during the preceding calendar year [14] by each rate regulator having jurisdiction over that utility. Calculation of ASC will be based on the lowest unit cost identified. If such information is not provided, fuel costs will be disallowed.

BPA proposes to use this variant of the jurisdictional costing approach as the best administratively feasible way of handling a difficult regulatory problem. FERC Form 1 data may contain inflated costs. Yet the traditional methods of scrutinizing such costs are burdens which BPA cannot undertake in administering the residential exchange.

7. *Income taxes includable in the ASC methodology are to be determined at the effective tax rate.*

Significant distinctions exist between tax regulations and the ratemaking policies adopted by regulators. Commonly, tax expenses included in rates exceed the amounts actually paid by the utility to the Internal Revenue Service and to state taxing authorities. Depreciation deductions, which may be claimed at an accelerated rate for tax purposes, are "normalized" [15] over the service lives of assets. Interest expense deductions are also normalized for ratemaking purposes. Investment tax credits, which reduce tax liability permanently, may also be amortized for ratemaking purposes. These ratemaking policies are designed by regulators to increase utility cash flow. However, there is no such policy expressed in section 5(c) of the Northwest Power Act. Taxes calculated for ratemaking purposes, which exceed the effective tax rate of a utility, do not appear to be costs of resource includable in ASC under section 5(c).

BPA therefore proposes to use the participating utility's effective income tax rate in determining ASC. Taxes will be calculated in accordance with Schedule 3(a) of the proposed methodology. This proposal is not intended to affect decisions of rate regulators to increase the cash flow of utilities for whatever policy reasons they adopt under state regulatory laws.

8. *ASC will only include costs that can be directly functionalized on the basis of FERC's Uniform System of Accounts or on the basis of functionalization analyses.*

The 1981 methodology incorporates a three-part functionalization approach: (1) the Uniform System of Accounts, (2) reliance on analytical studies prepared by the exchanging utility that demonstrate the functional nature of an item, and (3) use of footnotes that specify functionalization treatment. BPA proposes to eliminate the third approach ("footnote 24" in the 1981 methodology).

The functionalization produced by application of footnote 24 have been very imprecise. BPA would rely exclusively on the remaining two functionalization methods.

D. Procedures for Review of ASC Filings Under the Proposed Methodology

Under the proposed methodology, exchange periods will extend for full-year periods from January 1 to December 31. ASC will be determined on the basis of data from the preceding calendar year. New review procedures will apply.

Participating utilities will be required to submit complete ASC filings to BPA's Portland headquarters by May 1, concurrent with the time for submission of Form 1 to FERC. A signed original filing and three copies will be required. BPA will then have 45 days in which to conduct a preliminary review. Incomplete or patently erroneous filings will be rejected. Filings that receive preliminary acceptance will become effective—subject to refund—as of the preceding January 1. However, ASC filings that are rejected will only become effective—subject to refund—as of the date the filing defect is cured. Participating utilities are therefore encouraged to request prefiling technical meetings with BPA staff to discuss potential filing problems.

Final review will be concluded in an expeditious manner. After issuance of BPA's report, utilities subject to FERC jurisdiction will be required to make the appropriate submissions to FERC. BPA must be served with all filings and pleadings submitted to FERC.

Special procedures are proposed for 1984. Participating utilities will be required to submit ASC filings within 30 days after the new methodology is implemented. All filings would become effective as of the date the new methodology is implemented.

In consideration of the foregoing discussion, BPA proposes to revise the Average System Cost Methodology as set forth below.

Issued in Portland, Oregon, January 30, 1984.

Peter T. Johnson,

Administrator.

Proposed Exhibit C—Average System Cost Methodology

I. Definitions

The following definitions apply to all sections of Exhibit C.

A. "Production Average Cost" means for each utility and each exchange period the quotient obtained by dividing Total Contract System Cost, less Transmission Costs, by Total Contract System Load.

B. "Transmission Average Cost" means for each utility and each exchange period the quotient obtained by dividing Total Contract Costs less Production Costs by Total Contract System Load.

C. "Average System Cost" or "ASC" means for each utility and each exchange period Production Average Cost plus the lesser of:

(a) Transmission Average Cost or

(b) The transmission cost component of the Priority Firm Rate or its successor rate.

D. "Contract System Costs" means the utility's costs for production and transmission resources, including power purchases and conservation measures, except that the utility's per-kWh cost of transmission resources shall not exceed the per-kWh transmission cost component of BPA's priority firm rate or its successor rate.

E. "Costs" means the aggregate dollar amount included in FERC Form 1s, or their equivalent, for the relevant calendar year.

F. "Exchange Period" means January 1, through December 31, for any particular year, provided that no Exchange Period shall commence prior

[14] Form 1 data are compiled on a calendar-year basis.

[15] See, Public Systems v. FERC, 709 F2d 73 (D.C. Cir. 1983), for discussion of the concept of normalization.

to or extend beyond the term of the utility's Residential Purchase and Sale Contract Agreement.

G. "Contract System Load" means the utility's firm energy load for the relevant period adjusted pursuant to Appendix 1.

H. "New Large Single Load" means that load defined in section 3(13) of the Regional Act, and as determined by BPA as specified in power sales contracts with its customers.

I. "Regional Power Sales Customer" means any Pacific Northwest entity that contracts directly with BPA for the purchase of power for delivery in the region as defined by section 3(14) of the Regional Act.

II. Procedures for Determining Average System Cost

The procedures set forth in this section will enable BPA to determine the ASC in accord with the methodology in Appendix 1 for each exchanging utility within the region, i.e. BPA's service area, where the utility provides service. The ASC so determined will be in effect during the Exchange Period and will apply to the amount of exchange power acquired by BPA from the utility during the Exchange Period. The amount of exchange power will be equal to the utility's eligible load within its service area in the Region. BPA will determine and pay a separate ASC for the exchange power related to the utility's eligible load. The procedures are as follows:

A. Appendix 1 is a form that identifies Contract System Costs and Contract System Load and permits the calculation of ASC. Appendix 1 is an integral part of this document.

B. On or before 45 days after the effective date of the methodology, the utility shall complete and file with BPA five (5) copies of Appendix 1 and associated workpapers for review. In addition, annually, on or before May 1, of the year following the calendar year covered by the filing, the utility shall complete and file with Bonneville five (5) copies of Appendix 1 for review. On or before forty-five (45) days after the utility submits its Appendix 1 for review, BPA may give the utility's ASC interim approval.

III. BPA Review Process

A. Each Appendix 1 shall be reviewed by BPA or its designate to determine whether the costs are consistent with generally accepted accounting principles for electric utilities, whether Contract System Costs contains only allowed costs, and whether theAppendix 1 complies with the requirements of this Exhibit C including applicable definitions and requirements incorporated from the FERC Uniform System of Accounts or their equivalent.

B. The Appendix 1 shall be subject to review.

C. BPA or its designate shall conduct its review as promptly as reasonably possible, shall make a written report of its determinations, and shall make any resulting increase or decrease in the ASC for the relevant Exchange Period.

D. BPA will afford its Regional Power Sales Customers and other interested persons an opportunity to comment in writing on each Apendix 1 filed by a utility. The utility and BPA shall permit Regional Power Sales Customers and interested parties to examine each Appendix 1 submitted to BPA. The utilities shall respond to reasonable information requests relevant to the determination of an ASC from BPA and its Regional Power Sales Customers, provided that the furnishing of proprietary or confidential information to BPA or to a Regional Power Sales Customer may be made contingent on the granting of proper safeguards to prevent unauthorized use or disclosure. All comments from BPA's Power Sales Customers and interested parties must be received in writing by BPA no later than 30 days following BPA's interim approval of the utility's ASC.

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BONNEVILLE POWER ADMINISTRATION
RESIDENTIAL PURCHASE AND SALE AGREEMENT
Average System Cost Methodology

Plant Investment/Rate Base/Rate-of-Return
(Thousands)

Line No.	Items (1)	Total To Be Functionalized (2)	Functionalization: Production (3)	Functionalization: Transmission (4)	Functionalization: Other (5)
	PRODUCTION PLANT				
1	Steam Production 310-316				
2	Nuclear Production 320-325				
3	Hydraulic Production 330-336				
4	Other Production Plant 340-346				
5	Total Production Plant				
6	Transmission Plant 350-359 a/				
7	Distribution Plant 360-373 b/				
8	Intangible Plant 301-303 c/				
9	General Plant 389-399 c/				
10	Electric Plant-in-Service				
	LESS:				
11	Depreciation Reserve 108				
12	Steam Plant				
13	Nuclear Plant				
14	Hydraulic Plant				
15	Other Plant				
16	Transmission Plant a/				
17	Distribution Plant b/				
18	General Plant c/				
19	Amortization Reserve 111 c/				
20	Total Depreciation & Amortization				
21	TOTAL NET PLANT				
22	Nuclear Fuel 120.2-120.4 Less 120.5				
23	Conservation 106,124,184 d/				
24	Cash Working Capital e/				
25	Materials and Supplies 151-157,163 c/				
26	Other c/				
	LESS:				
27	Accumulated Deferred Investment Tax Credits/255 c/				
28	Accumulated Deferred Income Taxex/281-283 c/				
29	Other Accumulated Deferred Credits/253, 256-257 c/				
30	TOTAL RATE BASE				
31	Times Rate of Return @ ____ % f/g/				

Capital Structure and Cost of Capital

Line No.	Items/Footnotes (1)	Amount (2)	Ratio (3)	Component Cost (4)	Weighted Cost (5)
1	Debt				
2	Preferred Stock				
3	Common Equity h/				
4	Total Weighted Cost				

BONNEVILLE POWER ADMINISTRATION
RESIDENTIAL PURCHASE AND SALE AGREEMENT
Average System Cost Methodology

Expenses
(Thousands)

Line No.	Items (1)	Allocation Notes	Total To Be Functionalized (2)	Functionalization		
				Production (3)	Transmission (4)	Other (5)
	PRODUCTION					
1	Fuel 501,518,547 m/					
2	Purchased Power 555					
3	Steam 500,502-514					
4	Nuclear 517,519-532					
5	Hydro 535-545					
6	Other 546,548-554					
7	TOTAL PRODUCTION EXPENSE					
8	TRANSMISSION 560-573 a/					
9	DISTRIBUTION 580-598 b/					
10	CUSTOMER ACCOUNTING 901-905 c/					
11	CUSTOMER ASSISTANCE 907-910 c/					
	ADMINISTRATIVE & GENERAL c/					
	Account Number					
12	920					
13	921					
14	922					
15	923					
16	924					
17	925					
18	926					
19	927					
20	928					
21	929					
22	930.1					
23	930.2					
24	931					
25	932					
26	Total A & G					
27	TOTAL OPERATIONS & MAINTENANCE					
28	DEPRECIATION & AMORTIZATION 403-407					
29	Steam Production Plant					
30	Nuclear Production Plant					
31	Hydraulic Production Plant					
32	Other Production Plant					
33	Transmission Plant a/					
34	Distribution Plant b/					
35	General Plant c/					
36	Amortization c/					
37	TOTAL DEPRECIATION & AMORTIZATION					
38	Taxes Other than Federal Income c/ i/					
39	Federal Income Tax					
40	Other Expenses c/					
	Less:					
41	Nonfirm Sales for Resale Rev. 447					
42	Other Operating Revenues 450-456 j/					
43	Billing Credits d/					
44	TOTAL OPERATING EXPENSES					
45	Return from Schedule 1					
46	TOTAL COST					

BONNEVILLE POWER ADMINISTRATION
RESIDENTIAL PURCHASE AND SALE AGREEMENT
Average System Cost Methodology

Federal Taxes on Income
(Thousands)

Line No.	Items (1)	Functionalization: Total To Be Functionalized (2)	Production (3)	Transmission (4)	Other (5)
	INCOME				
1	Operating Revenues				
	DEDUCTIONS				
2	Operating and Maintenance Expense				
3	Depreciation Expense				
4	Amortization				
5	Taxes Other Than Federal Income Taxes				
6	Interest Expense				
7	Total Deductions				
8	Net Income Before Federal Income Tax				
	TAX ADJUSTMENTS				
9	Book Depreciation				
10	Tax Depreciation				
11	Charges to Construction				
12	Coal Depletion				
13	Other Adjustments				
	1.				
	2.				
	3.				
	4.				
	5.				
14	Total Tax Adjustments				
15	Taxable Income				
16	Adjusted State Tax				
17	Preferred Dividends Paid				
18	Total Taxable Income				
19	Federal Income Tax				
20	Less: Investment Tax Credits				
21	Net Federal Income Tax				
22	Deferred Income Taxes (net of ITC allowed)				
23	Income Taxes Deferred in Prior Years				
24	Investment Tax Credit Adjustment				
25	TOTAL FEDERAL INCOME TAX				

Note: 1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

Taxes Other Than Federal Income Taxes
(Thousands)

Line No.	Items (1)	Functionalization: Total To Be Functionalized (2)	Production (3)	Transmission (4)	Other (5)
1	FEDERAL - Insurance Contributions				
2	- Unemployment				
	STATE				
3	California - Property				
4	- Unemployment				
5	Oregon - Property				
6	- Tri-Met				
7	- Lane County				
8	- Unemployment				
9	- Regulatory Commission				
10	Washington - Property				
11	- Unemployment				
12	- Generating Tax				
13	- Pollution Control Credit				
13a	- Revenue & Business				
14	Idaho - Property				
15	Montana - Property				
16	- Unemployment				
17	Wyoming - Property				
18	- Unemployment				
19	Utah - Property				
20	LOCAL - Occupation and Franchise				
21	STATE INCOME TAXES				
22	IN-LIEU TAXES				
23	OTHER				
24	TOTAL				

Note: 1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC

BILLING CODE 6450-01-C

BONNEVILLE POWER ADMINISTRATION
RESIDENTIAL PURCHASE AND SALE AGREEMENT
Average System Cost Methodology

Other Included Items
(Thousands)

Line No.	Items (1)	Total To Be Functionalized (2)	Functionalization: Production (3)	Functionalization: Transmission (4)	Functionalization: Other (5)
	Operating Revenues:				
1	Nonfirm Sale for Resale 447				
2	1.				
3	2.				
4	Total				
	Other Operating Revenues 450-456				
5	Acct. 450				
6	Acct. 451				
7	Acct. 452				
8	Acct. 453				
9	Acct. 454				
10	Acct. 455				
11	Acct. 456 1/				
12	Total Other Revenues				

Note: 1. Supporting workpapers are to be attached.
2. Footnotes referenced on Schedule 3 will be relied upon in determining ASC.

Average System Cost

Line No.	Items (1)	Total To Be Functionalized (2)	AMOUNTS: Production (3)	AMOUNTS: Transmission (4)	AMOUNTS: Other (5)
1	Contract System Costs				
2	Production Cost (From Schedule 3)				
3	Transmission Cost (From Schedule 3)				
4	Less Excluded Load costs k/				
5	Total Contract System Costs				
6	Contract System Load:				
7	Total Load (MWh)				
8	Less:				
9	Nonfirm Adjustment (MWh)				
10	Other Adjustments (MWh)				
11	Net Load (MWh)				
12	Plus:				
13	Distribution Losses (MWh) 1/				
14	Total Net Load (MWh)				
15	Less:				
16	Excluded Load (MWh) k/				
17	Excluded Load Dist. Losses (MWh)				
18	Total Contract System Load (MWh)				
19	Average Costs (mills/kWh) (Line 5 / Line 18)				
20	Transmission Test:				
21	If Transmission Average Cost is less than or equal to Priority Firm transmission cost enter value				
22	If Transmission Average Cost is greater than Priority Firm transmission cost enter Priority Firm Transmission Value				
23	Average System Cost: Line 19, column a plus (Line 21 or 22, whichever is smaller)				

Average System Cost Methodology Footnotes

[a] (1) Transmission plant means all land, conversion structures, and equipment employed at a primary source of supply (i.e., generating station or point of receipt in the case of purchased power) to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; all land, structures, lines, switching and conversion stations, high tension apparatus and their control in protection of equipment between a generating or receiving point and the entrance to a distribution center or wholesale point; and all lines and equipment whose primary purpose is to augment, integrate or tie together the sources of power supply. The entrance to a distribution center means all land, structures, conversion equipment, lines, line transformers and other facilities utilized to deliver power to specific customers or distribution substations.

(The first sentence above serves as the basic test to decide what constitutes transmission plant for the purpose of determining Average System Cost. The last sentence serves to limit what constitutes transmission plant, and serves to exclude radial transmission facilities from transmission plant to be included in calculating Average System Cost.)

(2) For determining Average System Cost, transmission costs will be limited to the lesser of:

(a) the utility's per-kWh cost of transmission or

(b) the per-kWh transmission cost component of BPA's Priority Firm rate or its successor rate.

(3) BPA reserves the right to disallow the cost of all new additions to transmission plant which are not in accord with the Single Utility Concept.

[b] Distribution plant means all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply (i.e., generating station, point of receipt in the case of purchased power) and of delivery to customers, which are not includable in transmission system, as defined in footnote a(1), whether or not such land, structures, and facilities are operated as part of a transmission system or as part of a distribution system. Stations that change electricity from transmission to distribution voltage shall be classified as distribution stations.

Where poles or towers support both

transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as transmission system. The conductors, crossarms, braces, grounds, tiewire, insulators, ect., shall be classified as transmission or distribution facilities, according to the purpose for which they are used. Where underground conduit contains both transmission and distribution conductors, the underground conduit and right-of-way shall be classified as distribution facilities. The conductors shall be classified as transmission or distribution facilities according to the purpose for which they are used. Land (other than rights-of-way) and structures used jointly for transmission and distribution purposes shall be classified as transmission or distribution according to their major use.

[c] All items that cannot be directly functionalized shall be functionalized to distribution/other.

For all items not directly functionalized, the utility can elect to perform a comprehansive study that demonstrates the actual functional use of such items. The study must accompany the Exhibit C (Appendix 1), and is subject to BPA's review and approval.

[d] Only BPA approved conservation programs consistent with the Regional Plan will be allowed in determining the Average System Cost. Only that portion of investment costs not reimbursed by BPA may be included.

The utility must supply the amortization schedule of its conservation investments.

The offset against Contractor System Costs for billing credit revenue arising from implementation of conservation measures and retail rate schedules that induce conservation shall be limited to the costs included in Contract System Cost of the related conservation measures and retail rate schedules. These billing credit revenues shall be functionalized on the same basis as the cost of the related conservation measure.

[e] Cash working capital shall be equal to ⅛ of operation and maintenance expense related to generation and transmission, less fuel expense and purchased power expense, and functionalized accordingly.

[f] Rate-of-Return as calculated in Schedule 2.

[g] Public Agencies shall be allowed a total return (operating income) on Schedule 1 equal to their demonstrate need for revenue exceeding Total Operating Expenses shown on Schedule 3 to cover the cost of capital. These demonstrated capital costs generally will be in the form of coverage requirements or the need to maintain an equity ratio consistent with the favorable bond ratings for that utility. In order to receive an operating income in addition to interest expense, the utility must submit evidence of the specific coverage or equity ratio needed by that utility and a calculation of the corresponding minimum operating income. Assignment to excluded resources and functionalization of the operation income shall be based on the assignment and functionalization of the rate base.

[h] Return on equity will be set equal to a national average return on equity, to be specified by BPA, reduced by one percent.

[i] A tax-exempt utility may include in-lieu taxes up to an amount that is comparable, for each unit of government paid in-lieu taxes, with taxes that would have been paid by a non-tax exempt utility to that unit of government, but in no event shall the utility's regional total in column 2 be greater than the actual amount paid.

[j] Revenues from the transmission of electricity for others shall be functionalized to transmission.

[k] The cost additional resources sufficient to serve any New Large Single Load that was not contracted for, or committed to, prior to September 1, 1979, is to be determined as follows:

(1) To the extent that any New Large Single Loads are served by dedicated resources, at the cost of those resources, including applicable transmission;

(2) In the amount that New Large Single Loads are not served by dedicated resources, at BPA's New Resource rate as established from time to time pursuant to section 7(f) of the Regional Act and as applicable to the utility, and applicable BPA transmission charges if transmission costs are excluded in the determination of BPA's New Resource rate, to the extent such costs are recovered by the utility's retail rates in the applicable jurisdiction; and

(3) To the extent that New Large Single Loads are not served by dedicated resources plus the utility's purchases at the New Resource rate, the costs of such excess load shall be determined by multiplying the kilowatthours not served under subsections (1) and (2) above by the cost (annual fixed plus variable cost, including an appropriate portion of general plant, administrative and general expense and other items not directly assignable) per kilowatthour of all baseload resources and long term power purchases (five years or more in duration), as allowed in the regulatory jurisdiction to establish retail rates during the Exchange Period, exclusive of the following resources and purchases: (a) purchases at the New Resources rate pursuant to section 7(f) of the Act; (b) purchases at the Federal Base System rate, pursuant to section 5(c) of the Act; (c) resources sold to BPA, pursuant to section 6(c)(1) of the Act; (d) dedicated resources specified in footnote k(1) of this methodology; (e) resources and purchases committed to the utility's load as of September 1, 1979 under a power requirements contract or that would have been so committed had the utility entered into such a contract; and (f) experimental or demonstration units or purchases therefrom. Transmission needed to carry power from such generation resources or power purchases shall be priced at the average cost of transmission during the Exchange Period.

(4) Any kilowatthours of New Large Single Loads not met under subsection (1), (2), or (3) above will be assumed to be supplied from the most recently completed or acquired baseload resource(s) or long term power purchase(s), exclusive of dedicated resources and experimental or demonstration resources or purchases thereform, that are committed to the utility's load as of September 1, 1979, under a power requirements contract with BPA or would have been so committed had the utility entered into such a power requirements contracts. The cost of these generation resources and long-term power purchases and the transmission cost associated with these resources or purchases will be calculated as specified in subsection (3) above.

(5) If the New Large Single Load is served on any energy or capacity interruptible basis, the utility shall prepare a calculation subject to review by BPA of the fixed (if any) and variable costs of providing such service, except that the amount excluded from ASC for the New Large Single Load shall not be less than the transmission and generation costs included in the retail rate charged the New Large Single Load.

[l] The losses shall be the distribution energy losses occurring between the transmission portion of the utility's system and the meters measuring firm energy load. Losses shall be established according to a study (engineering, statistical or other) that is submitted to BPA by the exchanging utility subject to review by BPA. This study shall be in sufficient detail so as to accurately identify average distribution losses associated with the utility's total load, excluded loads, and the residential load. Distribution losses shall include losses associated with distribution substations, primary distribution facilities, distribution transformers, secondary distribution facilities and service drops.

[m] Utilities purchasing fuel from affiliates must identify all fuel purchases from affiliates during the preceding calendar year, and calculate the per-kWh unit cost. This unit cost is to be compared to the unit cost of each such transaction allowed for ratemaking purposes during the preceding calendar year by each rate regulator having jurisdiction over that utility. The lowest unit cost will be used to determine the cost of fuel purchases from affiliates.

[FR Doc. 84-3156 Filed 2-1-84; 4:19 pm]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER84-221-000]

Arizona Public Service Co.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that on January 23, 1984, Arizona Public Service Company (APS) tendered for filing a proposed Letter Agreement Revision to Service Schedule D of the Power Coordination Agreement (PCA) between APS and Plains Electric Generation and Transmission Cooperative, Inc. (Plains), dated November 10, 1983, and executed by the parties on December 22, 1983.

This Letter Agreement proposes to allow Plains to forego its dynamic load control requirements contained in section 7.4 of Service Schedule D of the

PCA for an initial term of one year beginning January 1, 1984.

APS requests that this Letter Agreement become effective as of January 1, 1984, as stipulated therein and, therefore, requests waiver of the notice requirements under 18 CFR 35.11.

Copies of this filing were served upon Plains and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Caiptol 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). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2992 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-220-000]

Central Louisiana Electric Company, Inc.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that on January 23, 1984, Central Louisiana Electric Company, Inc. (CLECO) submitted for filing an executed Letter Agreement that relates to the terms under which CLECO will furnish transmission service for up to 26 MW of power and energy to the City of Lafayette, Louisiana.

CLECO requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 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. 84-2993 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 84-224-000]

Central Vermont Public Service Corp.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that on January 25, 1984 the Central Vermount Public Service Corporation ("CVPS") tendered for filing as an initial rate schedule a System Exchange Agreement (the "Agreement") between the New England Power Service Company ("NEP") and Central Vermount Public Service Corporation. The Agreement, dated October 7, 1983 provides for the exchange of excess capacity and associated energy from the CVPS system for an equal amount of capacity from certain NEP units.

NEP shall pay to CVPS, for each month that an Exchange takes place, an "Energy Charge" which is the sum of all the energy charges calculated for each of those hours of each Exchange during such month. The energy charge for each hour of each Exchange during each month shall be the product of: (1) The kilowatthours of energy delivered by CVPS for such hour; and (2) the forecasted energy cost for such hour agreed to by the parties.

CVPS shall pay the NEP, for each month an Exchange occurs, an Energy Charge which shall be the sum of each of the hourly Energy Charges for each of the hours of Exchange in such month. The hourly Energy Charge shall be the product of: (1) The NEPEX Replacement Fuel Price for the Exchange Units; (2) the full load average heat rate of the Exchange Units as recorded to NEPEX on Form NX12 (expressed in BTU/MWH); (3) the net energy output in MWH from the Exchange Units for such hour; and (4) the CVPS Entitlement Fraction in the Exchange Units for such hour. CVPS shall not be obligated to pay for or take any deliveries of energy during any hours when the Exchange Unit(s) are "operated out of rate" for the benefit of NEP or others. "Operated out of rate" means the operation of the Exchange Unit(s) at a level above the economic level of output for such unit(s) as determined by NEPEX.

In order to permit NEP to achieve the benefit of this Agreement, CVPS hereby requests that the Commission, pursuant to Section 35.11 of its regulations, waive the sixty-day notice period and permit the rate schedule filed herewith to become effective on October 7, 1983. The waiver, if granted, will have no effect upon purchasers under any other rate schedule. If said waiver is not granted, the parties to the Agreement will have to defer receiving the benefits accruing from the Agreement, i.e. their respective systems will be compelled to operate at less than optimum economic efficiency.

Copies of the filing were served upon New England Power Service Company, Commonwealth of Massachusetts Department of Public Utilities and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the said Federal Energy Regulatory Commission, 828 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 15, 1984. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2994 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-208-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 30, 1984.

Take notice that on January 24, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-208-000 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 Jones & Laughlin Steel Corporation (J & L) 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 4.6 billion Btu equivalent of natural gas per day for J & L, for a term of one year. Columbia states that the gas to be transported would be purchased from Leslie Oil & Gas Co., Inc. (Leslie) in Medina and Morrow Counties, Ohio, by J & L and would be used as boiler fuel in J & L's Aliquippa, Pennsylvania, plant. Columbia would receive the gas at existing delivery points in Medina and Morrow Counties, Ohio, and redeliver the gas to Columbia Gas of Pennsylvania, Inc., the distribution company serving J & L.

Columbia states that the gas to be purchased by J & L involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of sections 102, 103, and 107 of the Natural Gas Policy Act of 1978.

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 of gas, 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, 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. Further, Columbia states that it would, as soon as possible, charge J & L the GRI charge which is currently 1.21 cents per million Btu.

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 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. 84-2995 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-35-001]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

January 31, 1984.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 25, 1984, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes, shown on Substitute Fourth Revised Sheet No. 71–A, Substitute Sixth Revised Sheet No. 72 and Substitute Third Revised Sheet No. 72–A, are proposed to be effective December 1, 1983, and provide for the crediting of the jurisdictional portion of certain supplier refunds to Account No. 191, Unrecovered Purchased Gas Cost, for subsequent flow-through Consolidated's PGA mechanism over a one-year period. Such Credits would be reflected in Consolidated's demand and commodity rates on an "as received" basis. The proposed changes in the way Consolidated flows through supplier refunds would apply to all customers taking natural gas at a rate specified in Volume No. 1 of Consolidated's tariff. That portion of supplier refunds due to customers who purchase gas at a rate not specified in Consolidated's Volume No. 1 tariff will continue to be made in a lump sum.

Consolidated states that these tariff sheets are being filed in response to the Commission's letter order dated January 18, 1984 in Docket No. RP84–35 wherein the Commission rejected certain tariff sheets filed on December 19, 1983 because they did not comply with 19 CFR 154.38(d)(4) which allows pipelines to file no more than two PGA rate changes a year. The instant filing conforms with 18 CFR 154.38(d)(4).

Consolidated requested a waiver of the Commission's Rules and Regulations, specifically § 154.22, Notice Requirements. Consolidated also requested waiver of 154.38 of the Commission's regulations to permit amortization of the supplier refunds in rates over a period greater than six months. Additionally, Consolidated requested a waiver of any other of the Commission's Rules and Regulations as may be deemed necessary to permit the revised tariff sheets to become effective as proposed.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before February 8, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2996 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-223-000]

Pacific Power & Light Co.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on January 23, 1984, tendered for filing, in accordance with § 35.12 of the Commission's Regulations, a Transmission Facilities Agreement (Agreement) between Pacific and the Emerald People's Utility District (District). The Agreement provides for the use by the District of certain transmission facilities, owned by Pacific, required to serve a portion of the District's load.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective November 17, 1983, which it claims is the date of commencement of service.

Copies of the filing were supplied to the District and the Oregon Public Utility Commissioner.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 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 petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2997 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-222-000]

Southern California Edison Co.; Filing

January 31, 1984.

The filing Company submits the following:

Take notice that on January 23, 1984, Southern California Edison Co. ("Edison") tendered for filing an agreement entitled "Edison-Farmington Economy Energy Agreement" ("Agreement"), which has been executed by Edison and the City of Farmington ("Farmington"), a municipal corporation in the State of New Mexico.

Under the terms of the Agreement, Economy Energy may be sold by one Party and purchased by the other Party to make more efficient use of the Parties' electrical systems.

The Agreement is proposed to become effective when executed by the Parties and when accepted for filing by the Commission without changes unacceptable to the Parties.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Farmington, New Mexico.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 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 petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2998 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-81-011, et al.]

United Gas Pipe Line Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

January 31, 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 February 10, 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
12/20/83	United Gas Pipe Line Co..	RP81-81-011 ..	Report.
12/22/83	National Fuel Gas Supply Corp.	RP80-135-036.	Report.
12/29/83	Southern Natural Gas Co.	RP82-116-009.	Report.
1/16/84	National Fuel Gas Supply Corp.	RP80-135-037.	Report.
1/19/84	Trunkline Gas Co.....	RP73-35-011 ..	Report.
1/25/84	Columbia Gas Transmission Corp.	RP78-20-023 ..	Report.

[FR Doc. 84-2999 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-67-004]

Wisconsin Public Service Corp.; Compliance Filing

January 31, 1984.

Take notice that on January 6, 1984, Wisconsin Public Service Corporation (WPSC) submitted for filing its Compliance Report pursuant to Ordering Paragraph (C) of Opinion No. 194 issued on October 20, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 13, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3000 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 4270-001, et al.]

Hydroelectric Applications (Mr. Clark M. Ryen, et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Major License (5MW or Less).

b. Project No.: 4270-001.

c. Date Filed: September 15, 1983.

d. Applicant: Mountain Rhythum Resources.

e. Name of Project: Boulder Creek.

f. Location: On Boulder Creek, near Town of Maple Falls, in Whatcom County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: William L. Devine, Mountain Rhythum Resources, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, Washington 98266.

i. Comment Date: March 29, 1984.

j. Description of Project: The proposed project would consist of: (1) Two 6-foot-high concrete diversion weirs at elevation 2,240 feet, one on East Fork Boulder Creek and one on West Fork Boulder Creed; (2) two intake structures; (3) a 7,000-foot-long, 24-inch-diameter steel pipeline; (4) a 2,500-foot-long, 24-inch-diameter steel penstock; (5) a powerhouse containing one generating unit rated at 3,000 kW; (6) a tailrace; and (7) a 5,400-foot-long transmission line. The average annual energy generation is estimated to be 12 million kWh. The cost of the project is estimated to be $5.3 million.

k. Purpose of Project: Power would be sold to Puget Sound Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

2a. Type of Application: Preliminary Permit.

b. Project No.: 7479-000.

c. Date Filed: June 27, 1983.

d. Applicant: Mr. Clark M. Ryen.

e. Name of Project: Ryen Hydropower Project.

f. Location: On Ross Creek in Gallatin County, Montana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Clark M. Ryen, 7960 Springhill Community Road, Belgrade, Montana 59714.

i. Comment Date: March 29, 1984.

j. Description of Project: The proposed project would be located, in part, in Gallatin National Forest and, in part, on property owned by the Applicant. The project would consist of: (1) The proposed construction of two 6-foot-high, 25-foot-long, concrete diversion structures, one structure to be located on U.S. lands and one to be located on the Applicant's land; (2) the proposed installation of a 3700-foot-long, 30-inch-diameter penstock with a wye joint to run from the diversion structures to the powerhouse; (3) the proposed construction of a powerhouse with the proposed installation of two turbine/generator units operating at a head of 508 feet for a total installed capacity of 720 KW; (4) the proposed construction of a 15-foot-long tailrace; (5) the proposed construction of a 1000-foot-long transmission line and the upgrading of an existing 2-mile-long transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 4.3 GWH.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed project to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $10,000.

3a. Type of Application: Preliminary Permit.

b. Project No.: 7721–000.

c. Date Filed: October 13, 1983.

d. Applicant: Locks Development Ltd.

e. Name of Project: Locks Dam.

f. Location: On the Appomattox River near Petersburg, in Dinwiddie and Chesterfield Counties, Virginia.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Kenneth Lever, 18305 Minnetonka Boulevard, The Pierce Building, Wayzata, Minnesota 55391.

i. Comment Date: March 29, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing concrete gravity diversion dam, 10 feet high and 300 feet long; (2) a small impoundment covering about 5 acres with a storage of 50 acre-feet; (3) an existing headgate structure of 4 slide gates, each 4 feet wide; (4) an existing power canal 1.2 miles long and 30 feet wide; (5) a new powerhouse containing three 1.5-MW turbine/generator units operating under an average head of approximately 40 feet; (6) new low voltage transmission line one mile long; and (7) appurtenant facilities. The average annual generation of 24.1 million kWh of electrical energy will probably be sold to the Virginia Electric Power Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $100,000.

m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

4a. Type of Application: Preliminary Permit.

b. Project No: 7852–000.

c. Date Filed: November 15, 1983.

d. Applicant: St. Maries River Hydro Inc.

e. Name of Project: St. Maries River Hydroelectric.

f. Location: On St. Maries River, within the Panhandle National Forest, near St. Maries township in Benewah County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, St. Maries River Hydro, Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high, 90-foot-long concrete diversion structure at elevation of 2435 feet; (2) a 2315-foot-long, 102-inch-diameter steel conduit; (3) a powerhouse containing two generating units with a total installed capacity of 3,400 kW; and (4) a 4.5-mile-long, 34.5-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production to be 14.9 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $770,000.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

5a. Type of Application: Preliminary Permit.

b. Project No.: 7801–000.

c. Date Filed: November 3, 1983.

d. Applicant: Southern California Edison Company.

e. Name of Project: Warren Fork.

f. Location: On Warren Fork, a tributary to Lee Vining Creek, near Lee Vining, in Mono County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Bury, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 50-foot-long concrete diversion structure located on Warren Fork at elevation 8,966 feet MSL; (2) an 18 to 20-inch-diameter, 4,200-foot-long penstock; (3) a powerhouse located on Lee Vining Creek at elevation 7,825 feet MSL containing a single turbine-generator unit with a rated capacity of 1,000 kW and producing an estimated average annual generation of 4.8 GWh; (4) a 30-inch-diameter, 80-foot-long tailrace; and (5) a short tap line to connect to the existing transmission line of the Lee

Vining Creek Project. The proposed project would be located entirely on Inyo National Forest lands. Project power would be used to meet the Applicant's load demands.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $153,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

6a. Type of Application: Exemption from Licensing (5MW or less).

b. Project No.: 7241–000.

c. Date Filed: April 21, 1983.

d. Applicant: White Chuck Water Company.

e. Name of Project: Upper Clear Creek.

f. Location: On Clear Creek in Snohomish County, Washington, within Mt. Baker National Forest.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Dr. Sat Khanna, CE Maquire, Inc., 60 First Avenue, Waltham, Massachusetts 02254.

i. Comment Date: March 7, 1984.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high, 80-foot-long reinforced concrete diversion weir at elevation 1420 feet; (2) a 4.5-foot-diameter, 5,800-foot-long steel penstock; (3) a powerhouse at elevation 1120 feet containing two turbine generators, with rated capacities of 3.0 MW and 0.5 MW, producing a total average annual output of 12.5 GWh; (4) a 150-foot-long tailrace; and (5) a 5-mile-long, 34.5-kV transmission line connecting to existing Seattle City Light lines.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

7a. Type of Application: Preliminary Permit.

b. Project No: 7854–000.

c. Date Filed: November 15, 1983.

d. Applicant: Marble Creek Hydro, Inc.

e. Name of Project: Marble Creek Diversion Hydroelectric.

f. Location: On Marble Creek, within Panhandle National Forest; near Avery Township, in Shoshone County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, Marble Creek Hydro Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 75-foot-long concrete diversion structure, at elevation 2560 feet; (2) a 4,150-foot-long, 60-inch-diameter steel conduit; (3) a powerhouse containing two generating units with a total installed capacity of 1,810 kW; and (4) a 1.8-mile-long, 24-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production to be 7.9 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $365,000.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

8a.Type of Application: Minor Constructed License.

b. Project No: 7725–000.

c. Date Filed: October 14, 1983.

d. Applicant: Barton Village Electric Department.

e. Name of Project: Barton Village Dam.

f. Location: On the Clyde River, in Orleans County, in Charleston, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Shawn M. Donovan, DuBois & King, Inc., Box 339, Randolph, Vermont 05060.

i. Comment Date: March 29, 1984.

j. Description of Project: The existing and presently operating run-of-river project consists of the following facilities: (1) A granite block dam, with a concrete face, approximately 77.4 feet long and 7.5 feet high. Wooden flashboards 1.3 feet high extending 39.4 feet across the concrete spillway section; (2) a reservoir with an estimated net storage capacity of 187 acre-feet and water surface area of 187 acres; (3) approximately 660 feet of wood stave and welded steel penstock, 7 feet in diameter; (4) a 25-foot-high steel surge tank; (5) two steel penstocks, each 5.5 feet in diameter and 120 feet long bifurcating from the surge tank to the powerhouse; (6) a 20-foot-wide by 40-foot-long reinforced concrete and brick powerhouse, housing two turbine/generating units with a total installed capacity of 1,400 kW; (7) a diesel generating building; (8) electrical switching gear and transformers; (9) a 46-kV transmission line that feeds power to the Village of Barton five miles away; and (10) appurtenant facilities.

Applicant estimates an average annual energy generation of 4,786,800 kWh.

The dam and power generating facilities are owned by the Village of Barton.

k. Purpose of Project: The energy generated at the existing project is utilized by the Applicant for municipal purposes.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9a. Type of Application: Exemption from Licensing (5MW or Less).

b. Project No: 4627–002.

c. Date Filed: June 20, 1983.

d. Applicant: Albert R. Hunt & Betty F. Hunt.

e. Name of Project: Baker Creek Project.

f. Location: In Humboldt County, California on Baker Creek.

g. Filed Pursuant to: Energy Security Act of 1980, Section 408, 16 U.S.C. 2705 and 2708, *as amended.*

h. Contact Person: Albert Hunt, P.O. Box 26, Bridgeville, California 95526.

i. Comment Date: March 9, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion dam on Baker Creek at 2200 feet elevation; (2) a 42-inch-diameter, 3,700-foot-long low pressure steel conduit; (3) a 36-inch-diameter, 3,500-foot-long steel penstock: (4) a powerhouse containing a 1,300-kW generator coupled with an impulse turbine operating under a head of 820 feet; (5) a 12-kV, 10,500-foot-long transmission line connecting with an existing Pacific Gas & Electric Company (PG&E) transmission line. The estimated 6 million kWh produced annually by the proposed project would be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C. and D3a.

10a. Type of Application: License (5MW or Less).

b. Project No: 7829–000.

c. Date Filed: November 14, 1983.

d. Applicant: Talent, Rogue River, and Medford Irrigation Districts.

e. Name of Project: Emigrant Dam.

f. Location: At Emigrant Dam on Emigrant Creek, near Town of Ashland, in Jackson County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: W. H. Hoffbuhr, Talent Irrigation District, Talent, Oregon 97540; and Wes Reynolds, CH2M HILL, P.O. Box 428, Corvallis, Oregon 97339.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 54-inch-diameter bifurcation connected to the existing 54-inch-diameter outlet pipe of the 176-foot-high, 735-foot-long earthfill Emigrant Dam owned by the U.S. Bureau of Reclamation; (2) a 185-foot-long, 54-inch-diameter steel penstock; (3) a powerhouse containing one generating unit, rated at 1,850 kW; and (4) a 500-foot-long transmission line. The average annual energy generation is estimated to be 5.5 million kWh.

The cost of the project is estimated to be $4.5 million, and no recreational improvements are proposed.

k. Purpose of Project: Power would be sold to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

11a. Type of Application: Preliminary Permit.

b. Project No: 7728–001.

c. Date Filed: November 7, 1983.

d. Applicant: Robley Point Hydro Partners.

e. Name of Project: Robley Point.

f. Location: On West Branch North Fork Feather River, near Stirling City, in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David C. Auslam, Jr., 3327 Longview Drive, Suite 250, North Highlands, California 95660.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 25-foot-high, 100-foot-long, concrete diversion structure at elevation 2440 feet MSL; (2) a 26,000-foot-long, 84-inch diameter pipeline; (3) a surge tank; (4) a 1,250-foot-long, 72-inch diameter penstock; (5) a powerhouse at elevation 1860 feet msl with an installed capacity of 13.3 MW and an average annual generation of 40.0 GWh; and (6) 26,000 feet of 60-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) line. The project would affect Plumas National Forest lands. Project power would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $200,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

12a. Type of Application: Conduit Exemption.

b. Project No: 4730–002.

c. Date Filed: August 17, 1983.

d. Applicant: Marin Municipal Water District (MMWD).

e. Name of Project: Nicasio Reservoir.

f. Location: Nicasio Creek, a tributary of Lagunitas Creek, near Nicasio, in Marin County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: Mr. Richard W. Rogers, Marin Municipal Water District, 220 Nellen Avenue, Corte Madera, California 94925.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed project would utilize the existing 24-inch-diameter stream release conduit at MMWD's Nicasio Reservoir and would consist of a powerhouse with a total installed capacity of 290 kW and an average annual generation of 559,000 kWh. 50 feet of 12.0–kV transmission line would connect the project to an existing Pacific Gas and Electric Company (PG&E) line. Project power would be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

l. The proposed project would discharge to Nicasio Creek, a natural water body. MMWD filed a petition for waiver of the water discharge requirement of Section 4.91(f)(5) pursuant to Section 385.207 of the Commission's regulations.

13a. Type of Application: License (Over 5 MW).

b. Project No: 5349–001.

c. Date Filed: January 31, 1983.

d. Applicant: Goat Mountain Mining Company.

e. Name of Project: Swift Creek.

f. Location: On Swift and Rainbow Creeks, near Town of Concrete, in Whatcom County, Washington, and occupying U.S. lands in Mt. Baker National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dr. Sat Khanna, CE Maguire, Inc., 60 First Avenue, Waltham, Massachusetts 02254.

i. Comment Date: March 5, 1984.

j. Competing Applications: Projects Nos. 6402–000 and 6403–000. Date Filed: June 3, 1982. Notices Issued: October 25, 1982.

k. Description of Project: The proposed project would consist of: (1) 8-foot-high concrete diversion weirs on Rainbow Creek and on Swift Creek at elevation 2,500 feet; (3) two intake structures; (4) a 17,300-foot-long, 4-foot-diameter pipeline from Swift Creek diversion; (5) a 13,200-foot-long, 3.5-foot-diameter pipeline from Rainbow Creek diversion; (6) a powerhouse containing two generating units, one rated at 15 MW and one rated at 2.5 MW; (7) a 500-foot-long tailrace; (8) an 8.7-mile-long transmission line; and (9) an access road. The average annual energy generation is estimated to be 55 million kWh and the total project cost is estimated to be $20,600,000.

Applicant proposes, for recreation, to improve and develop hiking trails, a campsite near the powerhouse, and an overlook.

l. Purpose of Project: Power would be sold to Puget Sound Power and Light Company.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D2.

14a. Type of Application: Preliminary Permit.

b. Project No: 7853–000.

c. Date Filed: November 15, 1983.

d. Applicant: Beaver Creek Hydro, Inc.

e. Name of Project: Beaver Creek Hydroelectric.

f. Location: On Beaver Creek, within Clearwater National Forest, near Headquarters Township, in Clearwater County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, Beaver Creek Hydro, Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 35-foot-long concrete diversion structure, at elevation 2360 feet; (2) a 13,800-foot-long, 51-inch-diameter steel conduit; (3) a 7600-foot-long, 45-foot-diameter steel penstock; (4) a powerhouse containing two generating units with a total installed capacity of 4,200 kW; and (5) a 23-mile-long, 69-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production be 18.8 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $920,000.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

15a. Type of Application: Preliminary Permit.

b. Project No: 7819–000.

c. Date Filed: November 15, 1983.

d. Applicant: Clyde and Rubie Beverland.

e. Name of Project: Lava Creek Water Power Project.

f. Location: On Lava Creek, within U.S. lands administered by BLM, near Arco Township, in Butte County, Idaho.

g. Filed Pursuant to: Federal Power Act 16, U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ted S. Sorenson, 550 Linden Drive, Idaho Falls, Idaho 83401.

i. Comment Date: March 26, 1984.

j. Description of Project : The project would consist of: (1) A 6-foot-high concrete diversion structure at elevation 7040 feet; (2) a 11,600-foot-long, 16-inch-diameter steel penstock; (3) a powerhouse containing one generating unit with an installed capacity of 530 kW; and (4) a 1-mile-long transmission line connecting to an existing Lost River Rural Electric transmission line. The Applicant estimates the average annual energy production to be 2.7 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $10,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company or Utah Power and Light, Inc.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

16a. Type of Application: Preliminary Permit.

b. Project No: 7851–000.

c. Date Filed: November 15, 1983.

d. Applicant: Reeds Creek Hydro, Inc.

e. Name of Project: Reeds Creek Hydroelectric.

f. Location: On Reeds Creek, near Headquarters Township, in Clearwater County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, Reeds Creek Hydro, Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The project would consist of: (1) A 6-foot-high, 35-foot-long concrete diversion structure at elevation 2040 feet; (2) a 9200-foot-long, 63-inch-diameter steel conduit; (3) a 750-foot-long, 57-inch-diameter steel penstock; (4) a powerhouse containing two generating units with a total installed capacity of 4,200 kW; and (5) a 10-mile-long, 69-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production to be 18.4 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $690,000.

k. Purpose of Project: the project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

17a. Type of Application: Major License (Existing Dam).

b. Project No. 4359–001.

c. Date Filed: May 31, 1983.

d. Applicant: Gem, Ridgeview, Owyhee Irrigation Districts, et al.

e. Name of Project: Owyhee Dam.

f. Location: On Owyhee Dam Tunnel No. 1, on Owyhee River, near Town of Adrian, in Malheur County, Oregon, and occupying BLM lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gene Stunz, Secretary, Owyhee Project Power Committee, Box 1565, Nyssa, Oregon 97913; and Harry Hosey, HAEC, 2850 Northrup Way, Bellevue, Washington 98004.

i. Comment Date: March 30, 1984.

j. Description of Project: The proposed project would consist of: (1) A 15-foot-diameter bifurcation at elevation 2,573 feet, connected to the outlet of the existing 3.5 mile-long, 16.6-foot-diameter Tunnel No. 1 from the U.S. Bureau of Reclamation's 417-foot-high Owyhee Dam; (2) a 120-foot-long, 11-foot-diameter steel pipe; (3) a 120-foot-long, 7-foot-diameter bypass pipe; (4) a powerhouse containing one generating unit rated at 5 MW; (5) an 80-foot-long tailrace; (6) an energy dissipating structure; and (7) a 500-foot-long transmission line. The average annual energy generation is estimated to be 23.8 million kWh.

The project cost is estimated to be $5.9 million.

k. Purpose of Project: Power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

18a. Type of Application: Preliminary Permit.

b. Project No. 7855–000.

c. Date Filed: November 15, 1983.

d. Applicant: Snake Creek Hydro, Inc.

e. Name of Project: Snake Creek Hydroelectric.

f. Location: On Snake Creek, near Headquarters Township, in Clearwater County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James R. Morris, Snake Creek Hydro Inc., P.O. Box 1016, Lewiston, Idaho 83501.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 35-foot-long concrete diversion structure at elevation 2,570 feet; (2) a 3,500-foot-long, 30-inch-diameter steel conduit; (3) a powerhouse containing a single generating unit with an installed capacity of 1,000 kW; and (4) a 10-mile-long, 69-kV transmission line connecting to an existing Washington Water Power Company transmission line. The Applicant estimates the average annual energy production to be 4.38 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost o permit activities is $235,000.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

19a. Type of Application: Preliminary Permit.

b. Project No.: 7463–000.

c. Date Filed: July 21, 1983.

d. Applicant: Gentry Resources Corporation.

e. Name of Project: Tonto Pumped Storage Project.

f. Location: Salt River in Gila and Maricopa Counties, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Donald E. Proctor, President, Gentry Resources Corporation, 11920 E. Maple, Aurora, Colorado, 80012.

i. Comment Date: March 26, 1984.

j. Description of project: The proposed pumped-storage project would utilize the U.S. Bureau of Reclamation's Theodore Roosevelt Dam and Reservoir and would consist of: (1) A new forebay dam and reservoir; (2) a new pressure tunnel; (3) a new powerhouse containing pump-turbine-generator units having a minimum 150 MW total capacity; (4) a new tailrace tunnel (5); (5) an existing afterbay dam and reservoir, Theodore Roosevelt Lake; (6) a new 230KV transmission line, approximately 30 miles long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 340 million KwH. Project energy would be marketed through various public utilities. Feasibility studies will be coordinated with the U.S. Bureau of Reclamation.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A Preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $950,000.

20a. Type of Application: Preliminary Permit.

b. Project No.: 7844–000.

c. Date Filed: November 14, 1983.

d. Applicant: P & C Enterprises.

e. Name of Project: Saranac Project.

f. Location: On the Blackstone River in Worcester County, Massachusetts and Providence County, Rhode Island.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gerald Paulhus, P & C Enterprises, 14 Canal Street, North Smithefield, Rhode Island 02895.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 17-foot-high and 120-foot-long masonry dam; (2) a reservoir with negligible storage capacity; (3) existing head gates at the southern side of the dam; (4) an existing 2,000-foot-long canal; (5) a small pool; (6) a new powerhouse with a total installed capacity of 900 KW; (7) an existing tailrace; (8) a new transmission line 800 feet long; and (9) other appurtenances. The Applicant owns all existing facilities. It estimates an average annual generation of 3,835,600 KWh.

k. Purpose of Project: Project energy would be sold either to the Blackstone Valley Electric Company or to the Connecticut Light and Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $45,000.

21a. Type of Application: Preliminary Permit.

b. Project No: 7441–000.

c. Date Filed: July 11, 1983.

d. Applicant: Mr. Michael Arkoosh.

e. Name of Project: George #3.

f. Location: On Henry's Fork of the Snake River, near the Town of Ashton, in Fremont County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Vernon Ravenscroft, P.O. Box 893, Boise, Idaho 83701.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed run-of-river project would affect lands of the United States within the Targhee National Forest and would consist of: (1) A new diversion structure; (2) a gated, screened concrete intake structure located at the right (west) bank; (3) a 3-mile-long canal; (4) a 400-foot-long 96-inch-diameter steel penstock; (5) a powerhouse containing a generating unit having a rated capacity of 3,547–kW operated under an 80-foot head and at a flow of 680 cfs; (6) electrical transformers and switching devices; (7) a 0.5-mile-long 34.5–kV transmission line; and (8) appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Company. Applicant estimates that the average annual energy output would be 21,160,500 kWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $96,500.

22a. Type of Application: 5 MW Exemption.

b. Project No: 7590–000.

c. Date Filed: September 18, 1983.

d. Applicant: Nashua Hydro Associates.

e. Name of Project: Jackson Mills.

f. Location: Nashua River, City of Nashua, Hillsborough County, New Hampshire.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, Pub. L. 96–294, 94 Stat. 611 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Thomas A. Tarpey, Nashua Hydro Associates, 99 N. State Street, Concord, New Hampshire 03301.

i. Comment Date: March 9, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 33-foot-high, 180-foot-long stone masonry uncontrolled spillway dam with a concrete cap and 1-foot-high flashboards; (2) an existing 40-acre reservoir with no usable storage capacity and a normal maximum water surface elevation of 116.6 feet N.G.V.D. with flashboards installed; (3) an existing powerhouse (the basement of the Chart House Restaurant) located at the north dam abutment partially containing a new 1.1 MW turbine-generator and a new powerhouse extension constructed to house part of the turbine-generator which would extend beyond the existing building; (4) a tailrace channel; (5) a transmission line; (6) a fishway (to be constructed one year following the completion of such facilities at the downstream Lowell Project, FERC No. 2790); and (7) 4,000,000 kWh annually.

k. Purpose of Project: The project's output would be sold to Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license Applicants that would seek to take or develop the project.

23a. Type of Application: Exemption (5MW or less).

b. Project No: 6349–002.

c. Date filed: November 28, 1983.

d. Applicant: Goldenwest Power.

e. Name of Project: Mill Creek.

f. Location: On Mill Creek near the town of Los Molinos in Tehama County, California.

g. Filed Pursuant to: Section 408 of Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: E. H. Ochinero, 2811 Bechelli Lane, Redding, California 96002.

i. Comment Date: March 7, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 20-foot-high diversion structure; (2) a 15-foot-long, 86-inch-diameter penstock; (3) a powerhouse containing two generating units with a combined rated capacity of 300 kW, operating under 15 feet of head; and (4) a 12-kV, 2,500-foot-long transmission line connecting the powerhouse with the existing Pacific Gas and Electric Company's (PG&E) transmission line west of the powerhouse.

k. Purpose of Project: The project's estimated annual generation of 3.2 million kWh of energy would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

24a. Type of Application: Preliminary Permit.

b. Project No: 7913–000.

c. Date filed: December 12, 1983.

d. Applicant: Gilead Power Company.

e. Name of Project: Gilead.

f. Location: Androscoggin River, town of Gilead, Oxford County, Maine and Coos County, New Hampshire.

g. Filed Pursuant to: 16 U.S.C. 791(a)—825(r).

h. Contact Person: Michael D. Hefner, Manager Hydro Department, P.O. Box 50, One Jefferson Square, Boise, Idaho 83728.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A new 350-foot long, 35-foot high concrete gravity dam with wing dikes on its abutments; (2) a new 550-acre reservoir with a normal maximum water surface elevation of 700 feet m.s.l. and usable storage capacity of 275 acre feet; (3) a new powerhouse located at the south dam abutment containing three turbine-generators within a total rated capacity of 4.8 MW with a normal tailwater elevation of 676 feet m.s.l.; (4) a 1,500-foot-long, 34.5-kV transmission line and; (6) appurtenant facilities. The project would produce up to 29,400,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued does not authorize construction. The Applicant seeks issuance of preliminary permit for a period of 36 months. The work to be performed under this preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of works to be performed under the permit would not exceed $125,000.

25a. Type of Application: Preliminary Permit.

b. Project No: 7856–000.

c. Date Filed: November 14, 1983.

d. Applicant: John P. and Virginia E. Gross.

e. Name of Project: South Willow Creek.

f. Location: On the South Willow and Potosi Creeks, In Madison County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Rhett Hurless, C. C. Bowman & Associates, P.O. Box 3474, Bozeman, Montana 59772.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing powerhouse containing 1 generating unit rated at 25 kW; (2) a proposed diversion structure; (3) a proposed penstock; (4) a proposed powerhouse containing 4 generating units rated at 33 kW, 48 kW, 103 kW, and 200 kW, respectively; (5) a proposed 10,000-foot underground, 7,200–volt transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy output for the project would be 1,400,000 kWh.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $11,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, And D2.

26a. Type of Application: Major License.

b. Project No: 7732–000.

c. Date Filed: October 18, 1983.

d. Applicant: Baker County Court, Baker County, Oregon.

e. Name of Project: Mason Dam Hydroelectric Development.

f. Location: On the Power River in Baker County, Oregon at the U.S. Bureau of Reclamation's Mason Dam.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Hon. Larry Smith, Baker County Court, Baker County Courthouse, Baker, Oregon 97814.

i. Comment Date: March 5, 1984.

j. Competing Application: Project No. 3459–001. Dated Filed: February 28, 1983. Notice issued: April 14, 1983.

k. Description of Project: The proposed project would consist of: (1) A 54-inch-diameter, 125-foot-long penstock connected to the existing 56-inch-diameter outlet pipe 35 feet upstream of the existing valve house; (2) a bifurcation into a 48-inch-diameter pipe and a 30-inch-diameter pipe; (3) a powerhouse containing two generating units, one rated at 2000 kW and the other rated at 300 kW, capable of an average annual output of 7.9 GWh; and (4) a 185-foot-long, 24.9-kV transmission line connecting to Idaho Power Company lines on the opposite side of the Powder River. Applicant estimates that construction of the project will cost $2,629,105 at 1984 price levels.

l. Purpose of Project: Project power would be sold to Idaho Power Company.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

27a. Type of Application: Preliminary Permit.

b. Project No.: 7861–000.

c. Date Filed: November 21, 1983.

d. Applicant: Trin-Co Forest Products.

e. Name of Project: LaGrange Ditch Power Project.

f. Location: On Deer Creek and Stuart Fork, near Town of Weaverville, Trinity County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. V.A. Rose, P.O Box P, Weaverville, California 96093.

i. Comment Date: March 29, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 85-foot-long diversion structure on Deer Creek at elevation 4300.00 feet; (2) a 6-foot-high, 110-foot-long diversion structure on Stuart Fork at elevation 4300.00 feet; (3) a 42-inch-diameter, 2,800-foot-long conduit; (4) a 48-inch-diameter, 5,200-foot-long conduit; (5) a 51-inch-diameter, 39,000-foot-long conduit; (6) two 45-inch-diameter, 3000-foot-long steel penstocks; (7) a powerhouse at elevation 2700.00 feet

with a total installed capacity of 11.4 MW; and (8) a 12,000-foot-long, 12-kV transmission line connected to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy production at 42.6 million kWh which would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environment and economic studies, and also prepare an FERC license application at an estimated cost of $140,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

28a. Type of Application: Preliminary Permit.

b. Project No: P-7863-000.

c. Date Filed: November 21, 1983.

d. Applicant: City of Tuscaloosa, Alabama.

e. Name of Project: Lake Tuscaloosa Hydroelectric Project.

f. Location: On the North River in Tuscaloosa County, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Robert W. Ennis, City Attorney, City of Tuscaloosa, Alabama, P.O Box 2089, Tuscaloosa, Alabama 35403.

i. Comment Date: March 7, 1984.

j. Competing Application: Project No. 7476. Date Filed: July 29, 1983.

k. Description of Project: The proposed project would be located at the Lake Tuscaloosa Dam, which is owned by the City of Tuscaloosa, Alabama, and would consist of: (1) An existing reservoir with a surface area of 5,885 acres and a storage capacity of 60,000 acre-feet; (2) and existing 1,280-foot-long and 125-foot-high earth-filled dam; (3) an existing water intake tower with a 96-inch-diameter pipe that transports water to a 20-foot-diameter tunnel through the dam; (4) the use of one (of two) existing 66-inch-diameter pipes which transport water from the tunnel downstream of the dam; (5) the proposed installation of two 60-inch-diameter, 200-foot-long penstocks to transport water from the 66-inch-diameter pipe to the powerhouse; (6) the proposed construction of a powerhouse with the installation of two turbine/generator units operating at a head of 93 feet for a total installed capacity of 2.0 MW; (7) the upgrading of an existing diversion channel which will be used as a tailrace; (8) a proposed transmission line less than 200 feet in length; and (9) appurtenant facilities. The applicant estimates the average annual energy production to be 9.6 GWh.

l. Purpose of Project: The Applicant intends to sell the power generated at the proposed project the Alabama Power Company.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. Proposed Scope of Studies under Permit—A preliminary permit if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $25,000.

29a. Type of Application: Exemption from licensing (5MW or less).

b. Project No.: 6674-001.

c. Date Filed: December 23, 1982.

d. Applicant: Lawrence J. McMurtrey.

e. Name of Project: Kindy Creek.

f. Location: On Kindy Creek, within Mount Baker National Forest in Skagit County, Washington.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Lawrence J. McMurtrey, 12122 196th, NE., Redmond, Washington 98052.

i. Comment Date: March 12, 1984.

j. Description of Project: The proposed project would consist of: (1) An inlet structure in the streambed at elevation 1500 feet; (2) a 60-inch-diameter, 7630-foot-long pipeline; and (3) a powerhouse at elevation 1230 feet containing a turbine-generating unit with a rated capacity of 2.44 MW and an average annual output of 10.9 GWh.

k. Purpose of Project: Project output would be sold to Puget Sound Power and Light Company, the Bonneville Power Administration, or Intalco Aluminum Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

30a. Type of Application: Preliminary Permit.

b. Project No.: P-7553-000.

c. Date Filed: August 24, 1983.

d. Applicant: City of Harrisburg, Pennsylvania.

e. Name of Project: Dock Street Dam Water Power Project.

f. Location: On the Susquehanna River, in Dauphin County, in Harrisburg, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16, U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Stephen R. Reed, Mayor, Office of the Mayor, City Hall, 10 North Market Street, Harrisburg, PA 17101.

i. Comment Date: March 8, 1984.

j. Competing Application: Project No. 7051-000. Date Filed: February 2, 1983.

k. Description of Project: The proposed project would consist of: (1) A new concrete dam 17 feet high and approximately 3075 feet long that will be located within 500 feet from the downstream side of the existing Dock Street Dam. The new dam will be constructed with a fully gated spillway; (2) a proposed reservoir pool at elevation 305.5 m.s.l.; that will have a surface area of approximately 4,000 acres and a storage capacity of about 40,000 acre-feet. The existing pool is presently limited to about 1.2 miles above the existing dam. The proposed dam will inundate the existing dam and will extend the length of the proposed pool about 8.5 miles upstream; (3) a proposed forebay, approximately 200 feet wide and 400 feet long; (4) a new concrete powerhouse, 200 feet by 200 feet, that will house four turbine-generator units with a total installed capacity of 40,000 kW; (5) a proposed tailrace channel, approximately 200 feet wide by 600 feet long; (6) a proposed 69-kV transmission line approximately one mile in length; (7) a substation; and (8) appurtenant facilities. Applicant estimates that the average annual energy generation would be 160,000,000 kWh. The existing dam is owned by the City of Harrisburg.

l. Purpose of Project: Applicant proposes that the project energy would be either: (a) sold to the Pennsylvania Power and Light Company, (b) be used for municipal purposes, or (c) utilized by forming a Municipal Electric Authority for distribution with the City.

m. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

n. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $1,500,000.

31a. Type of Application: 5 MW Exemption.

b. Project No. P-7509-001.

c. Date Filed: October 18, 1983.
d. Applicant: Mr. Bruce Radford.
e. Name of Project: Ivy River Hydropower Project.
f. Location: Ivy River in Madison County, North Carolina.
g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, (16 U.S.C. 2705 and 2708 *as amended).*
h. Contact Person: Mr. Bruce Radford, Route #4, Box 414, Elizabethton, Tennessee 37643.
i. Comment Date: March 12, 1984.
j. Description of Project: The proposed project is privately owned, is being leased by the Applicant, and will consist of: (1) An existing reservoir with a surface area of approximately 4 acres and with negligible storage capacity; (2) an existing 316-foot-long, 62-foot-high granite block dam; (3) the proposed renovation of an existing penstock and the construction of a second penstock, both to be 5-feet in diameter and 96-foot-long and to interconnect at a wye before entering the powerhouse; (4) the proposed construction of a powerhouse approximately 30 feet from the toe of the dam with the proposed installation of three turbine/generator units operating at a head of 63 feet for a total installed capacity of 1200 kW; (5) the proposed upgrading of 1.4 miles of existing transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 4.3 GWh.
k. Purpose of Project: The Applicant intends to sell the power generated at the proposed project to a local utility company.
l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.
m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.
32a. Type of Application: Transfer of License.
b. Project No. 2312–004.
c. Date Filed: December 27, 1983.
d. Applicant: James River-Groveton, Inc., and James River-Norwalk, Inc.
e. Name of Project: Great Works.
f. Location: Penobscot River, near the town of Great Works, Penobscot County, Maine.
g. Filed Pursuant to: 16 U.S.C. 791(a)—825(r).
h. Contact Person: Stephen H. Watts, McGuire, Woods and Battle, Ross Building, Richmond, Virginia 23129.
i. Comment Date: March 9, 1984.
j. Description of the Proposed Transfer: The Applicants propose to transfer the license from James River-Groveton, Inc. (Licensee) to James River-Norwalk, Inc. (Transferee) in order to consolidate ownership and operation of the adjacent paper mill complex with the project. Both the Licensee and the Transferee are subsidiaries of James River Corporation of Virginia. The Great Works project consists of an existing dam, reservoir and a powerhouse with turbine-generators with a total rated capacity of 5,300 kW.
Transferee has proposed to operate the project in accordance with the existing license. No change to the project operation has been proposed.
Transferee is a private corporation organized under the laws of the State of Delaware and is qualified to do business in the State of Maine.
This notice also consists of the following standard paragraphs: B and C.
33a. Type of Application: Preliminary Permit.
b. Project No.: 7849–000.
c. Date Filed: November 14, 1983.
d. Applicant: Dana W. Hall, Inc.
e. Name of Project: Grouse Creek #2.
f. Location: Humboldt County, California; Grouse Creek.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Dana Hall, P.O. Box 4316, Redding, California 96099.
i. Comment Date: March 30, 1984.
j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion structure at elevation 1,550 feet m.s.l.; (2) a 6,000-foot-long, 114-inch-diameter pressure conduit; (3) a powerhouse with a total installed capacity of 2,155 kw, operating under a head of 62 feet; (4) a short 115 kV transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line. The proposed project would affect the United States lands within the Six Rivers National Forest.
A preliminary permit does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and to prepare an FERC license application. The cost of the feasibility studies is estimated to be about $100,000. No new road construction would be necessary to conduct the studies.
k. Purpose of Project: The project power would be sold to PG&E.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.
34a. Type of Application: Preliminary Permit.
b. Project No.: 7904–000.
c. Date Filed: December 8, 1983.
d. Applicant: Harrison Enterprises.
e. Name of Project: Balls Canyon.
f. Location: Sierra County, California; Balls Creek.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: W. Byrd Harrison, Rt 6, Box 25, Reno, Nevada 89506.
i. Comment Date: April 2, 1984.
j. Description of Project: The proposed project would consist of: (1) A 5-foot-high diversion structure at elevation 5,495 feet m.s.l.; (2) a 33-inch-diameter, 6,000-foot-long conduit; (3) a 30-inch-diameter, 2,500-foot-long penstock; (4) a powerhouse with a total installed capacity of 540 kw, operating under a head of 300 feet; (5) a 50-foot-long, 12 kV transmission line connecting with an existing Plumas-Sierra and Co-op (PSC) transmission line. A preliminary permit does not authorize construction. The Applicant seeks a 24-month permit to study feasibility of constructing and operating the project. These studies would not require construction of any new roads and are estimated to cost $25,000.
k. The estimated 4.4 million kwh produced annually by the proposed project would be sold to PSC.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.
35a. Type of Application: Preliminary Permit.
b. Project No: 7327–001.
c. Date Filed: October 11, 1983.
d. Applicant: Greenfields Irrigation District and Turnbull Partners, Ltd.
e. Name of Project: Turnbull Project.
f. Location: On the Spring Valley Canal in Teton County, Montana
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. William S. Fowler, Project Manager, Turnbull Partners, Ltd., c/o Mitex, Inc., 91 Newberry Street, Boston, Massachusetts 02116.
i. Comment Date: April 2, 1984.
J. Description of Project: The proposed project would utilize the existing U.S. Department of the Interior's Spring Valley Canal and consist of: (1) A proposed powerhouse, containing an installed generating capacity of 9 MW; (2) a proposed 1.5-mile-long, 69-kV transmission line; (3) a proposed, 108-inch-diameter, 9,300-foot-long, penstock; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output will be about 24.5 GWh.
k. Purpose of Project: The Applicant anticipates that the energy produced

will be marketed to a utility in the State of Montana.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $100,000.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be acceptable for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit

application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) A preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency (ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency (ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 31, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2989 Filed 2–2–84; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51504; BH-FRL 2517-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-345, 84-346, 84-347, 84-348, 84-349 and 84-350—April 18, 1984.

PMN 84-351—April 21, 1984.

PMN 84-352 and 84-353—April 22, 1984.

PMN 84-354—April 23, 1984.

PMN 84-355, 84-356 and 84-357—April 24, 1984.

Written comments by:

PMN 84-345, 84-346, 84-347, 84-348, 84-349 and 84-350—March 19, 1984.

PMN 84-351—March 22, 1984.

PMN 84-352 and 84-353—March 23, 1984.

PMN 84-354—March 24, 1984.

PMN 84-355, 84-356 and 84-357—March 25, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51504]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460; (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacturing Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460; (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 84-345

Manufacturer. Confidential.

Chemical. (G) Unsaturated aliphatic ester.

Use/Production. (G) Destructive end use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-346

Manufacturer. Ashland Chemical Company.

Chemical. Copolymer of acrylic acid and acrylic acid esters.

Use/Production. (G) Commercial use on labels, decals, signs, bumper stickers, etc. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 6 hrs/da, up to 15-20 yr.

Environmental Release/Disposal. Less than 13 kg/batch released to air.

PMN 84-347

Importer. Confidential.

Chemical. (G) Fluorinated polyamide.

Use/Import. (G) Rubber additive. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No data submitted.

PMN 84-348

Importer. Confidential.

Chemical. (G) Substituted phosphonium chloride, cadmium complex.

Use/Import. (G) Rubber additive. Import range: Confidential.

Toxicity Data. Acute oral: 175 mg/kg; Irritation: Skin—Non-irritant, Eye—Extreme; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. No data submitted.

PMN 84-349

Importer. Confidential.

Chemical. (G) Substituted phosphonium borate.

Use/Import. (G) Rubber additive. Import range: Confidential.

Toxicity Data. Acute oral: 158 mg/kg; Irritation: Skin—Non-irritant, Eye—Extreme; Ames Test: Non-mutagenic.

Exposure. Non exposure.

Environmental Release/Disposal. No data submitted.

PMN 84-350

Importer. Confidential.

Chemical. (G) Substituted phosphonium chloride.

Use/Import. (G) Rubber additive. Import range: Confidential.

Toxicity Data. Acute oral: 160 mg/kg; Irritation: Skin—Very slight, Eye—Extreme; Ames Test: Non-mutagenic.

Exposure. No exposure.

Environmental Release/Disposal. No data submitted.

PMN 84-351

Importer. Confidential.

Chemical. (G) Substituted benzophenone.

Use/Import. (S) Industrial and commercial light stabilizer for lacquers, varnishes and paints. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Negative.

Exposure. Import: dermal, a total of 1 worker, up to 4 hrs/da.

Environmental Release/Disposal. No data submitted.

PMN 84-352

Importer. Confidential.

Chemical. (G) Cellulose ester.

Use/Production. (G) Metal and wood coatings. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Release to air. Disposal by biological treatment system and incineration.

PMN 84-353

Manufacturer. Confidential.

Chemical. (G) Quinone-immine dye.

Use/Production. (G) Production of light sensitive film. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Negative, Eye—Negative; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-354

Manufacturer. Confidential.

Chemical. (G) Substituted substituted benzenesulfonic acid.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84-355

Manufacturer. Confidential.

Chemical. (G) Substituted substituted benzenesulfonic acid.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Slight, Eye—Mild; Inhalation: Negative; Skin sensitization: Not a strong sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–356

Manufacturer. Confidential.

Chemical. (G) Disubstituted dichloro sulfonated heteropolycycle.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Slight; Skin sensitization: Not a strong sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–357

Manufacturer. Confidential.

Chemical. (G) Substitued arylamino substituted benzenesulfonic acid.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg; Irritation: Skin—Non-irritant, Eye—Mild; Inhalation: Negative; Skin Sensitization: Not a strong sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

Dated: January 28, 1984.

V. Paul Fuschini,

Acting Director.

[FR Doc. 84–2987 Filed 2–2–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59145]

Modified Epoxy Prepolymer; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting of the exemption.

DATE: Written comments by: February 21, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–59145]" and the specific TME number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, RM. E–409, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

TME 84–25

Manufacturer. Confidential.

Chemical. (G) Modified epoxy prepolymer.

Use/Production. (S) Used as an industrial adhesive basestock. Prod. range: 4,000 lbs, 1 year.

Toxicity Data. No data on the TME substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal. Disposal by approved landfill.

Dated: January 28, 1984.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84–2986 Filed 2–2–84; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2518–2]

Availability of Environmental Impact Statements Filed January 23 Through January 27, 1984, Pursuant to 40 CFR 1506.9

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 840023, Draft, FHW, OH, US 33 Relocation, CR–28/US 33 to US 33/US 36 and OH–4, Logan and Union County, Due: Mar. 19, 1984.

EIS No. 840024, Draft, IBR, NM, AZ, UT Gallup-Navajo Indian Water Supply Project, Due: Apr. 23, 1984.

EIS No. 840025, Final, TVA, NM, Marquez Uranium Mine, Underground Construction and Operation, McKinley County, Due: Mar. 5, 1984.

EIS No. 840026, Final, HUD, IL, Winding Creek Subdivision, Mortgage Insurance, McHenry County, Due: Mar. 5, 1984.

EIS No. 840027, Final, COE, IN, Little Calumet River Multipurpose Project, Lake County, Due: Mar. 5, 1984.

EIS No. 840028, Draft, COE, AK, Endicott Hydrocarbon Reservoir Development Project, Sagavanirktok River Delta, C/O Permit, Due: Mar. 19, 1984.

EIS No. 840029, Final, FHW, WV, North Valley Drive/WV–16 Widening, County Road 6 to US 19/US 21, Raleigh Co., Due: Mar. 5, 1984.

EIS No. 840030, Draft, BLM, WY, MT, Powder River Coal Region, Round II Leasing, Due: Mar. 19, 1984.

EIS No. 840031, Final, COE, CA, Cottonwood Creek Multiple Purpose Project, Shasta and Tehama Counties, Due: Mar. 5, 1984.

EIS No. 840032, Draft, EPA, MO, Greene County, Wastewater Treatment Facilities, Approval/Grant, Due: Mar. 26, 1984.

EIS No. 840033, FSuppl, NOA, PAC, CA, Northern Anchovy Fisheries, Fishery Management Plan, Pacific Ocean, Due: Mar. 5, 1984.

EIS No. 840034, Draft, FHW, TX, Farm to Market Road 317 Loop Construction, Henderson County, Due: Mar. 19, 1984.

EIS No. 840035, Final, FHW, PA, Vine Street to I–95/Delaware Expressway, Philadelphia Co., Due: Mar. 5, 1984.

EIS No. 840036, Final, BLM, CA, California Desert Conservation Area Plan, 1983 Plan Amendments, Due: Mar. 5, 1984.

EIS No. 840037, Report, COE, MI, St. Clair River Federal Navigational Channels, Maintenance Dredging, St. Clair County.

Dated: January 31, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-3027 Filed 2-2-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 80-756]

Communications Protocols; Extension of Response Period

AGENCY: Federal Communications Commission.

ACTION: Petitions for Reconsideration; Extension of response period.

SUMMARY: This action extends the time for filing responses to Petition for Reconsideration of the Commission's November 21, 1983 Memorandum Opinion, Order and Statement of Principles in General Docket No. 80-756 concerning Communications Protocols Under § 64.702 of the Commission's Rules and Regulations. The action was taken in response to a Motion filed by the Association of Data Processing Service Organizations, Inc.

DATES: New filing date is February 29, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael J. Marcus, Office of Science and Technology, Technical Analysis Division, Washington, D.C. 20554, (202) 632-7040.

Order Extending Time For Filing Responses To Petitions For Reconsideration

In the matter of Communications Protocols under § 64.702 of the Commission's Rules and Regulations; Gen. Docket No. 80-756.

Adopted: January 23, 1984.

Released: January 25, 1984.

By the Chief Scientist.

1. On January 17, 1984, public notice appeared in the **Federal Register** [49 FR 2016 (1984)] announcing the receipt by the Commission of three Petitions for Reconsideration [1] of its November 21, 1983, Memorandum Opinion, Order and Statement of Principles in the above-entitled proceeding. The public notice set the date for filing responses to these petitions as February 1, 1984.

2. On January 20, 1984, the Association of Data Processing Service Organizations, Inc. ("ADAPSO") filed a motion requesting that the filing date for responses to the Petitions for Reconsideration be extended twenty eight days to February 29, 1984. The additional time is needed, according to ADAPSO, because of its intent to file a comprehensive response to the petitions and because more than the allotted time is required to effect the necessary coordination and consultation with its members. ADAPSO suggests such a comprehensive response is warranted by the important policy and technical issues raised by the Petitions for Reconsideration.

3. Considering the importance of this proceeding, our desire to reach the most informed judgements possible, and the other considerations raised by ADAPSO, the relatively short time extension requested appears reasonable and desirable. For these reasons, it is ordered that the time for filing responses to the above-mentioned Petitions for Reconsideration is hereby extended to February 29, 1984. This action is taken pursuant to § 0.241(d) of the Commission's Rules.

Robert S. Powers,

Chief Scientist.

[FR Doc. 84-2980 Filed 2-2-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Filed by American Telephone and Telegraph Company, American Information Technologies Corporation and U.S. West, Inc.

FFC Industry Advisory Committee on Technical Standards for DBS Service; Meetings

There will be a series of Working Group and Sub-Committee meetings of the FCC Industry Advisory Committee on Technical Standards for DBS Service. These will be held in Washington, D.C.

W. G. on Receiver Compatibility and W. G. on Encryption Interface, January 31, 1984; 2:00 p.m., FCC, 1200 19th Street, Conference Room No. 330

W. G. on Signal Format and W. G. on Transmission Parameters, February 14, 1984; S. F. 9:00 and T. P. 2:00, Satellite Television Corporation, 1301 Pennsylvania Avenue, N.W.

Sub-Committee on Transmission Standards and WGs Receiver Compatibility/Encryption Interface, February 15, 1984; T.S. 9:30 and W.G.s 2:00, CBS, 1800 M St., 3rds Flr.

S. C. on Receiver Standards and S.C. on Encryption Standards, February 16, 1984; R.S. 9:30, E.S. 2:00, FCC/OST 2025 M St., Rm 7317 for R.S., Commission Mtg Rm (1919 M St.) for E.S.

Those seeking additional details may contact Bruno Pattan FCC/OST at (202) 653-9098, or chairman of the above cited groups.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-2959 Filed 2-2-84; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1443]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

January 27, 1984.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules to Allocate Spectrum at 18 GHz for, and to Establish other Rules and Policies Pertaining to the use of Radio in Digital Termination Systems and in Point-to-Point Microwave Radio Systems for the Provision of Digital Electronic Message Services, and for other Common Carrier, Private Radio, and Broadcast Auxiliary Services; and to Establish Rules and Policies for the Private Radio Use of Digital Termination Systems at 10.6 GHz. (Gen Docket No. 79-188, RM's 3247 & 3497)

Filed by: Christine A. Meagher, Attorney for Ericsson, Inc., on 1-5-84.

Subject: The Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended, for: American Telephone and Telegraph Company—Long Lines Department, Michigan Bell Telephone Company, New York Telephone Company, Northwestern Bell Telephone Company, Ohio Bell Telephone Company, Southern Bell Telephone Company, Southwestern Bell Telephone Company & Wisconsin Telephone Company.

Filed by: William C. Sullivan, Linda S. Legg, Mary W. Marks & Hope E. Thurrott, Attorneys for Southwestern Bell Telephone Company on January 19, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-2958 Filed 2-2-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Information Collection
Title: National Shelter Survey Program

Abstract: Forms are used in the National Shelter Survey to evaluate structures; change building information; report data to the FEMA Computer Center for the National Shelter Survey data base.

Type of respondents: State or Local Governments
Number of respondents: 1,263
Burden hours: 130,969

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287–9906, 500 C. Street, SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: January 26, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–2963 Filed 2–2–84; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Information Collection
Title: Application for Enrollment in Architects and Engineers Professional Development Program

Abstract: Form is used to enroll and determine eligibility of architects and engineers in the professional development courses offered by the Agency. Also provides information used to support a data base of individuals to perform design work in time of emergencies.

Type of respondents: Individuals or Households, State or Local Governments
Number of respondents: 220
Burden hours: 22

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287–9906, 500 C. Street, SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: January 26, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–2964 Filed 2–2–84; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Information Collection
Title: FEMA Student Data-Summer Shelter Survey Program Application for the FEMA Summer Shelter Survey Program

Abstract: Form 85–1 is used to enroll approximately 4,000 architectural and engineering students to perform shelter survey work for the Agency during the summer.

Form 85–37 is used by students who have applied to work in the summer shelter survey program to indicate preference of how they wish to take the Shelter Survey Technician Course which is a requirement to work in the program.

Type of respondents: Individuals or Households
Number of respondents: 7,700
Burden hours: 770

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C. Street, SW., Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: January 26, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–2965 Filed 2–2–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL HOME LOAN BANK BOARD

Union Federal Savings and Loan Association Richmond, Virginia; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in § 5(a)(6)(A) of the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Union Federal Savings and Loan Association, Richmond, Virginia on January 26, 1984.

Dated: January 31, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84–3028 Filed 2–1–84; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

Bankamerica Corp.; Engaging de novo in Permissible Nonbanking Activities

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 USC 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) 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.

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. With respect to the notice, 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 this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 22, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California; to engage through its direct subsidiary, Decimus Corporation, San Francisco, California, a California corporation, in data processing activities pursuant to §§ 225.4(a)(8) and 225.123(e) of Regulation Y and section 4(c)(8) of the Bank Holding Company Act, including providing for the internal operations of BankAmerica Corporation and its subsidiaries and to others data processing and transmission services, data bases or facilities and access to such services, data bases or facilities by any technologically feasible means, and other activities incidental thereto.

Board of Governors of the Federal Reserve Systems, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2975 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

Fifth Third Bancorp; Proposed Expansion of Money Station, Inc.

Fifth Third Bancorp, Cincinnati, Ohio, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1834(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the activities of Money Station, Inc., Cincinnati, Ohio.

Applicant states that the proposed subsidiary would engage in data processing, accompanying transmission services, and the operation of an electronic funds transfer switch for ATM/POS. Applicant has previously engaged in the operation of an ATM network in Ohio. These activities would be performed from offices of Applicant's subsidiary in Cincinnati, Ohio and the geographic areas to be served are the states of Kentucky, Michigan, Indiana, Pennsylvania, West Virginia and Ohio. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 29, 1984.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2972 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancshares, Inc.; Merger of Bank Holding Companies

Southern Bancshares, Inc., Atlanta, Georgia, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(5)) to merge with F.N.B.I.W. Financial Corporation, Waycross, Georgia, and thereby indirectly acquire First National Bank in Waycross, Waycross, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to be received by the Reserve Bank not later than February 24, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2969 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

Southland Bank Corp., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing identifying specifically any questions of fact that are in dispute and sumamrizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Southland Bank Corp.*, Butler, Georgia; to become a bank holdng company by acquiring 100 percent of the voting shares of Citizens State Bank, Butler, Georgia; and 52.35 percent of the voting shares of The Coffee County Bank, Douglas, Georgia. Comments on this application must be received not later than February 29, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Latimer Corporation*, Latimer, Oklahoma; to become a bank holding company by acquiring at least 81 percent of the voting shares of Latimer State Bank, Wilburton, Oklahoma. Comments on this application must be received not later than February 29, 1984.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2973 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

United Vermont Bancorporation, et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *United Vermont Bancorporation,* Rutland, Vermont; to acquire at least 99 percent of the voting shares or assets of First Twin-State Bank, White River Junction, Vermont. Comments on this application must be received not later than February 27, 1984.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Trust Company of Georgia,* Atlanta, Georgia; to acquire 100 percent of the voting shares or assets of F.N.B.I.W. Financial Corporation, Waycross, Georgia, and thereby indirectly acquire First National Bank in Waycross, Waycross, Georgia. Comments on this application must be received not later than February 27, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *City National Bancshares, Inc.,* Carrollton, Texas; to acquire at least 80 percent of the voting shares or assets of Trinity Mills National Bank, Carrollton, Texas, a proposed *de novo* bank. Comments on this application must be received not later than February 22, 1984.

2. *First Bancorporation of Cleveland, Inc.,* Cleveland, Texas; to acquire 100 percent of the voting shares of First National Bank of Atascocita, Humble, Texas. Comments on this application must be received not later than February 27, 1984.

3. *Fresnos Bancshares, Inc.,* Los Fresnos, Texas; to acquire at least 80 percent of the voting shares or assets of Sunrise Bank, Brownsville, Texas. Comments on this application must be received not later than February 22, 1984.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2970 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

Woburn National 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 (49 FR 794) 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 for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application 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, indentifying 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 February 24, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Woburn National Corporation,* Woburn, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Woburn National Bank, Woburn, Massachusetts.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Bunkie Bancshares, Inc.,* Bunkie, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Bunkie Bank & Trust Company, Bunkie, Louisiana.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *FCB Corp,* Collinsville, Illinois; to acquire 100 percent of the voting shares of First County Bank, Maryville, Illinois, and 100 percent of the voting shares of First State of Morrisonville, Morrisonville, Illinois.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Kent Bancshares, Inc.,* Kent, Minnesota; to become a bank holding company by acquiring 91 percent of the voting shares of Kent State Bank, Kent, Minnesota.

Board of Governors of the Federal Reserve System, January 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2974 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

United Banks Corp.; Engaging de Novo in Permissible Nonbanking Activities

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) 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 (49 FR 794) 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.

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. With respect to the notice, 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 this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 18, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *United Banks Corporation,* Hanover, New Hampshire (real estate appraisal activities; New Hampshire, Vermont): To engage through its subsidiary United Appraisals, Inc., Hanover, New Hampshire, in *de novo* real estate appraisal activities pursuant to § 225.4(a)(14) of Regulation Y. These activities will be conducted from an office located in Hanover, New Hampshire, serving the States of New Hampshire and Vermont.

Board of Governors of the Federal Reserve System, January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2968 Filed 2-2-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on January 27.

Public Health Service

Health Resources and Services Administration

Subject: Lender's Application for Insurance Claim on Health Education Assistance Loan (HEAL) (0915-0036)—Extension/No Change
Respondents: Lending institutions
Subject: Lender's Application for Contract of Federal Loan Insurance (HEAL) (0915-0037)—Extension/No Change
Respondents: Lending institutions
Subject: Health Education Assistance Loan (HEAL) Student Application (0915-0038)—Revision
Respondents: Health professions students, educational institutions, and lending institutions
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Small Business Innovation Research Program Phase II Application and Phase I Final Report—New
Respondents: Small businesses with expertise to contribute to agency research and development mission
Subject: CHEMLINE Evaluation Study—New
Respondents: Users of online chemical information systems
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Quarterly Statement of Expenditures (0960-0294)—Revision
Respondents: State agencies administering the Aid to Families with Dependent Children program
Subject: Request for Worker's Compensation/Public Disability Benefit Information (0960-0098)—Revision
Respondents: Federal, state, local agencies administering Worker's Compensation and Public Disability Benefits programs
Subject: Supplement to Claim of Person Outside the United States
Respondents: Alien Social Security beneficiaries living outside the U.S.
Subject: Claim for Amounts Due in the Case of a Deceased Beneficiary (0960-0101)—Extension/No Change
Respondents: Individuals or estates
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. ATTN: (name of OMB Desk Officer).

Dated: January 27, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-2955 Filed 2-2-84; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

National Committee on Vital Health Statistics; Subcommittee on the Vital Statistics Cooperative Program; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-643), notice is hereby given that the Subcommittee on the Vital Statistics Cooperative Program of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k)(2) of the Public Health Service Act, as amended, (42 U.S.C. 242k), will convene on Tuesday, February 14 and Wednesday, February 15, 1984, at 9:00 a.m. in Room 1-23 of the Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

The Subcommittee will review the uses of vital statistics data by other Federal agencies.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7122.

Dated: January 26, 1984.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 84-2957 Filed 2-2-84; 8:45 am]

BILLING CODE 4160-17-M

National Committee on Vital and Health Statistics (NCVHS); Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Monday, February 27 and Tuesday, February 28, 1984 at 9:00 a.m. in Room 800 of the Hubert H. Humphrey Building,

200 Independence Avenue, S.W. Washington, D.C. 20201.

The Committee will hear reports from its Subcommittees on minimum health data sets, classification of diseases, and the vital statistics cooperative program.

Further information regarding the Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7051.

Dated: January 26, 1984.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 84-2956 Filed 2-2-84; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting:

San Francisco District Office, chaired by William C. Hill, District Director. The topic to be discussed is Drug Use and the Elderly.

DATE: Tuesday, February 21, 1984, 1 p.m. to 3 p.m.

ADDRESS: Food and Drug Administration, 50 United Nations Plaza, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Karen Erdman, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, Rm. 524, San Francisco, CA 94102, 415-556-2682.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 30, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-2951 Filed 2-2-84; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of January 19, 1982, by the Assistant Secretary for Health to the Acting Administrator, Health Resources Administration (HRA), the Administrator, Health Resources and Services Administration (HRSA), has delegated the following authorities under Title XVI of the Public Health Service (PHS) Act.

I. To the Regional Health Administrators (RHAs):

A. The authority under Section 1626 to provide technical assistance to entities developing applications under Section 1621 and Section 1642.

B. The authority under Section 1627 to periodically investigate the extent to which an entity which is receiving or has received financial assistance under Title VI and XVI has complied with uncompensated services assurances made at the time the financial assistance was received, the authority to report to the Health Systems Agency and the State Agency that an entity has failed to comply with such assurances, the authority to investigate complaints of noncompliance of an entity which is receiving or has received financial assistance under Title VI and XVI, and the authority to take action to effectuate compliance by an entity with such assurances. The decisions made by the RHA's may be appealed to the Director, Bureau of Health Maintenance Organizations and Resources Development (BHMORD).

C. The authority under Section 1640(a) to make developmental grants under the Area Health Services Development Fund program.

These authorities may be redelegated to officials within the Regional Offices, excluding the authorities under Section 1627.

II. To the Director, BHMORD:

All authorities under Title XVI of the PHS Act, as amended, including the resolution of complaints except for (1) those authorities which have been delegated to the RHAs, and (2) the authority under Section 1602(f) concerning loan default prevention and protection of the interest of the United States in the event of default with respect to loans made or guaranteed under Title VI and Title XVI, which is retained by the Administrator, HRSA.

These authorities may be redelegated but further redelegation is prohibited.

III. The authority to provide technical assistance, technical materials and the methodologies, policies, and standards necessary to carry out Section 1627 is to be coordinated between the RHAs and the Director, BHMORD.

This delegation supersedes the HRA Delegation dated March 22, 1982, made by the Acting Administrator, HRA, to the RHAs, the Director, Bureau of Health Planning, and the Director, Bureau of Health Facilities, as it pertains to Title XVI authorities.

Previous redelegations of Title XVI authorities made by the RHAs, the Director, Bureau of Health Planning, and the Director, Bureau of Health Facilities, may continue in effect for no more than 60 days from the effective date of this delegation, provided they are consistent with this delegation.

This delegation became effective on January 19, 1984.

Robert Graham,

Administrator.

[FR Doc. 84-3029 Filed 2-2-84; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-50919-01]

Alaska; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance pursuant to Sec. 12(b)(5) of the Act of January 2, 1976 (89 Stat. 1151), as amended by Sec. 606(d)(6) of the Act of January 14, 1983 (96 Stat. 2571), and in accordance with Paragraph I.C.(1) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, will be issued to Cook Inlet Region, Inc., for approximately 98,860 acres. The lands involved are within the Seward Meridian, Alaska:

T. 25 N., R. 23 W.
T. 26 N., R. 23 W.
T. 27 N., R. 23 W.
T. 28 N., R. 23 W.
T. 25 N., R. 24 W.
T. 26 N., R. 24 W.
T. 27 N., R. 24 W.
T. 28 N., R. 24 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Anchorage Times 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 this 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 Title 43 Code of Federal Regulations (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 March 5, 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: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Kamilah Rasheed,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84–2967 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–JA–M

[M–57739]

Montana; Conveyance

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance.

SUMMARY: Pursuant to Section 203 of the Act of October 21, 1976, (43 U.S.C. 1713), the surface estate only in the following described land has been conveyed to Roger Ereaux, Malta, Montana:

Principal Meridian

T. 24 N., R. 24 E.
Sec. 27, S½SE¼SE¼;
Sec. 34, N½NE¼NE¼NE¼ and NE¼NW¼NE¼NE¼.

Containing 27.50 acres.

Dated: January 25, 1984.

John Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84–2948 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–DN–M

Montana and North Dakota; Fort Union Regional Coal Meeting

AGENCY: Bureau of Land Management, Interior Department.

ACTION: Notice of Fort Union Regional Coal Team Meeting.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400.4(D), the Montana State Office of BLM is issuing this notice to announce a Fort Union Regional Coal Team meeting at 8:30 A.M. on March 2, 1984, in the Sixth Floor Conference Room of Granite Tower, 222 North 32nd Street, Billings, Montana.

Some of the topics on the agenda are as follows:

Review and Guidance on Tract Delineation and Tract Profile Reports.
Discussion and Recommendation on Regional Leasing Levels.
Discussion and selection of Preliminary Tract Ranking Factors.

For further information, contact Mr. Lloyd Emmons, Project Coordinator, Fort Union Project, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, Montana 59107. Telephone: (406) 657–6841.

Dated: January 27, 1984.

Kannon C. Richards,

Acting State Director.

[FR Doc. 84–2950 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–DN–M

[N–38103, N–38103–A]

Nevada; Conveyance

January 24, 1984.

Notice is hereby given that, pursuant to the Act of December 23, 1980, 94 Stat. 3381; 43 U.S.C. 1701 and sec. 209(b) of the Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1719), Loribow Partnership, Las Vegas, Nevada, has purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 27, E½NE¼SE¼;
Containing 20 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of conveyance document to Loribow Partnership.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84–3009 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–HC–M

[W–86388]

Realty Action; Proposed Noncompetitive Sale of Public Lands in Albany County, Wyoming

Correction

In FR Doc. 83–34738 beginning on page 170 in the issue of Tuesday, January 3, 1984, make the following correction:

On page 170, second column, in the land description table, sec. 14, "SE¼NE¼" should have read "SW¼NE¼."

Michael J. Karbs,

Acting District Manager.

[FR Doc. 84–2946 Filed 2–1–84; 8:45 am]

BILLING CODE 4310–22–M

Realty Action: Sale of Public Land in Gilliam County, Oregon; Correction

In FR Doc. 84–1389 in the issue of Thursday, January 19, 1984, appearing on page 2317, column 3, under the heading legal description, Parcel No. 7, now reading "Sec. 32" should be corrected to read "Sec. 17."

James L. Hancock,

Associate District Manager.

[FR Doc. 84–2949 Filed 2–2–84; 8:45 am]

BILLING CODE 4310–33–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the eighth meeting of the Joint Committee on Agricultural

Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on February 23 and 24, 1984.

The purpose of the meeting is to assist AID in implementing the components of the Title XII program by providing a two-way communications link for concerns of AID and concerns of the universities. During this meeting JCARD will develop a Program of Work for 1984, review several issues relating to the Collaborative Research Support Program (CRSP), hear a report on training and communications and other current AID issues.

The Executive Committee will meet from 9:00 a.m. to 12:00 noon on February 23. The full JCARD will meet from 1:00 p.m. to 5:00 p.m. on February 23 and from 9:00 a.m. to 3:00 p.m. on February 24. The meeting will be held in the Holiday Inn, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632-8532.

Date: January 31, 1984.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 84-3048 Filed 2-2-84; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Aluminum Smelting & Refining Co., Inc., 5463 Dunham Road, Maple Hts., Ohio 44137.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (a) ASRCA Transport, Inc., 5463 Dunham Road, Maple Hts., Ohio 44137 (an Ohio corporation).

1. Parent corporation and address of principal office: Burroughs Corporation, Burroughs Place, Detroit, MI 48232.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

Burroughs Corporations—Michigan
Burroughs Inter-America, Limited—Delaware
Burroughs International Company—Delaware
Burroughs OEM Corporation—Delaware
Burroughs OEM Marketing Corporation—Delaware
Memorex Corporation—California
System Development Corporation—Delaware
Systems Research Incorporated—Michigan

1. Parent corporation and address of principal office: Campbell Soup Company, Campbell Place, Camden, New Jersey 08101.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation are as follows:

Corporate Name and State of Incorporation

Beach Haven Foods, Inc.—Pennsylvania
CSC Advertising, Inc.—New Jersey
Campbell Foods Distributing Corp.—New Jersey
Campbell Foreign Sales Corp.—Delaware
Campbell Hospitality, Inc.—New Jersey
Campbell Sales Company—New Jersey
Campbell Soup Company (Sumter Plant) Inc.—South Carolina
Campbell Soup (Texas) Inc.—Texas
Campbell's Soup Inter-America, Inc.—New Jersey
Camsco Mushroom Company, Inc.—Ohio
Camsco Product Company, Inc.—Ohio
Capistrana Finance Corp.—Delaware
Capistrana Products Corp.—New Jersey
Champion Valley Farms, Inc.—New Jersey
Costa Apple Products, Inc.—New York
Dixon Canning Corp.—California
Domsea Farms, Inc.—Washington
Fine Oven Products, Inc.—New York
Godiva Chocolatier, Inc.—New Jersey
Gourmet Collection, Inc.—Pennsylvania
H. T. Restaurants, Inc.—Pennsylvania
Hanover Trail of Maryland, Inc.—Maryland
Herider Farms, Inc.—Texas
Joseph Campbell Company—New Jersey
Juice Bowl Products, Inc.—Florida
Juice Bowl Products, International, Inc.—Florida
Lexington Gardens, Inc.—Connecticut
Martino's Bakery, Inc.—California
Mrs. Paul's Kitchens, Inc.—Pennsylvania
Pepperidge Farm, Incorporated—Connecticut
Pepperidge Farm Mail Order Company, Inc.—Connecticut
Pietro's Corp.—Washington
Seattle Restaurant Food Supply, Inc.—Washington
Snow King Frozen Foods, Inc.—Pennsylvania
Southeastern Wisconsin Products Company, Inc.—Wisconsin
Technological Resources, Inc.—New Jersey
The Pepperidge Tree, Inc.—Pennsylvania
Triangle Manufacturing Corp.—North Carolina
Valley Tomato Products, Inc.—California
Vlasic Foods, Inc.—Michigan
Webster Distributing Co., Inc.—Florida
Win Schuler Foods, Inc.—Michigan

1. Parent Corporation and address of principal office: Chesebrough-Pond's Inc., 33 Benedict Place, Greenwich, CT a06830.

2. Wholly-owned subsidiaries which will participate in the operations, and their respective State of incorporation:

a. Adolph's Ltd., California.
b. Benedict Sales Corporation, Delaware.
c. Chesebrough-Pond's Manufacturing Company, Delaware.
d. Erno Laszlo Ltd., New York.
e. Filac Corporation, California.
f. G. H. Bass & Company, Delaware.
g. Health-Tex, Inc., New York.
h. Health Tex Manufacturing Company, Inc., Delaware.
i. Kingsport U.S.A., Inc., Delaware.
j. Prince Graphite, Inc., Delaware.
k. Prince Manufacturing, Inc., New Jersey.
l. Prince Matchabelli, Inc., New York.
m. Prince Matchabelli Manufacturing Company, Inc., Delaware.
n. Ragu Foods, Inc., New York.

1. Parent Corporation: Commercial Metals Company, 7800 Stemmons Freeway (75247), Post Office Box 1046 (75221), Dallas, Texas. State of incorporation: Delaware.

2. The following 100% wholly-owned or controlled subsidiaries will participate in the operation:

CMC Process Products, Inc., 7800 Stemmons Freeway, Dallas, Texas 75247. State of incorporation: Texas
CMC Oil Company, 7800 Stemmons Freeway,. Dallas, Texas 75247.
CMC Steel, Inc., Mill Road, Seguin, Texas 78155. State of incorporation: Texas
Capitol City Steel Company, 6717 Circle S Road, Austin, Texas 78745. State of incorporation: Texas

Cometals, Inc., One Penn Plaza, Room 3401, New York, New York 10001. State of incorporation: New York
Commercial Metals Railroad Salvage Company, 7800 Stemmons Freeway, Dallas, Texas 75247. State of incorporation: Texas
Commonwealth Metal Corporation, 560 Sylvan Avenue, Englewood Cliffs, New Jersey 07632. State of incorporation: New Jersey
Enterprise Metal Corporation, 175 Great Neck Road, Room 408, Great Neck, New York 10021. State of incorporation: New York
Howell Metal Company, State Route 728, P.O. Box 218, New Market, Virginia 22844
SMI Steel Inc., P. O. Box 2875A, Birmingham, Alabama 35212
Structural Metals, Inc., Mill Road, Seguin, Texas 78155. State of incorporation: Texas
Texas Cold Finished Steel, Inc., 1300 Baker, Houston, Texas 77002. State of incorporation: Texas
CMC Steel Fabricators, Inc., State of incorporation: Texas; doing business under the following names:

Arkansas Steel Rolling Mills, Inc., Kerlin Road, Box 489, Magnolia, Arkansas 71753
Capitol Steel, Inc., 2655 North Foster Drive, Post Office Box 66636, Baton Rouge, Louisiana 70896
CoMet Steel, Inc., 4846 Singleton Blvd., Dallas, Texas 75212
Houston Steel Service Company of Texas, Inc., 5321 Westpark Drive, Houston, Texas 77065
Houston Steel Service Company—Rebar Division, 5321 Westpark Drive, Houston, Texas 77065
Safety Railway Service Company, Aloe Field, Post Office Box 2298, Victoria, Texas 77901
Safety Steel Service, Inc., Rodd Field, Post Office Box 6546, Corpus Christi, Texas 78411
Safety Steel Service, Inc., 201 East Crestwood Drive, Victoria, Texas 77901
Safety Steel Construction, Inc., 201 East Crestwood Drive, Post Office Box 2298, Victoria, Texas 77901
Southern States Steel Company, 9675 Walden Road, Beaumont, Texas 77706
Southern Farm Supply Company, 1318 Buschong Road, Houston, Texas 77093
Southern Fence Post Company, 1318 Buschong Road, Houston, Texas 77039
Southern Post Company, 1318 Buschong Road, Houston, Texas 77039
Southern Post Company, 1960 Benchmark Drive, Roundrock, Texas 78664
Southern Post Company, Kerlin Road, Post Office Box 489, Magnolia, Arkansas 71753
Sterling Steel Company, 5600 Braxton, Suite 12, Houston, Texas 77036

1. Parent corporation and address of principal office: Phillips Petroleum Company, Bartlesville, OK 74004.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(a) Phillips Driscopipe, Inc., a Delaware corporation.
(b) American Fertilizer & Chemical Co., a Delaware corporation.
(c) American Thermoplastics Corp., a Delaware corporation.
(d) Phillips Fibers Corporation, a Delaware corporation.
(e) Phillips Uranium Corporation, a Delaware corporation.
(f) Phillips Coal Company, a Nevada corporation.
(g) Applied Automation, Inc., a Delaware corporation.
(h) Phillips Pipe Line Co., a Delaware corporation.
(i) Catalyst Resources, Inc., a Delaware corporation.
(j) Pier 66 Company, a Delaware corporation.
(k) Phillips Oil Company, a Delaware corporation.
(l) Provesta Corporation, a Delaware corporation.

1. Parent corporation and address of principle office: Sysco Corporation, 1177 West Loop South, Houston, Texas 77027.

2. Wholly-owned subsidiaries and divisions which will participate in the operations, and States of incorporation:

Name and Address and State of Incorporation

Allied-Sysco Food Services, Inc., P.O. Box 6185, Hayward, California 94540—California.
Arrow-Sysco Food Services, Inc., P.O. Box 10038, Jefferson, Louisiana 70181—Delaware.
Baraboo-Sysco Food Services, Inc., 901 Sauk Avenue, Baraboo, Wisconsin 53913—Wisconsin.
Bell-Sysco Food Services Co., P.O. Box 2987, Asheville, North Carolina 28802—North Carolina.
Compton Foods Association, 1177 West Loop South, Houston, Texas 77027—Texas.
Compton Refrigerated Distribution Center, P.O. Box 1900, Independence, Missouri 64055—Texas.
Glencoe-Sysco Food Services Co., 6116 Walker Avenue, Maywood, California 90270—California.
Grants-Sysco Food Services, Inc., P.O. Box 1598, Saginaw, Michigan 48605—Michigan.
HFP-Sysco Food Services, Inc., P.O. Box 113, Harrisonburg, Virginia 22801—Virginia.
Hallsmith-Sysco Food Services, Inc., 380 South Worcester, Norton, Massachusetts 02766—Massachusetts.
Hardin's Sysco Food Services, Inc., P.O. Box 18847, Memphis, Tennessee 38181-0847—Tennessee.
Koon-Sysco Food Services, Inc., P.O. Box 141, Bowling Green, Kentucky 42101—Kentucky.
Lankford-Sysco Food Services, Inc., P.O. Box 477, Pocomoke City, Maryland 21851—Maryland.
Mid-Central/Sysco Food Services, Inc., P.O. Box 820, Olathe, Kansas 66061—Missouri.
Miesel/Sysco Food Service Co., P.O. Box 579, Detroit, Michigan 48232—Michigan.
Miesel/Sysco Food Services Co., P.O. Box 94570, Cleveland, Ohio 44101—Michigan.
Nobel/Sysco Food Services Co., P.O. Box 5566 TA, Denver, Colorado 80217—Colorado.
Nobel/Sysco Food Services Co., Southwest Division, 601 Comache Road N.E., Albuquerque, New Mexico 87107—Colorado.
Pegler & Company, P.O. Box 80068, Lincoln, Nebraska 68501—Nebraska.
Plantation-Sysco of Central Florida, 2515 Shader Road, Orlando, Florida 32808—Florida.
Plantation-Sysco, Military Division, P.O. Box 15890, Orlando, Florida 32808—Florida.
B. A. Railton Co., 111 No. Northwest Avenue, Northlake, Illinois 60164—Illinois.
Robert Orr-Sysco Food Services Co., P.O. Box 1087, Nashville, Tennessee 37202—Tennessee.
Select-Sysco Foods, Inc., P.O. Box 3097, Hayward, California 94540—California.
Sysco Chemical Company, Inc., P.O. Box 10129, Detroit, Michigan 48210—Michigan.
Sysco Food Services-San Antonio, P.O. Box 18364, San Antonio, Texas 78218—Texas.
Sysco Food Services, Inc., P.O. Box 15316, Houston, Texas 77220—Texas.
Sysco Food Services Southeast Inc., P.O. Box 2805, Augusta, Georgia 30904—Georgia.
Sysco Food Systems, Inc., P.O. Box 344229, Dallas, Texas 75234—Texas.
Sysco/Frost-Pack Food Services, Inc., P.O. Box 8769, Grand Rapids, Michigan 49508—Michigan.
Sysco Frosted Foods, Inc., P.O. Box 5327, Albany, New York 12205—New York.
Sysco/Louisville Food Services Co., P.O. Box 32470, Louisville, Kentucky 40232—Kentucky.
Sysco-Metro Food Services, P.O. Box 93865, Atlanta, Georgia 30377—Georgia.
Sysco-Midwest Food Services, Inc., P.O. Box 5299, Lafayette, Indiana 47903—Indiana.
Sysco-Rome Food Services, Inc., P.O. Box 2026, Rome, Georgia 30161—Georgia.

Divisions

Cochran/Sysco Food Services, P.O. Box 2899, Jackson, Mississippi 39207.

Global Sysco, 700 Dibblee Drive, Garden City, New York 11530.

Plantation-Sysco, P.O. Drawer 64000A, Miami, Florida 33164.

Sysco Gulf Atlantic Food Services, P.O. Box 37045, Jacksonville, Florida 32205.

Sysco Intermountain Food Services, P.O. Box 27638, Salt Lake City, Utah 84125.

Theimer-Sysco Food Services, P.O. Box 13786, Roanoke, Virginia 24037.

Thomas-Sysco Food Services, 10510 Evendale Drive, Cincinnati, Ohio 45241.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3015 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-106A)]

Illinois Central Gulf Railroad Company, Abandonment and Discontinuance of Service over the Seaboard System Railroad, Inc., in Caldwell, Trigg and Christian Counties, KY; Findings

The Commission has issued a certificate authorizing Illinois Central Gulf Railroad Company to abandon its 10.48-mile rail line between milepost 120.52 at Gracey and milepost 131.0 at Hopkinsville and to discontinue service over 13.52 miles of railroad of the Seaboard System Railroad, Inc., between milepost 107 at Otter Pond and milepost 120.52 at Gracey, in Caldwell, Trigg and Christian Counties, KY. The certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3011 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30386]

Nezperce Railroad Co.; Operation Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10901 the operation by Nezperce Railroad Company, of 30.18 miles of railroad extending from milepost 0 near Starbuck to milepost 30.18 near Pomeroy in Columbia and Garfield Counties, WA.

DATES: This exemption will be effective on March 5, 1984. Petitions to stay must be filed by February 13, 1984, and petitions for reconsideration must be filed by February 23, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30386 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Gary L. Montgomery, 737 North 7th Street, Boise, ID 83702.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 27, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3012 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Second Revised I.C.C. Order No. 3]

St. Louis Southwest Railway Co.; Rerouting of Traffic

To: St. Louis Southwestern Railway Company; North Central Oklahoma Railway, Inc.; Oklahoma, Kansas and Texas Railroad Company, and Texas North Western Railway Company

In September of 1979, the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI), was declared cashless by the Commission and ceased operations. The Kansas City Terminal Railway Company (KCT) was ordered by the Commission then to serve all lines of the RI as a directed rail carrier under 49 U.S.C. 11125. That operation continued for almost six (6) months and until Federal funding was no longer available, and was replaced by non-compensated directed service provided by various carriers operating about fifty percent of the system in the form of short, unconnected line segments.

It became imminently clear that, in order for the carriers to perform their operations over various RI line segments, RI rates must be adopted and made immediately applicable, and routing flexibility permitted where continuous routings over the RI were not possible. This was accomplished through I.C.C. Rerouting Order Nos. 63, 80, and most recently 3. Those orders permitted certain carriers handling traffic to and from RI points to reroute that traffic over any available route in order to complete the movement, and to maintain the rate as originally routed.

Requests for continuation of the rerouting authority contained in Revised I.C.C. Order No. 3, have been received from St. Louis Southwestern Railway Company (SSW); Oklahoma, Kansas and Texas Railroad Company (OKKT); North Central Oklahoma Railway, Inc. (NCOK), and Texas North Western Railway Company (TXNW). Those requests emphasize the need for continuity of rates and routing being utilized while tariff revisions are being completed. Further, the requests indicate that tariff modifications should be completed within six (6) months.

It is the opinion of the Commission that the RI cannot transport traffic offered for movement over its lines due to the cessation of its operations; that the interests of the affected shippers and interim operators require continuation of this authority; that named carriers should be permitted to utilize this authority while completing tariff changes; that need has been shown to revise the effective period of this order; and, that this matter is considered to be outside the scope of a single railroad, as provided by *Ex Parte No. 376, Rerouting of Traffic*, 364 I.C.C. 827, thereby making this action by the Commission necessary.

It is ordered:

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI), being unable to transport promptly traffic offered for movement via its lines due to the cessation of its operations, that line's operators named below are authorized to reroute such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

St. Louis Southwestern Railway Company
North Central Oklahoma Railway Inc.
Oklahoma, Kansas and Texas Railroad Company
Texas North Western Railway Company

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order must receive the concurrence of other railroads to which such traffic is to be rerouted.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted and shall furnish to such shipper the new routing provided for under this order, except when the disability requiring the rerouting occurs after the movement has begun.

(d) Inasmuch as the rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic rerouted pursuant to this order shall be the rates which were applicable on the shipments as originally routed.

(e) In executing the directions of the Commission provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements may now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., January 31, 1984.

(g) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1984, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 11124.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 30, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3013 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30398]

Union Pacific Railroad Co., Purchase (Portion), Missouri Pacific Railroad Co.; Exemption

January 30, 1984.

Union Pacific Railroad Company (UP) and Missouri Pacific Railroad Company (MP) jointly filed a notice of exemption concerning the conveyance by MP to UP of a portion of MP's railroad and underlying realty known as the Hastings Subdivision, extending from milepost 574.7 near Muriel to milepost 580.3 at Hastings, in Adam County, NE. UP will operate over the trackage after conveyance of the line.

The transaction is within one corporate family, the Union Pacific System, and comes within that class of transactions described at 49 CFR 1180.2(d) which has been exempted from Commission regulation. The UP acquisition will not result in changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of the exemption, any employees affected by the acquisition of the line by UP shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3014 Filed 2-2-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review of 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 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, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of

Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Occupational Safety and Health Administration
Concrete and Masonry Construction
OSHA 278
On occasion
Businesses or other for profit
121,360 responses; 20,227 hours; 0 forms

Those construction firms engaged in the erection of formwork would be required to have a copy of formwork plans or drawings at the job site to insure that the formwork will support the applied loads.

Office of Pension and Welfare Benefit Programs
DOL Regulation § 2560.503–1, Claims Procedure
On occasion
Individuals or households; Business or other for-profit; non-profit institutions; Small business or organizations
73,567 responses; 20,368 hours

This regulation requires employee benefit plans to establish procedures which provide adequate written notice to any participant or beneficiary of an employee benefit plan whose claim has been denied. An opportunity for a review of a denied claim must also be provided; the decision upon a review must also be in writing.

Prohibited Transaction Class Exemption 82–87
Business or other for profit; small businesses or organizations
1,500 recordkeeping burden hours

This class exemption provides relief from certain of ERISA's prohibited transaction provisions for a broad range of transactions involving the financing of residential mortgages by employee benefit plans.

Class Exemption 78–6—Apprenticeship plans purchasing and leasing property from contributing employers
Businesses or other for profit; non-profit institutions; small business or organizations
417 burden hours

This class exemption exempts from the prohibited transaction restrictions of ERISA transactions involving the purchase of personal property and leasing of real or personal property by an apprenticeship plan from a contributing employer or wholly owned subsidiary.

Class Exemption 77–4 for Certain Transactions Between Investment Companies and Employee Benefit Plans
Other—Describe: Annually when exemption is used
Business or other for profit; small businesses or organizations
18,150 responses; 1,633 hours

This class exemption exempts from the prohibited transaction restrictions of ERISA the purchase and sale by an employee benefit plan of shares of a registered, open-end mutual fund when a fiduciary with respect to the plan (e.g., an investment manager) is also investment adviser for the mutual fund.

DOL Regulation § 2530.203–3, Suspension of Pension Benefits
Other
Businesses or other for-profit; small businesses or organizations
73,688 responses; 18,422 hours

This regulation allows a plan to suspend an individual's pension benefits if the individual continues work or returns to work. The plan is required to notify the individual during the first calendar month or payroll period in which the plan withholds payment of the reasons for the suspension.

Signed at Washington, D.C. this 31st day of January, 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84–3049 Filed 2–2–84; 8:45 am]
BILLING CODE 4510–29–M

[Secretary of Labor's Order 1–84]

Delegation of Authority and Assignment of Responsibility for Employee Retirement Income Security Program

January 20, 1984.

1. *Purpose.* To delegate authority and assign responsibility for administration of the Employee Retirement Income Security Act of 1974 (ERISA).

2. *Background.* ERISA places responsibility in the Department of Labor for the administration of a comprehensive program to protect the interests of participants and beneficiaries of private employee benefit plans. Secretary's Order 9–77 delegated authority and assigned responsibility for the ERISA program to the Assistant Secretary for Labor-Management Relations. Assigning responsibility for this program directly to the Office of Pension and Welfare Benefit Programs and making this Office a separate agency of the Department of Labor would recognize the increased emphasis being given to the ERISA program by the Secretary and would enhance the efficiency and effectiveness of its administration. Accordingly, the delegation to the Assistant Secretary for Labor Management Relations is terminated and conforming changes are made in other Secretary's Orders.

3. *Directives Affected.*

a. Secretary's Order 9–77 is amended by:

(1) Deleting section 3a (3) and (4) and by redesignating section 3a (5) through (8) as 3a (3) through (6), respectively;

(2) Deleting the following from section 4: "and responsibilities under Subtitle C of Title III of the Employee Retirement Income Security Act."

b. Secretary's Order 9–80 is amended by substituting the words: "Administrator of Pension and Welfare Benefit Programs," for the words: "Assistant Secretary of Labor-Management Relations," in section 4b.

4. *The Office of Pension and Welfare Benefit Programs.* There is continued in the Department of Labor an Office of Pension and Welfare Benefit Programs. Such Office is hereby transferred from the Labor-Management Services Administration and is constituted as a separate agency within the Department of Labor. This transfer includes personnel, funds, equipment, supplies, and records associated with LMSA's responsibilities in connection with the administration of the ERISA of 1974 and the Welfare and Pension Plans Disclosure Act of 1958, as amended. The Office of Pension and Welfare Benefit Programs shall continue to be headed by an Administrator, who shall report to the Secretary.

5. *Delegation of Authority and Assignment of Responsibilities.*

a. *The Administrator of Pension and Welfare Benefit Programs* is delegated authority—including authority to redelegate—and assigned responsibilities, except as hereinafter provided, for carrying out programs and activities to be performed by the Secretary of Labor under:

(1) Employee Retirement Income Security Act of 1974, except for Subtitle C of Title III and Title IV; and

(2) Welfare and Pension Plans Disclosure Act of 1958, as amended.

b. *The Assistant Secretary for Administration and Management* is responsible for assuring an orderly and equitable transfer of resources, including assurance of consultation and negotiation, as appropriate, with unions representing affected employees.

c. *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 listed in 5a above and for bringing appropriate legal actions on behalf of the Secretary,

and representing the Secretary in all civil proceedings.

6. *Reservation of Authority.* The submission of reports and recommendations to the President and the Congress concerning the administration of the statutes listed in 5a above and responsibilities under Subtitle C of Title III of the Employee Retirement Income Security Act is reserved to the Secretary.

7. *Effective Date.* This Order is effective immediately for planning purposes, and for implementation no later than 120 days from the date of this Order.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84-3050 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 23, 1984–January 27, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separation at the firm.

TA-W-14,916; Atari, Inc., Somerset, NJ

TA-W-14,904; Taylor-Wharton Co., Easton, PA

TA-W-15,004; Ozark Lead Co., Sweetwater, MO

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-14,835; Beecham Products, Cranford, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-14,829; Cooper Industries, Inc., Superior Div., Springfield, OH

Aggregate U.S. imports of natural gas aspirated engines are negligible.

TA-W-14,806; Cooper Industries, Inc., Portable Rig Div., Dallas, TX

Aggregate U.S. imports of oil field machinery did not increase as required for certification.

TA-W-14,925; Cooper Industries, Inc., Petroleum Equipment Div., Sunnyvale, TX

Aggregate U.S. imports of oil field machinery did not increase as required for certification.

TA-W-14,949; Outfooter's of Battle Creek, Battle Creek, MI and Coldwater, MI

The investigation revealed that criterion (3) has not been met. The workers' firm did not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-14,951; U-Brand Corp., Ashland, OH

A certification was issued covering all workers separated on or after August 20, 1982.

TA-W-14,952; U-Brand Corp., Shelby, OH

A certification was issued covering all workers separated on or after August 20, 1982.

TA-W-14,923; Cerro Copper Tube Co., Cleveland, OH

A certification was issued covering all workers separated on or after August 15, 1982.

TA-W-14,907; Arrow-Hart Co., Dano Div., Winsted, CT

A certification was issued covering all workers of Arrow-Hart Co., Dano Div. separated on or after September 1, 1982 and before January 31, 1983.

TA-W-14,907A; Arrow-Hart Co., Hartford, CT

A certification was issued covering all workers of Arrow-Hart Co., starter plant separated on or after July 17, 1982 and before September 30, 1982.

TA-W-14,803; U.S. Steel Corp., Fairless Works, Trenton, NJ

A certification was issued covering all workers separated on or after June 28, 1982.

TA-W-14,736; U.S. Steel Corp., Supply Div., Cleveland, OH Warehouse

A certification was issued covering all workers separated on or after June 6, 1982 and before December 31, 1982.

TA-W-14,846; Tiffin General Electric Appliance & Hermetic Motor Dept., Tiffin, OH

A certification was issued covering all workers separated on or after July 12, 1982.

TA-W-14,755; S & S Corrugated Paper Machinery Co., Inc., Brooklyn, NY

A certification was issued covering all workers separated on or after January 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period January 23, 1984—January 27, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 31, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-3041 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15, 120]

Rieter Corporation, Manufacturing Division, Aiken, South Carolina; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 30, 1983, in response to a worker petition received on November 21, 1983, which was filed on behalf of workers at Rieter Corporation, Manufacturing Division, Aiken, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, D.C., this 30th day of January 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-3053 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-30-M

[Unemployment Insurance Program Letter No. 7-84]

Federal Supplemental Compensation

Title I of the Federal Supplemental Compensation (FSC) Amendments of 1983 (Pub. L. 98-135) amended the Federal Supplemental Compensation Act of 1982 to extend the FSC program to March 31, 1985, and to provide additional weeks of benefits to prior FSC beneficiaries who first filed for FSC after March 31, 1983. The Department of Labor has issued instructions for implementing the FSC program as amended by Pub. L. 98-135 to all State employment security agencies. The instructions are contained in Unemployment Insurance Program Letter No. 7-84, which supersedes earlier issuances on FSC. Unemployment Insurance Program Letter No. 7-84 is published below:

Dated: January 26, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary of Labor.

Department of Labor

Employment and Training Administration

Washington, D.C. 20213

Classification: UI
Correspondence symbol: TEUMI.
Date: December 29, 1983.
Expiration date: September 30, 1985.

Directive: Unemployment Insurance Program Letter No. 7-84

To: State Employment Security Agencies.
From: Bryan T. Keilty, Acting Administrator for Regional Management.
Subject: Federal Supplement Compensation (FSC).

1. *Purpose.* To provide instructions for implementing the Federal Supplement Compensation Act of 1982, as amended by the Federal Supplement Compensation Amendments of 1983, Title I of Pub. L. 98-135.

2. *References.* Title VI-A of Pub. L. 97-248, Section 310 of Pub. L. 97-448, Title V of Pub. L. 97-424, Title V-A of Pub. L. 98-21, Title I of Pub. L. 98-135; UIPL 14-81 and Changes; the Federal-State Extended Unemployment Compensation Act of 1970, as amended; 20 CFR Part 615; GALs 21-81 and 22-81; GAL 2-83 and Changes.

3. *Background.* Title I of Pub. L. 98-135 amended the FSC Act of 1982 to extend the FSC program to March 31, 1985. The amendments retain the current levels of FSC—8 to 14 weeks. Additional benefits of up to 5 weeks are provided for individuals who first filed for FSC after March 31, 1983, and who exhausted FSC before the first week beginning after October 13, 1983. Individuals who first filed for FSC after March 31, 1983, and who have a remaining FSC balance as of the first week beginning after October 18, 1983, may receive up to 2 to 4 additional weeks of benefits depending upon the maximum FSC payable in the State and the individual's remaining balance.

4. *Instructions for Implementing FSC.* The attachment contains complete instructions for implementing FSC. These instructions supersede GAL 2-83 and Changes. Many sections of the GAL instructions were not affected by the latest amendments to the FSC Act. However, all instructions for operating the FSC program have been included in this issuance for the convenience of the user. Those sections affected by the amendments are:

a. Section A, *Definitions*—Subsections 3, 6 and 7.

b. Section B, *Beginning and Ending of the FSC Program.*

c. Section C, *Eligibility Requirements for FSC*—Subsection 1.g., and 8.

d. Section E, *Maximum FSC Benefits Payable*—All subsections except 3 and 4.

5. *Other Changes.* Subsection 5 of Section K, *Work Registration,* and Part III, *Job Placement and Work Test Activities* have been revised to reflect the new Federal-State roles under the Wagner-Peyser Act, as amended by the Job Training Partnership Act. Certain technical and clarifying changes have also been made in other sections.

6. *Retirees/Prisoners Provision in the Amendments.* Pub. L. 98-135 contains a provision, not relating to FSC, but which should be of particular interest to all SESAs. Section 206 of the Amendments directs the Secretary of Labor, the Director of the Office of Personnel Management and the Attorney General to make the necessary arrangements for States to receive information regarding current and retired Federal employees and Federal prisoners so States may review eligibility of these individuals for unemployment benefits. The Secretary of Labor is required to report to the Congress prior to January 31, 1984, on any arrangements made and including recommendations for legislation to prevent improper payments to such individuals.

Instructions have been issued (see UIPL No. 3-84, dated October 10, 1983) advising the SESAs on how to obtain information on current and retired Federal employees. The ETA is now working on procedures for making available information on Federal prisoners for crossmatching with State claimant benefit files. Instructions will be issued as soon as arrangements are finalized.

7. *Action Required.* Administrators should provide the above information and attached instructions to appropriate staff.

8. *Inquiries.* Direct questions to the appropriate Regional Office.

9. *Attachment.* Instructions for implementing the FSC Program, as amended.

Federal Supplemental Compensation Act of 1982, as Amended Implementing Instructions—Contents

I. Explanation of the FSC Amendments in Pub. L. 98-135
A. Effective Dates
B. Maximum FSC Payable
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D. Special Rule
E. Modification of the Agreement
II. Procedures
A. Definitions
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5. Terms with same meanings as defined for EB Regulations
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C. Eligibility Requirements for Federal Supplemental Compensation
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1. Maximum FSC Payable in a State
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6. Secretary's Standard
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L. Fraud and Overpayment
1. Fraudulent Claiming of FSC
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M. Payments to States
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1. Reports
2. Recordkeeping
O. Disclosure of Information
P. Inviolate Rights to FSC
Q. Application of "Lopez Rule"
III. Job Placement and Work Test Activities

I. Explanation of the FSC Amendments in Pub. L. 98–135

A. Effective Dates

The FSC amendments made by Pub. L. 98–135 are effective beginning with the first week which begins after October 18, 1983. The FSC program terminates for all claims filed for any week beginning after March 31, 1985.

B. Maximum FSC Payable

The SESA will establish an FSC account for each eligible individual.

1. For an individual to whom FSC is first payable for a week beginning after October 18, 1983, the maximum amount of FSC established in the individual's account will be the lesser of:

a. 55 percent of the total amount of regular compensation (including dependents' allowances) payable with respect to the most recent benefit year on the basis of which the individual received regular compensation, or

b. The applicable limit determined under the following table times the individual's average weekly benefit amount for the individual's benefit year:

In the case of weeks during a—	The applicable limit is—
6-percent period	14
5-percent period	12
4-percent period	10
Low-unemployment period	8

2. For an individual to whom FSC was first payable for a week beginning after March 31, 1983, and who exhausted all entitlement to FSC prior to the first week which begins on or the individual's account (payable for weeks beginning after October 18, 1983) will be the lesser of:

a. Three-fourths of the maximum as determined with respect to the individual under subsection 1, above, or

b. 5 times the individual's weekly benefit amount.

3. Special provisions apply for determining FSC entitlement for individuals to whom FSC was first payable for a week beginning after March 31, 1983, and who have a remaining balance as of the first week after October 18, 1983. For individuals whose remaining balance as of the first week beginning after October 18, 1983, equals or exceeds the new maximum FSC payable in the State effective October 23, 1983, the SESA shall not redetermine entitlement to FSC. Such individuals shall be entitled to their remaining balance for weeks of unemployment beginning after October 18, 1983. For individuals whose remaining balance as of the first week beginning after October 18, 1983, is less than the new maximum FSC payable in the State effective October 23, 1983, the SESA shall increase the amount of FSC in the individual's account as specified below.

However, in no event shall any increase result in an individual being entitled to more FSC for weeks of unemployment beginning after October 18, 1983, than the maximum payable in the State for the week beginning October 23, 1983, or in excess of 55 percent of the individual's entitlement to regular benefits including dependents' allowances. The amount of the increase shall be the *lesser* of:

(a) Three-fourths of the maximum as determined with respect to the individual under subsection 1, above or

(b) 4 times the individual's weekly benefit amount if the State is in a 5-percent or 6-percent period, or 2 times the individual's weekly benefit amount if the State is in a 4-percent or low-unemployment period, for the first week beginning after October 18, 1983 (i.e., the week beginning October 23, 1983).

4. The amendments do not change the remaining FSC entitlement, if any, for any individual to whom FSC was first payable for a week beginning on or before March 31, 1983.

5. No changes will be made to any individual's FSC account subsequent to the date the account is first established or redetermined under the amendments, except for correction of errors. This means the SESA will not make changes to FSC accounts based on changes (up or down) in the maximum FSC payable in the State.

C. Unemployment Level Periods

1. The terms "6-percent period," "5-percent period," "4-percent period," and "low-unemployment period," mean, with respect to a State, the period which:

a. Begins the first day of the third week after the first week for which the applicable trigger is on, and

b. Ends the last day of the second week after the first week for which the applicable trigger is off.

2. For a 6, 5, or 4-percent, or low-unemployment period:

a. The applicable trigger is on for a week if:

(1) The State's extended benefit indicator rate, i.e., the most recent 13-week insured unemployment rate, falls within the applicable insured unemployment range, *or* for 6- and 5-percent periods,

(2) The State's long-term insured unemployment rate for the period beginning the first week which begins on or after January 1, 1982, and ending with the last week beginning in the second calendar quarter ending before the week for which the determination is made, falls within the applicable long-term insured unemployment range. In determining the first long-term insured unemployment rate (i.e. for the week beginning on October 23, 1983), the period used will be the 78-weeks beginning January 3, 1982, and ending with the week beginning June 26, 1983. The same data will be used for determining long-term insured unemployment rates until the week beginning on January 1, 1984.

b. The applicable trigger is off for a week if:

(1) The applicable trigger for a period with a higher week designation is on for that week, or

(2) The State's extended benefit indicator rate falls below the applicable insured, unemployment range, and (for 6- and 5-percent periods) the State's long-term insured unemployment rate falls below the previously applicable long-term insured unemployment range.

The applicable ranges are:

In the case of a—	The applicable insured unemployment range is—	The applicable long-term insured unemployment range is—
6-percent period.	A rate equal to or exceeding 6 percent.	A rate equal to or exceeding 5.5 percent.
5-percent period.	A rate equal to or exceeding 5 percent but less than 6 percent.	A rate equal to or exceeding 4.5 percent but less than 5.5 percent.
4-percent period.	A rate equal to or exceeding 4 percent but less than 5 percent.	Not applicable.

In the case of a—	The applicable insured unemployment range is—	The applicable long-term insured unemployment range is—
Low-unemployment period.	A rate less than 4 percent.	Do.

c. Insured unemployment rates are determined for FSC purposes in exactly the same manner as they are determined for purposes of Extended Benefits "on", "off", and "no change" indicators. This also means that IUR's are averaged for the 13-week and long-term periods.

d. No 6, 5, or 4-percent, or low-unemployment period shall last for a period of less than 13 weeks.

e. When an increase or reduction in the applicable limit for a State occurs, each such increase or reduction cannot be more than 2 weeks. This limitation does not, however, apply to an increase or reduction which takes effect the first week beginning after October 18, 1983.

D. Special Rule

The amendments contain special rules which apply to prior FSC exhaustees:

1. An individual's eligibility for additional weeks of FSC under the amendments in Pub. L. 98–135 shall not be limited or terminated by reason of any event, or failure to meet any requirement of State or federal law relating to eligibility for unemployment benefits when such event or failure occurred after the date of exhaustion of FSC and prior to the beginning of the first week which begins after October 18, 1983.

2. The period occurring after the date an individual has exhausted entitlement to FSC and before the first week which begins after October 18, 1983, shall not be counted in determining the expiration of the two years following the end of a benefit year during which FSC may be paid.

E. Modification of the Agreement

The Secretary of Labor is required, as soon as practicable after enactment, to propose to each State a modification to the agreement entered into under the FSC Act to provide for payments of FSC in accordance with the amendments made by Pub. L. 98–135. If a State fails to enter ito the modified agreement within three weeks from the date the Secretary proposes the modification, i.e., the date of the Secretary's letter, the agreement to administer FSC will be considered terminated. The termination of the agreement will be effective with the end of the last week which ends on or before the close of such three-week period.

II. Procedures for Implementing FSC

A. Definitions

1. "Act" means the "Federal Supplemental Compensation Act of 1982" (Subtitle A of Title VI of Pub. L. 97–248), approved September 3, 1982, as amended from time to time.

2. "Agreement" means the agreement entered into pursuant to the Act between a State and the Secretary of Labor, under which the State agency makes payments of Federal Supplemental Compensation in accordance with the Act as set forth in these instructions or other instructions issued by the Department.

3. "Period of Eligibility" means, with respect to any individual, the period beginning with the week following the week in which the State entered into an agreement to pay Federal Supplemental Compensation (but beginning no earlier than September 12, 1982), or the period beginning with the first week the individual met the basic eligibility requirements for FSC, whichever is the later; and ending with the last week which begins before April 1, 1985; except that an individual shall not have a period of eligibility unless such individual's benefit year ended on or after June 1, 1982, or such individual was entitled to extended benefits for a week which began on or after June 1, 1982.

4. "Federal Supplemental Compensation" means the compensation payable under the Federal Supplemental Compensation Act of 1982, and which is referred to as FSC.

5. Terms which have the same meaning as those defined in the Extended Benefit regulations, 20 CFR Part 615:

a. "Base period" means, with respect to an individual, the base period as determined under the applicable State law for the individual's applicable benefit year.

b. "Benefit year" means, with respect to an individual, the benefit year as defined in the applicable State law.

c. "Applicable benefit year" means, with respect to an individual, the current benefit year if, at the time an initial claim for FSC is filed, the individual has an unexpired benefit year only in the State in which such claim is filed or the benefit year on the basis of which the individual most recently received regular compensation, or, in any other case, the individual's most recent benefit year. For this purpose, the most recent benefit year, for an individual who has unexpired benefit years in more than one State when an initial claim for FSC is filed, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed.

d. "Compensation" means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular compensation, additional compensation and extended compensation as defined in this section.

e. "Regular compensation" means compensation payable to an individual under any State law, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85, but does not include expended compensation or additional compensation.

f. "Extended compensation" means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 ("EUCA"), and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85, but does not include regular compensation or additional compensation. Extended compensation is referred to as Extended benefits or EB.

g. "Additional compensation" means compensation totally financed by a State under its law by reason of conditions of high unemployment or by reason of other special factors, and when so payalbe, includes compensation payable pursuant to 5 U.S.C. Chapter 85.

h. "Secretary" means the Secretary of Labor of the United States.

i. (1) "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) "Applicable State" means the State in which an individual has an applicable benefit year.

j. "State Law" means the unemployment compensation law of a State approved by the Secretary under Section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)).

k. "Applicable State law" means the State law of the State which is the applicable State for an individual.

l. "Week" means, for purposes of eligibility for and payment of FSC, a week as defined in the applicable State law, and, for purposes for computation of FSC "on" and "off" indicators and insured unemployment rates, and the beginning and ending of unemployment periods, a calendar week.

m. "Week of unemployment" means a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent to the FSC program, as if the individual filing a claim for FSC benefits were filing a claim for regular compensation.

n. "Insured Unemployment Rate" means the rate of insured unemployment for a week determined in the same manner as such rate is determined for the purposes of Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended.

6. "Amendments" means the amendments made to the Federal Supplemental Compensation Act of 1982 by Pub. L. 98–135.

7. "Long-term Insured Unemployment Rate" means the average insured unemployment rate for the period beginning January 3, 1982, and ending with the last week of the second calendar quarter ending before the week the determination is made.

B. Beginning and Ending of the FSC Program

For States which entered into a signed agreement by September 11, 1982, and FSC period of eligibility began September 12, 1982. The earliest compensable week for which FSC was payable was the week ending September 18, 1982.

For States which entered into agreements after September 11, 1982, the first compensable week for which FSC was payable was the first full week beginning on or after the Sunday following the date the agreement was signed.

The FSC program is scheduled to end for all claims effective for any week that begins after March 31, 1985. No FSC claims will be valid for any week of unemployment which begins after that date.

The Federal Supplemental Compensation Amendments of 1983 require the Secretary of Labor, as soon as practicable after October 24, 1983, to propose to each State a modification to the agreement entered into under the FSC Act to provide for payments of FSC according to the amendments. If a State fails to enter into the modified agreement within three weeks from the date of the Secretary's letter proposing a modification of the agreement, the agreement to administer the FSC program in the State will be terminated effective with the end of the last week which ends on or before the close of such 3-week period.

States may terminate the FSC agreement at any time. The FSC period will end 30 days from the date the State notifies the Secretary of its election to terminate the FSC program. No FSC benefits will be payable for weeks which begin after the date the agreement is terminated. The agreement may also be terminated by the Secretary, as provided in the agreement.

C. Eligibility Requirements for Federal Supplemental Compensation

1. *Basic Eligibility Requirements.* To be eligible for Federal Supplemental Compensation for any week of unemployment, an individual must:

a. Have exhausted prior to such week all rights to regular compensation under the applicable State law,

b. Have no rights to compensation (including regular and extended compensation) with respect to that week under such law or any other State law, the Railroad Unemployment Insurance Act, or under any other Federal unemployment compensation law, administered by a State agency of the Secretary, and is not paid or entitled to be paid any additional compensation under any such State or Federal law,

c. Not be receiving compensation with respect to such week under the unemployment compensation law of Canada,

d. Have a benefit year which ends on or after June 1, 1982, or be entitled to extended benefits for a week which begins on or after June 1, 1982,

e. Have at least 20 weeks of work during the base period or earned its equivalent under State law as determined for the purposes of Section 202(a)(5) of the EUCA (see UIPL No. 1–82),

f. Have satisfied the requirement of Section 202(a)(4) of the Federal-State Extended Unemployment Compensation Act of 1970, which provides that no disqualification which has been imposed under State law for "voluntary leaving, discharge for misconduct, or refusing suitable employment" will be deemed terminated for the purposes of paying EB (and now FSC) unless the State law requires employment to terminate such disqualification (see UIPL No. 14–81).

g. Have satisfied the requirements of Section 202(a)(3) (A) (ii) and (E) of the EUCA which provide that individuals claiming EB (and now FSC) for a week shall be required to actively engage in seeking work during the week he/she is claiming FSC and provide to the State agency tangible evidence of a systematic and sustained effort to obtain work during such week (see UIPL No. 14–81, GALs 21–81 and 22–81),

h. Have a benefit year which ended not more than 2 years prior to the beginning date of the week the individual is claiming FSC, except that the period of time beginning after the individual exhausted entitlement to FSC under the FSC Act of 1982 as amended by Pub. L. 98–21 and ending with the first week beginning before October 18, 1983, shall be disregarded when determining the expiration of the 2 year period following the end of such benefit year,

i. Have satisfied any State law disqualification required by Section 202(a)(3) of the EUCA for failing to actively engage in seeking work or failing to apply for or accept any offer of suitable work (see UIPL 14–81),

j. Have filed a timely claim for FSC, as determined under the applicable State law.

2. *Determining Exhaustees.* For an individual to be deemed to have exhausted benefit rights to regular compensation, with respect to any week of unemployment in the individual's eligibility period, the individual must have received all regular compensation payable based on employment and/or wages during the base period, or eligibility for regular compensation must have terminated because the benefit year expired, and the individual has insufficient wages, or employment, or both, on the basis of which a subsequent benefit year could be established (that includes such week) in any State.

To determine that an individual has *no rights* to regular compensation or extended compensation, the factors are the same as those used for determining an exhaustee for EB, as specified in 20 CFR Part 615. Specifically, an individual is considered to have no rights to benefits if, during a week in his/her eligibility period, the individual received all benefits available under the applicable State law or any other State law (including UCFE and UCX benefits under 5 U.S.C. Chapter 85) after some or all wage credits are cancelled, or his/her entitlement to benefits was otherwise totally or partially reduced.

An individual is an exhaustee with respect to an expired benefit year which ends on or after June 1, 1982, when he/she is precluded from establishing a second (new) benefit year by reason of the requalifying provision in State law which requires earnings after the beginning of the first benefit year or he/she establishes a second benefit year but is suspended indefinitely until he/she has met the requalifying earnings requirements. The individual ceases to be entitled to FSC payments with respect to the expired benefit year when he/she satisfies the requalifying earnings requirement and compensation is payable in the new benefit year.

An individual shall be treated as having no rights to benefits even though as a result of a pending appeal with respect to wages or employment or both which were not included in his/her original monetary determination he/she may subsequently be determined to be entitled to more or less compensation. This also applies to an individual who may be denied benefits for certain weeks during the year by reason of a State law seasonal provision but has entitlement to future weeks in the off season.

For an individual who has established a benefit year but during such year his/her wage credits were cancelled or the right to regular, additional, or extended compensation was totally reduced as the result of a disqualification, he/she too is considered to be an exhaustee for the purposes of FSC.

In those States which pay additional benefits (AB), it will be necessary to determine if an individual has been paid or is entitled to be paid additional compensation before FSC can be paid. Certain State laws provide for the suspension of the payment of additional benefits when a federally financed program of benefits is payable. In these cases, individuals may be paid FSC in lieu of AB. However, under no circumstances shall FSC and additional benefits (or any other compensation) be paid for the same week.

Under Section 202(c) of the Federal-State Extended Unemployment Compensation Act of 1970, an individual filing for Extended Benefits under the Interstate Benefit Payment Plan from a State which is not in an EB period is eligible for the first two weeks of EB filed from that State and is disqualified for any other benefits in his/her EB account until such time as his/her agent State begins an EB period or until such time as he/she files from a State which is in an extended benefit period. Individuals who are not entitled to Extended Benefits under such a provision shall be eligible for FSC.

Liable State interstate claim units need to monitor the extended benefit trigger status of agent States and be prepared to redetermine FSC claimants' eligibility for extended benefits when an EB period begins in a given agent State. (Also see subsection 5 of Section E. relating to Interstate Claims.)

3. *Determination of "Period of Eligibility".* Under Section 605(2) of the Act, an individual may establish a "period of eligibility" for FSC for any week which began on or after September 12, 1982, and which begins before April 1, 1985, provided:

a. The applicable benefit year ended on or after June 1, 1982, or

b. The individual was entitled to extended benefits for a week which began on or after June 1, 1982.

This means that State agencies, in determining whether an individual can qualify for a period of eligibility for FSC, must first look at the individual's benefit year ending date. If that BYE date is on or after June 1, 1982, the individual qualifies for a period of eligibility for FSC and can be paid FSC if all the other eligibility requirements are met.

If an individual has a benefit year ending (BYE) date prior to June 1, 1982, State agencies must ascertain if the individual was entitled to EB for a week which began on or after June 1, 1982. If such an individual was paid a week of EB or *could* have been paid a week of EB which began after June 1, 1982, but was not otherwise eligible, he/she is deemed to have satisfied the requirement of Section 605(2)(B) of the Act and qualifies for a period of eligibility.

For example, an individual's benefit year ended prior to June 1, 1982. The individual is considered to have entitlement to EB for a week which began on or after June 1, 1982, provided the individual's period of eligibility for EB had not ended prior to such week (and he/she had not exhausted EB entitlement prior to such week), even though he/she had not claimed or was not paid EB for such week.

Similarly, an individual was denied benefits during an EB period for refusal of suitable work. He/she then returned to work after the week beginning on or after June 1, 1982, after which the State triggered "off" extended benefits. Having had remaining EB entitlement on or after June 1, 1982, which could have been paid but for the disqualification, the individual could qualify for a period of eligibility for FSC. Eligibility for FSC then depends on whether he/she purged the special disqualification required by Section 202(a)(3)(B) of EUCA.

An interstate claimant filing from a State not in an EB period who was denied benefits after claiming two weeks as required by Section 202(c) of EUCA is considered to have EB entitlement for a week beginning on or after June 1, 1982, provided the individual's period of eligibility for EB had not ended prior to such week, even though he/she was precluded from receiving benefits for such week by reason of this denial. Accordingly, he/she qualifies for a period of eligibility for FSC and may be paid FSC if otherwise eligible.

4. *20-Weeks of Work Requirement.* The 20 weeks of full-time work or equivalent qualifying requirement for the payment of extended benefits as required by Section 202(a)(5) of EUCA shall be applied with respect to any individual claiming a week of FSC beginning on or after September 12, 1982, even though this requirement will only apply to EB claimants who file claims for weeks beginning after September 25, 1982. State interpretations on full-time work weeks will apply as in the case of EB. See UIPL No. 1–82.

States which have enacted an equivalent test under their UI laws to the 20 weeks of work test must apply the same equivalency test to an individual claiming FSC.

States must determine a claimant's eligibility under the 20 weeks of work requirement as part of the initial claims process.

5. *Disqualifications based on Separation from Work.* Section 202(a)(4) of EUCA requires State law to provide for the termination of disqualifications for voluntary leaving, discharge for misconduct or refusal of suitable work only with subsequent employment before an individual can be eligible for Extended Benefits. This same provision applies to the payment of FSC. Therefore, any individual who was denied EB because his/her disqualification was terminated under State law without the required period of employment would similarly be ineligible for FSC. See UIPL 14–81 and Changes.

States which have not paid Extended Benefits and applied the denial provisions of Section 202(a)(4) must review any nonmonetary determination issued to potentially eligible FSC claimants and determine whether they are qualified for FSC under this provision. Employment for the purpose of terminating a disqualification means service performed in an employer-employee relationship as provided in the State law which would requalify an individual for EB.

In no case may a period of reemployment be used to terminate a disqualification for the purpose of paying FSC, unless the State law specifically requires new work to purge this denial of benefits. See UIPL No. 14–81 and Changes.

6. *Actively Seeking Work Requirement.* The actively seeking work requirement of Section 202(a)(3)(A)(ii), EUCA, is also a condition of eligibility for FSC. In accordance with the provisions of 202(a)(3)(E), an individual will be treated as actively engaged in seeking work if:

a. The individual has engaged in a systematic and sustained effort to obtain work during such week, and

b. The individual provides tangible evidence to the State agency that he/she has engaged in such an effort during such week.

Any disqualification of an individual for failure to actively seek work during a week of FSC will result in a denial of benefits with respect to the week in which such failure occurs and will not end until such individual purges the special disqualification in accordance with the minimum requirements of Section 202(a)(3)(B) of the EUCA. The total amount required to be earned to purge this disqualification cannot be less than four times the individual's weekly benefit amount. See UIPL No. 14–81 and Changes.

7. *Suitable Work Provisions.* Provisions required by Section 202(a)(3)(B), EUCA, will be applied to any individual claiming a week of FSC who fails to apply for or accept any offer of suitable work as defined in Section 202(a)(3)(C).

The term "suitable work" means, with respect to any individual claiming FSC, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his/her customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the State law applicable to claimants for regular benefits. See UIPL No. 14–81, and Changes.

Paralleling the provisions of Section 202(a)(3)(D), EUCA, FSC shall not be denied to any individual for any week by reason of a failure to accept an offer of, or to apply for, suitable work if:

a. The gross average weekly remuneration payable to such individual for the work does not exceed the sum of:

(1) The individual's weekly benefit amount of FSC, plus

(2) The amount (if any) of supplemental unemployment benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week,

b. The position was not offered to such individual in writing or was not listed with the State employment service,

c. Such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (D) of Section 202(a)(3) (see UIPL 14–81), or

d. The position pays wages less than the higher of:

(1) The minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption, or

(2) Any applicable State or local minimum wage.

Detailed guidance on the appropriate application of the active search for work and refusal of suitable work provisions of Section 202(a)(3), EUCA, is in GALs 21–81 and 22–81 and UIPL No. 14–81 and Changes.

States will use the appropriate sections of State law when issuing determinations for FSC which are required by the corresponding provisions of EUCA but such determinations shall not be inconsistent with Federal law, regardless of the particular provisions of State law.

8. *Special Eligibility Rule.* An individual's eligibility for additional weeks of FSC under the amendments to the FSC Act shall not be limited or terminated by reason of any event or failure to meet any requirement of State or Federal law relating to eligibility for benefits occurring after the date of exhaustion of the individual's entitlement to FSC and before the beginning of the first week beginning after October 18, 1983 (i.e. October 23, 1983). The eligibility requirements to which this rule applies include, but are not limited to, any issues which might arise with respect to:

a. Separations from work;

b. Refusals of referrals to or offers of work; and

c. Ability to work and availability and active search for work.

9. *Training.* No claimant who is in training or attending an accredited educational institution on a substantially full-time basis shall be denied FSC under the provisions of State law relating to availability for work, active search for work or refusals of referral to or an offer of suitable work. This limitation on the denial of FSC because of training applies unless the State determines that the individual is attending an accredited educational institution on less than a substantially full-time basis or the training or attendance at an accredited educational institution will not improve the individual's opportunities for employment.

For purposes of determining the application of this limitation, the State agency shall consider that:

a. Any training or attendance at an accredited educational institution will improve an individual's employment opportunities unless the agency has a preponderance of evidence that the training or attendance is entirely unrelated to employment or is for a vocation for which no employment opportunities exist and are unlikely to become available in the future, and

b. Attendance at an accredited educational institution on a substantially full-time basis is attending courses of study for no less than 12 semester credit hours or the equivalent.

It is the responsibility of the FSC claimant to provide written documentation initially and, upon request of the SESA, from the training or educational institution, regarding the hours of attendance, type and duration of courses or training (including beginning and ending dates), and the accreditation of the educational institution to the State agency.

D. Weekly Benefit Amount

1. *Total Unemployment.* The FSC weekly benefit amount payable to an individual for a week of total unemployment will be equal to the individual's weekly benefit amount for regular compensation (including dependents' allowances) payable during such individual's applicable benefit year. If an individual had more than one weekly benefit amount of regular compensation, the SESA will determine the FSC weekly benefit amount in the same manner that it would determine the weekly amount for Extended Benefits, as prescribed in 20 CFR 615.6.

2. *Partial and Part-Total Unemployment.* The weekly amount of FSC payable for a week of partial or part-total unemployment will be determined in accordance with the applicable State law on the same terms and conditions as partial benefits are paid to claimants for regular benefits.

E. Maximum FSC Benefits Payable

1. *Maximum FSC Payable in a State.* The numbers of weeks of FSC payable in a State—for weeks which begin after October 18, 1983—are 14, 12, 10, and 8 weeks. The State extended benefit indicator rate is used in determining the maximum FSC payable in a State. A State's extended benefit indicator rate is the most recent 13-week insured unemployment rate. For 12 and 14 week FSC periods, the State's long-term insured unemployment rate is also used. The State's long-term insured unemployment rate is the average insured unemployment rate for all weeks beginning on or after January 1, 1982, and ending with the last week beginning in the second calendar quarter ending before the week for which the determination is made. The long-term insured unemployment rate is

calculated by computing the weekly average of claims for regular compensation over the designated period and dividing by the average monthly covered employment for the period ending 6 months earlier. For each succeeding quarter an additional quarter's data will be added to the calculation. Once the long-term insured unemployment rate has been officially determined, no adjustments will be made because of revisions to data used in the calculation. However, revisions to data will be included in the determinations made in subsequent quarters.

Effective for the first week which begins after October 18, 1983, each State will begin a new FSC period (i.e. October 23, 1983). This is the earliest that a new 14, 12, 10, or 8-week period may begin. Each 14, 12, 10 or 8-Week period must last at least 13 weeks.

The table below shows the maximum FSC levels payable and the corresponding extended benefit indicator rate and, where applicable, the long-term insured unemployment rate for each level.

FSC period	Maximum number of weeks of FSC payable	Extended benefit indicator rate required	Long-term insured unemployment rate required
6-percent period	14	Greater than or equal to 6.0 percent	Greater than or equal to 5.5 percent.
5-percent period	12	Greater than or equal to 5.0 percent but less than 6.0 percent.	Greater than or equal to 4.5 percent but less than 5.5 percent.
4-percent period	10	Greater than or equal to 4.0 percent but less than 5.0 percent.	Not applicable.
Low-unemployment period	8	Less than 4.0 percent	Do.

a. *14-Weeks.* States in a "6-percent period" pay up to 14 weeks (14 times the weekly benefit amount) of FSC. A 6-percent period begins the first day of the third week after the first week in which the State's extended benefit indicator rate equals or exceed 6.0 percent *or* the State's long-term insured unemployment rate equals or exceeds 5.5 percent. A 6-percent period ends the last day of the second week after the first week in which the State's extended benefit indicator rate is less than 6.0 percent, *and* the State's long-term insured unemployment rate is less than 5.5 percent. However, a State must remain in a 6-percent period for at least 13 weeks.

b. *12-Weeks.* States in a "5-percent period" pay up to 12 weeks (12 times the weekly benefit amount) of FSC. A 5-percent period begins the first day of the third week after the first week in which the State's extended benefit indicator rate equals or exceeds 5.0 percent but is less than 6.0 percent, *or* the State's long-term insured unemployment rate equals or exceeds 4.5 percent but is less than 5.5 percent. A 5-percent period ends the last day of the second week after the first week in which the State's extended benefit indicator rate is less than 5.0 percent, *and* the State's long/term insured unemployment rate is less than 4.5 percent. However, a State must remain in a 5-percent period for at least 13 weeks.

c. *10-Weeks.* States in a "4-percent period" pay up to 10 weeks (10 times the weekly benefit amount) of FSC. A 4-percent period begins the first day of the third week after the first week in which the State's extended benefit indicator rate equals or exceeds 4.0 percent but is less than 5.0 percent. A 4-percent period ends the last day of the second week after the first week in which the State's extended benefit indicator rate is less than 4.0 percent. However, a State must remain in a 4-percent period for at least 13 weeks.

d. *8-Weeks.* States in a "low-unemployment period" pay up to 8 weeks (8 times the weekly benefit amount) of FSC. A low-unemployment period begins the first day of the third week after the first week in which the State's extended benefit indicator rate is less than 4.0 percent. A low-unemployment period ends the last day of the second week after the first week in which the State's extended benefit indicator rate equals or exceeds 4.0 percent. However, a State must remain in a low-unemployment period for at least 13 weeks.

e. *Limitations on increases and reductions in the maximum FSC payable.* The number of weeks the maximum FSC payable in a State can increase or drop after any 13 week period is limited to 2 weeks. The State must remain in the new period established (with a week designation 2 more or less than the previous period) for at least 13 weeks. Any subsequent increases or reductions are also limited to 2 weeks.

For example, a State has been in a 14-week period for 13 weeks. Its extended benefit indicator rate is below 5.0 percent and its long-term insured unemployment rate is below 4.5 percent. The State begins a new 12-week period (instead of a 10-week period) and remains in the new period for 13 weeks even though the rates are below those required for a 12-week period. After the State has been in the 12-week period for 13 weeks it can drop only to a 10-week period even if the State's insured rates are below those required for a 10-week period. It must remain at this new period for at least 13 weeks.

2. *Accounts.*

a. *Base Amount.* The SESA will establish a separate FSC account for each eligible individual to whom FSC is first payable for a week beginning after October 18, 1983. The amount of FSC in the individual's account will be the lesser of:

(1) 55 percent of the total entitlement to regular benefits (including dependents' allowances) payable to the individual with respect to the individual's applicable benefit year, or

(2) the maximum FSC benefits payable in the State for the week in which the account is established.

When 55 percent of total entitlement is not an even dollar amount, the State shall round to an even dollar amount in accordance with State law.

After an account has been established for an individual to whom FSC was first payable for a week beginning after October 18, 1983, the amount of FSC payable to that individual will not be redetermined based on any subsequent change (up or down) in the maximum FSC benefits payable in the State.

b. *Prior Exhaustees.* In the case of any account from which FSC was first payable for a week beginning after March 31, 1983, and from which all FSC benefits were exhausted in any week beginning before October 18, 1983, the SESA shall establish a new amount in such account which is payable for weeks beginning after October 18, 1983. For purposes of determining whether the week for which FSC was first payable began after March 31, 1983, the SESA shall use the beginning date of the first compensable week of FSC claimed as the first week payable. For purposes of determining whether the week for which FSC benefits were exhausted began prior to October 18, 1983 the SESA shall use the beginning date of the last

compensable week paid in which the balance in the FSC account was reduced to zero. The new amount established in such account shall be the lesser of:

(1) Three-fourths of the amount determined under subsection a, *Base Amount*, above, or

(2) 5 Times the individual's weekly benefit amount.

(Individuals who exhausted all FSC benefits prior to the first week beginning after October 19, 1983, but to whom FSC was first payable for a week beginning before March 31, 1983, are not entitled to any additional FSC benefits)

c. *Remaining FSC Balance as of the first week beginning after October 19, 1983.* Special provisions apply for determining the amount of FSC payable from an account with a remaining balance as of the first week beginning after October 19, 1983. An account shall have a remaining balance if the amount in such account is more than zero after reductions have been made for all compensable weeks beginning prior to October 19, 1983.

(1) *FSC first payable for a week beginning on or before March 31, 1983.* The amendments do not increase or reduce the amount of FSC payable from an account from which FSC was first payable for a week beginning on or before March 31, 1983. For purposes of determining whether FSC was first payable for a week beginning on or before March 31, 1983, the SESA shall use the beginning date of the first compensable week of FSC claimed. This means SESAs shall not redetermine the amount in such accounts, unless the account was not previously redetermined based on a change in the maximum payable in the State for weeks beginning prior to October 23, 1983.

(2) *FSC first payable for a week beginning after March 31—remaining balance equal to or in excess of maximum payable effective October 23, 1983.* The SESA shall not redetermine the account of any individual whose remaining entitlement to FSC for weeks beginning after October 19, 1983, is equal to or in excess of the maximum payable in the State for the first week beginning after October 19, 1983. Individuals shall be entitled to such remaining entitlement for weeks of unemployment beginning after October 19, 1983. For example, the maximum payable in a State the week beginning October 23, 1983, is 8 weeks. The week prior to October 23, 1983, the maximum FSC payable was 10 weeks. Effective October 23, 1983, an individual has a remaining FSC balance of 9 weeks (9 times the weekly benefit amount). Such individual is entitled to the remaining 9 weeks of FSC for weeks of unemployment beginning after October 18, 1983. However, such individual would not be entitled to any additional entitlement.

(3) *FSC first payable for a week beginning after March 31, 1983—remaining balance less than the maximum payable October 23, 1983.* The SESA shall increase the amount of FSC payable, as specified below, in any account from which FSC was first payable for a week beginning after March 31, 1983, if the amount remaining in such account as of the first week beginning after October 18, 1983, is less than the maximum FSC payable in the State for the week beginning October 23, 1983. However, in no event shall any increase result in an individual being entitled to more FSC for weeks of unemployment beginning after October 23, 1983. Further, in determining the maximum FSC payable for weeks of unemployment beginning after October 18, 1983, an individual is limited to 55 percent of regular benefits (including dependents' allowances) payable to the individual with respect to the individual's applicable benefit year. The amount of increase shall be the *lesser* of:

(a) Three-fourths of the maximum payable to the individual, as determined under subsection 1, above or

(b) 4 times the individual's weekly benefit amount if the State is in a 5 or 6 percent unemployment period, or 2 times the individual's weekly benefit amount if the State is in a 4-percent or low unemployment period for the first week beginning after October 18, 1983, (i.e. October 23, 1983). (This means that in 14 and 12 week States, up to 4 additional weeks are payable and in 10 and 8 week States up to 2 additional weeks are payable.)

An example of how this subsection is applied follows:

8-Week Maximum FSC Payable Beginning October 23, 1983

Individual's remaining FSC entitlement as of Oct. 23, 1983 (expressed in weeks)	Increased entitlement applicable (expressed in weeks)	FSC payable for weeks beginning after Oct. 18 (expressed in weeks)
8	0	8
7	1	8
6	2	8
5	2	7
4	2	6
3	2	5
2	2	4
1	2	3

d. *Effect of Changes in the Maximum FSC Payable in a State.* Changes in the maximum FSC payable in a State shall apply only to new FSC claims effective on or after the effective date of the change. Accordingly, the SESA shall not redetermine the account of any individual for whom FSC was first payable prior to the date the change in the maximum took effect regardless of whether the change is higher or lower than the prior maximum payable.

e. *Notice.* Each individual for whom a determination or redetermination is made shall be given a written notice of such determination or redetermination, with a notice of appeal rights.

3. *Computation of FSC payable based on a new benefit year.* During the life of the FSC program, a small number of FSC claimants may establish a new benefit year with a new entitlement to regular benefits and again become an exhaustee within the meaning of the Act. These individuals' monetary entitlement to FSC will be determined without regard to the amount of FSC they have already received based on their previous benefit years. Although the Act limits the amount of FSC payable during an individual's period of eligibility, it does not limit the number of eligibility periods an individual may have during the life of the program.

4. *Beginning of an Extended Benefit Period.* States may begin an extended benefit period after the effective date of the amendments. When an extended benefit period begins, the SESA must, before paying FSC for a week of unemployment, determine each person's eligibility for Extended Benefits, according to State law provisions relating to EB. If an individual has entitlement to Extended Benefits, such individual is not eligible for FSC. Once an individual exhausts any entitlement to Extended Benefits, the individual may receive the remaining balance in the FSC account. A new determination of entitlement to FSC is not made since the individual has the same period of eligibility upon which the original FSC entitlement was determined.

5. *Interstate Claimants*

a. *Maximum Payable.* In determining entitlement to FSC for interstate claims, the claimant will be limited to the lesser of:

(1) The maximum payable in the agent State, or

(2) The maximum payable in the liable State.

Once an FSC account has been established for the interstate claimant, the amount of FSC payable will not be redetermined unless the claimant moves to a new agent State or returns to the liable State. Any FSC account which has been redetermined effective the first

week payable after October 18, 1983, shall also not be redetermined again unless the claimant moves to a new agent State or returns to the liable State. In making the initial redetermination (see subsection 2.c.), the SESA shall follow the above "lesser" rule in determining the new amount of FSC payable for weeks beginning after October 18, 1983. The SESA shall make a redetermination effective the first week an intrastate claimant moves and establishes an interstate claim. When an interstate claimant returns to the liable State, the SESA shall redetermine the claimant's FSC entitlement based on the maximum FSC payable in the State the first week an intrastate claim is filed. The SESA shall also make a redetermination each time a claimant moves from one agent State to another agent State with an FSC maximum higher or lower than the last agent State from which the claimant was filing. The redetermination will be made based on the above "lesser" rule effective the first week the claimant files from the new agent State. However, in no case shall the SESA redetermine an interstate claimant's entitlement to FSC based solely on subsequent changes (up or down) in the maximum FSC payable in the agent or liable State.

b. *EB Limitations.* The extended benefit provisions apply to claims for and payment of FSC. (The EB provisions limit interstate claimants to 2 weeks of extended benefits if they file claims in an agent State not in an extended benefit period). The 2-week limitation applies only to claimants filing for FSC under the Interstate Benefit Payment Plan in agent States that have not entered into or have discontinued an agreement to administer the FSC program. Payment of FSC to individuals filing from such agent States is limited to 2 weeks regardless of whether or not the agent State is in an Extended Benefit Period. The 2 week limitation is applied because the agent State is not in an FSC period.

F. Effect of other Federal Programs on Eligibility for FSC

1. *Trade Readjustment Allowances (TRA).* The maximum amount of FSC payable to an individual who is also entitled to TRA shall not be reduced by reason of any TRA entitlement except as described below.

If an individual received TRA with respect to any benefit year, the maximum amount of FSC payable with respect to such benefit year shall be reduced (but not below zaro) so that (to the extent possible by making such a reduction) the aggregate amount of UI, EB, TRA, and FSC payable with respect to such benefit year does not exceed the aggregate amount which would have been payable had the individual not been entitled to any TRA.

If an individual, who is not a TRA claimant, was originally entitled to 26 weeks UI, 13 weeks EB, and the State triggered on to a 14 week FSC period, the aggregate amount payable to the individual would be 53 weeks of benefits (26+13+14=53). For a similarly situated TRA claimant, the SESA would reduce the maximum amount of FSC payable by the amount of TRA received so that the aggregate amount of UI, EB, TRA, and FSC would, for this individual, also not exceed 53 weeks of benefits.

For Example

Aggregate amount payable	UI	EB	TRA	FSC (14-weeks)
Amount Payable:				
1. Non-TRA Claimant				
53 Weeks	26	13	0	14
5300 Amount ($100 WBA)	2600	1300	0	1400
2. TRA Claimant:				
53 Weeks	26	13	13	1 (14–13)
5300 Amount	2600	1300	1300	100 (1400–1300)

The provisions of Section 233(d) of the Trade Act of 1974 (relating to reduction of FSC entitlement because of the receipt of TRA in the most recent benefit year) are no longer applicable to determinations of entitlement to FSC made with respect to weeks which begin on or after April 3, 1983. Such reduction, if applicable, would be governed by the instructions provided in Section F. 1. above.

2. *Disaster Unemployment Assistance (DUA).* An individual who is eligible for DUA with respect to a week of unemployment under Section 407 of the Disaster Relief Act of 1974 (42 U.S.C. 5177) will be eligible to receive FSC for that week and will have his/her DUA weekly benefit amount reduced by the amount of FSC received in accordance with Pub. L. 93–288.

3. *Redwood Employee Protection Program (REPP).* Receipt of weekly layoff benefits or vacation replacement benefits under the Redwood Park Expansion Act (Pub. L. 95–250) does not affect an individual's entitlement to FSC. Appropriate adjustments to such an individual's REPP benefits will need to be made in accordance with Section 207(e)(3) of Pub. L. 95–250.

G. Claims for Federal Supplemental Compensation

1. *Initial Claims.* An initial claim for FSC shall be filed by an individual with respect to the individual's applicable State and according to the applicable State law on a form prescribed by the Secretary, which shall be furnished to the individual by the State agency.

2. *Weekly Claims.* Claims for payments of FSC for weeks of unemployment shall be filed with respect to the individual's applicable State at the time and in the same manner as claims for regular compensation are filed under the applicable State law, and on forms which shall be furnished to the individual by the State agency.

3. *Secretary's Standard.* The procedures for reporting and filing claims for FSC shall be consistent with these instructions and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (*Employment Security Manual*, Part V, Sections 5000 *et seq.*).

H. Determinations of Entitlement: Notices to Individual

1. *Determination of initial claim.* The State agency shall promptly, upon the filing of an initial claim for FSC, determine whether the individual is eligible and whether a disqualification applies, and if the individual is found to be eligible, the weekly and maximum amounts of FSC payable to the individual.

2. *Determinations of Weekly Claims.* The State agency shall promptly, upon the filing of a claim for a payment of FSC with respect to a week of unemployment, determine whether the individual is entitled to a payment of FSC with respect to such week, and if entitled, the amount of FSC to which the individual is entitled.

3. *Redetermination.* The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determinations pertaining to FSC.

4. *Notices to Individual.* The State agency shall give notice in writing to the individual of any determination or redetermination of an initial claim and determinations and redeterminations of all weekly claims with respect to weeks of unemployment, and each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determinations and written notices of redeterminations with respect to claims for regular compensation.

5. *Promptness.* Full payment of FSC when due shall be made with the greatest promptness that is administratively feasible.

6. *Secretary's Standard.* The procedures for making determinations and redeterminations and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals claiming FSC shall be consistent with the Secretary's "Standard for Claim Determinations-Separation Information" (*Employment Security Manual*, Part V, Sections 6010 *et seq.*)

I. Appeal and Hearing

1. *Applicable State Law.* The provisions of the applicable State law concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to regular compensation shall apply to determinations and redeterminations of eligibility for or entitlement to FSC.

2. *Rights of Appeal and Fair Hearing.* The provisions on right of appeal and opportunity for a fair hearing with respect to claims for FSC shall be consistent with these instructions and with Sections 303(a)(1) and 303(a)(3) of the Social Security Act (42 U.S.C. 503(a)(1) and 503(a)(3)).

3. *Promptness on Appeals*

a. Decisions on appeals under the FSC Program shall accord with the Secretary's "Standard for Appeals Promptness—Unemployment Compensation" in 20 CFR Part 650.

b. Any provision of an applicable State law for advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, shall apply to proceedings involving entitlement to FSC.

J. Applicability of State Law Provisions

Except where inconsistent with the Act and the Federal-State Extended Unemployment Compensation Act of 1970, as amended, the terms and conditions of the State unemployment compensation law which are applicable to claims for and payment of regular compensation in the State, apply to the same extent to claims for, and payment of, FSC in the State. The provisions of the applicable State law which apply to claims for, and payment of, FSC include but are not limited to:

1. Claim filing and reporting,
2. Information to individuals, as appropriate,
3. Notice to individuals and employers, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to FSC,
4. Determinations, redeterminations, appeals, and hearings,
5. Disqualification, including disqualifying income provisions,
6. The Interstate Benefit Payment Plan (see also special instructions for interstate claims in Section E.5.),
7. The interstate arrangement for combining employment and wages.

K. Claimstaking Procedures

1. *Notification of Potential FSC Claimants.* The SESA will identify individuals who are potentially eligible for FSC benefits, and provide such individuals with appropriate written notification of their potential entitlement to FSC. The liable State will notify its interstate claimants of potential entitlement to FSC.

2. *Initial Claim.* When an individual files an initial FSC claim, the SESA must:

a. Review eligibility for FSC and make an initial determination of eligibility,

b. Fully inform claimant of rights and responsibilities under the Act and EB provisions,

c. Ensure that the EB provisions with respect to assessing the claimant's prospects for work, are applied,

d. Ensure the individual is registered for referral to "suitable work" as defined for EB if the individual's prospects for obtaining work in a customary occupation are not good.

3. *Notification of Responsibility.* FSC claimants must be fully informed of their rights and responsibilities under FSC. Specifically, FSC claimants must be informed of the EB eligibility requirements applicable to FSC. The SESA should follow procedures outlined in GAL 21–81. However, if the claimant receives such information prior to claiming EB, the SESA need only advise the claimant that the same requirements apply to FSC claims.

To the extent possible, SESAs should provide a notice to any potential FSC claimant prior to entering FSC status.

4. *EB Eligibility Requirements*

a. *Assessing Job Prospects.* As part of the initial claims process, the SESA must assess a claimant's job prospects. If the SESA has recently classified the claimant's job prospects as "good," or "not good," the SESA need only ascertain that the classification is still valid based on any changes in the claimant's circumstances or the local labor market. In assessing job prospects, the SESA should refer to and follow procedures in Section I of GAL 21–81 and the applicable questions and answers in GAL 22–81. Also see UIPL No. 14–81, and Changes.

b. *Applying Active Search for Work Requirements; Referral for Job Placement; Failure to Apply for or Accept Suitable Work.* The extended benefit requirements on active search for work, referral to "suitable work," and the disqualification for failure to actively seek work or to apply for or accept suitable work are applicable to claims for FSC. Section III of GAL 21–81 provides procedures for administering these provisions for FSC claimants. Also see UIPL No. 14–81, and Changes.

5. *Work Registration.* All FSC claimants whose job prospects are classified as "not good" must be registered for employment with the designated State job placement agency. Procedures should be adopted to annotate FSC claim records to insure that claimstakers know whether such FSC claimants have been registered for work and, if not, the claimstakers must refer such FSC claimants to the designed job placement staff to be registered for work. Likewise, the work registration form should be annotated to show an individual is an FSC claimant.

It is also important that UI staff correlate the job prospects classification process with the job placement staff. This will be necessary to ensure that the designated job placement agency is aware of an FSC claimant's current job prospects classification in order that claimants with poor prospects of returning to work can be referred to a wider range of job openings than those related to the FSC claimant's primary occupation.

6. *Documentation and Reporting of Referral Results.* Job placement staff must notify the claims adjudication staff in writing of:

a. Failure to respond to mailed call-in and appointment to which the claimant did not appear,

b. Refusal of referrals to suitable work, and

c. Failure to appear for a job interview or refusal of an offer of suitable work.

7. *Eligibility Review Program.* It is expected that FSC claimants who have been through eligibility review will continue to receive intensified services in this program.

L. Fraud and Overpayment.

The Act contains specific provisions with respect to fraud and overpayments of FSC benefits.

Provisions of the State law applied to detection and prevention of fraudulent overpayments of FSC will be, as a minimum, commensurate with those applied by the State with respect to

regular compensation and which are consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (*Employment Security Manual*, Part V Section 7510, *et seq.*)

1. *Fraudulent Claiming of FSC.* If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact or knowlingly has failed or caused another to fail to disclose a material fact, and as a result of such false statement or representation or such nondisclosure the individual has received an amount of FSC benefits to which the individual was not entitled, the individuals:

a. Shall be ineligible for further FSC benefits in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

b. Shall be subject to prosecution under Section 1001 of Title 18, U.S.C.

Provisions of State law relating to disqualification and benefit penalty for fraudulently claiming or receiving a payment of compensation shall apply to claims for and payment of FSC.

When a SESA has sufficient facts to make a prima facie case under the Federal Criminal Code (19 U.S.C. 1001), it will consider criminal prosecution in accordance with the provisions of Section 7560, Part V, *Employment Security Manual.* If prosecution in the Federal Courts is to be recommended, the matter will be referred to the appropriate office of the Federal Bureau of Investigation (FBI).

In those cases not referred to the FBI for prosecution, or if the U.S. Attorney declines prosecution, the SESA may and should prosecute in State Courts.

2. *Recovery of Overpayments.* Each State is authorized to require repayment from individuals who have received any payment of FSC to which they are not entitled (whether fraudulent or nonfraudulent), unless the SESA waives recovery of the overpayment. The SESA may waive recovery of a non-fraudulent overpayment not previously recovered if it determines that—

a. The payment of such FSC benefits was made without fault on the part of the individual, and

b. Requiring such recovery would be contrary to equity and good conscience.

c. In determining whether fault exists, the following factors shall be considered:

(i) Whether a statement or representation of a material nature was made by the individual in connection with the application for FSC that resulted in the overpayment, and whether the individual knew or should have known that the statement or representation was inaccurate.

(ii) Whether the individual failed or caused another to fail to disclose a material fact, in connection with an application for FSC that resulted in the overpayment, and whether the individual knew or should have known that the fact was material.

(iii) Whether the individual knew or could have been expected to know that the individual was not entitled to the FSC payment.

(iv) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any other action or omission of the individual or of which the individual had knowledge, and which was erroneous or inaccurate or otherwise wrong.

(v) Whether there has been a determination of fraud under paragraph 1 of this section or section 606 of the Act.

In the event of an affirmative finding on any of the foregoing factors, recovery of the overpayment shall not be waived.

d. In determining whether equity and good conscience exists the following factors shall be considered:

(i) Whether the overpayment was the result of a decision on appeal, and whether the State agency had given notice to the individual that the case has been appealed further and that the individual shall be required to repay the overpayment in the event of a reversal of the appeal decision.

(ii) Whether recovery of the overpayment will not cause extraordinary financial hardship to the individual, and there has been no affirmative finding under paragraph (2)(a) above section with respect to such individual and such overpayment.

In the event of an affirmative finding on either of the foregoing factors, recovery of the overpayment shall not be waived. For this purpose, an extraordinary financial hardship shall exist if recovery of the overpayment would result directly in the individual's loss of or inability to obtain minimal necessities of food, medicine, and shelter for a substantial perieod of time; and extraordinary and lasting financial hardship shall be extraordinary as described above and may be expected to endure for the foreseeable future.

In applying this hardship test in the case of attempted recovery by repayment, a substantial period of time shall be 30 days, and the foreseeable future shall be at least three months. In applying this hardship test in the case of proposed recoupment from other benefits, a substantial period of time and the foreseeable future shall be the longest potential period of benefit entitlement as seen at the time of the request for a waiver determination. In making financial hardship determinations, the State agency shall take into account all potential income of the individual and the individual's family and all cash resources available to the individual and the individual's family in the time period being considered. Notices of determination of overpayments shall include information concerining the waiver provisions of this section.

e. Determinations granting or denying waivers of overpayments shall be made only on request for a waiver determination.

f. An FSC overpayment may be recovered either by offset or repayment by the individual. The SESA will, during the three-year period after the date the individual received the payment of FSC to which the individual was not entitled, recover the amount to be repaid, or any part thereof,

(i) From any FSC payable under the Act;

(ii) From any compensation payable to the individual under any Federal unemployment compensation law administered by the SESA (UCFE, UCX, etc.);

(iii) From any benefits payable under any other Federal law administered by the SESA (DUA, REPP, AEPP, etc.) which provides for payment of any assistance or allowance with respect to any week of unemployment; and

(iv) To the extent permitted under State law, an FSC overpayment may be recovered by offset, within the three-year limitation, from benefits payable under the State unemployment compensation law.

g. No single deduction, however, may exceed 50 percent of the amount of the payment from which such deduction is made and when a deduction is made it shall be 50 percent of the amount actually payable.

h. At the end of the three-year limitation, the SESA may remove the overpayment from its accounting record. Although no further active collection efforts by the SESA are required, the SESA should maintain an administrative record during the subsequent three-year period to provide for possible collection through methods other than offset. After the subsequent three-year period, the SESA may dispose of the overpayment record.

i. Under the Act, no repayment shall be required, and no deduction shall be made, until a determination of overpayment has been made, notice

thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

j. FSC overpayment recovery shall be enforced by any action or proceeding which may be brought under State or Federal law, unless recovery of the overpayment is waived in accordance with the Act and these instructions.

Overpayments of FSC recovered in any manner shall be credited or returned to the appropriate account of the United States.

k. FSC payments shall *not* be used to offset State regular UI or EB overpayments. FSC payments shall be used to recover any existing overpayments made under any Federal unemployment benefit or allowance program administered by the SESA.

l. Determinations under this section shall be subject to the determination and appeal and hearing provisions of Sections H and I.

M. Payment to States.

Under Section 603 of the Act each State which has entered into an agreement to pay FSC will be paid an amount equal to 100 percent of the amount of FSC which is paid to individuals by the State pursuant to the agreement and in full accordance with the Act and these instructions.

Further, no payment shall be made to any State for FSC to the extent the State is entitled to reimbursement under the provisions of any other Federal law other than the Act, which shall mean and include Chapter 85 of Title 5 of the U.S.C This means that States will charge the Federal Employees Compensation Account for FSC paid to UCFE or UCX claimants.

The paying State on a combined-wage claim will pay all FSC benefits directly, and will not bill transferring States for any share of such benefits paid.

N. Records and Reports

1. *Reports.* The SESA will maintain FSC claims and payment data (including data on eligibility, disqualification and appeals) as required by the Employment and Training Administration (ETA). The SESA will report such required data as specified in instructions issued by ETA.

2. *Recordkeeping.* Each SESA will make and maintain records pertaining to the administration of the FSC program as the ETA requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary of Labor or ETA may designate or as may be required by Federal law.

O. Disclosure of Information

Information in records made and maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation and the entitlement of individuals thereto may be disclosed under the applicable State law. This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the U.S. Department of Labor, or in the case of information, reports and studies requested pursuant to section N of these instructions, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 522a) or regulations of the U.S. Department of Labor promulgated thereunder.

P. Inviolate Rights to FSC

Except as specifically provided in these instructions, the right of individuals to FSC shall be protected in the same manner and to the same extent as the rights of persons to regular compensation are protected under the applicable State law. Such measures shall include protection of claimants for FSC from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment, of their rights to FSC. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for and receiving any right to FSC.

Q. Application of "Lopez Rule"

1. In order to effectuate the purpose of the act and these instructions and to assure uniform interpretation and application of the Act and these instructions throughout the United States, a State agency shall forward, not later than ten days after issuance, to the Employment and Training Administration of the Department, a copy of any judicial or administrative decision ruling on an individual's entitlement fo FSC. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to FSC.

2. If the Department believes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or these instructions, the Department may at any time notify the State agency of the Department's view. Thereafter, the State agency shall issue a redetermination or appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or in which such decision is cited as precedent or otherwise relied upon, the State agency shall inform the claims deputy or hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

3. If the Department believes that a determination, redetermination, or decision is patently and flagrantly violative of the Act or these instructions, the Department may at any time notify the State agency of the Department's view.

If the determination, redetermination, or decision in question denies FSC to an individual, the steps outlined in paragraph 2 of this section shall be followed by the State agency. If the determination, redetermination, or decision in question awards FSC to an individual, the benefits are "due" within the meaning of Section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1), and therefore must be paid promptly to the individual. However, the State agency shall take the steps outlined in paragraph 2 of the section, and payments to the individual may be temporarily delayed if redetermination or appeal action is taken not more than one business day following the day on which the first payment otherwise would be issued to the individual; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of FSC and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than two weeks after the redetermination action is taken or the appeal is filed. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the two-week limit, or any redetermination or decision or order is issued which affirms the determination, redetermination, or decision awarding FSC or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the individual.

4. If any determination, redetermination, or decision, referred to in paragraph 2 or paragraph 3 of this

section, is treated as a precedent for any future application for FSC, the Secretary will decide whether the Agreement with the State entered into under the Act shall be terminated.

In the case of any determination, redetermination, or decision that is not legally warranted under the Act or these instructions, including any determination, redetermination, or decision referred to in paragraph 2 or paragraph 3 of this section, the Secretary will decide whether the State shall be required to restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in the absence of such restoration, the Agreement with the State shall be terminated and whether other action shall be taken to recover such sums for the United States.

5. A State agency may request reconsideration of a notice issued pursuant to paragraph 2 or paragraph 3 of this section, and shall be given an opportunity to present views and arguments if desired.

6. Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

III. Job Placement and Work Test Activities

As previously stated, the objectives of the FSC program are to make timely and accurate benefit payments, to assist in the reemployment of FSC claimants, and to apply the same work test applicable under the extended benefit program. To carry out the reemployment and work test objectives, the following requirements are being established for FSC eligibles.

A. All FSC claimants whose job prospects are classified as "not good" must have an active full registration with the designated State job placement agency. SESAs must insure that FSC claimants are registered as quickly as is administratively feasible. In all but exceptional cases, the FSC claimant should be registered by no later than the end of the second compensable week.

B. Each State agency shall establish appropriate internal mechanisms and procedures so that all FSC claimants whose prospects for work have been classified as "not good" are provided at least one reinterview for job placement assistance during the eligibility period—preferably at the outset of the period. The reinterview shall focus on:

1. reassessment of the claimant's qualifications and updating the application to reflect all revelant work experience and FSC status.

2. exposure to and referral of the claimants to all suitable job openings fitting the EB suitable work definition.

3. referral to Job Finding Club and other self-directed job search assistance projects in areas where they are operating.

C. SESAs are also to establish procedures for the prompt interchange of information for the adjudication of FSC claims issues regarding:

1. Failure to report for call-in
2. Refusal of referral
3. Failure to report for job interview
4. Refusal of job offer
5. Results of referral to suitable work
6. Able, available, and other related issues.

SESAs are to insure that the work test is applied to FSC claimants in the same manner as it is applied to EB claimants, and consistent with Section 202(a)(3) of the EUCA.

[FR Doc. 84-3054 Filed 2-2-84; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-150-C]

K & L Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

K & L Coal Company, 742 Coal Street, Treverton, Pennsylvania 17881 has filed a petition to modify the application of 30 CFR 75.902 (low- and medium-voltage ground check monitor circuits) to its No. 1 Slope (I.D. No. 36-06649) located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that low- and medium-voltage resistance grounded systems include a failsafe ground check circuit to monitor continuously the grounding circuit.

2. The mine generates 440-volt, 3-phase power with a diesel powered generator, which energizes one 20 hp sump-pump. The power conductors are #8 copper and the grounding conductor, which is continuous from the surface grounding electrodes to the underground electrical equipment, is #8 copper.

3. There are no personnel in the mine while electrical circuits are energized. There is no high voltage at the mine. There is no portable or mobile equipment in the mine.

4. Water is pumped from the mine before or after personnel are in the mine. Pump repairs are made by outside contractors and not at the mine. Since there are no personnel in the mine during pumping, there is no chance of personnel contacting the energized frames of mining machinery which might become energized through failure of the insulation, of the power conductors.

5. As an alternate method, petitioner proposes that:

a. No personnel will enter the mine while circuits are energized;

b. The pumps, which are controlled from the surface, will be locked out at the disconnect switch by the mine superintendent before personnel enter the mine; and

c. A warning sign of adequate size will be posted at the mine's entry.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1984. Copies of the petition are available for inspection at that address.

Dated: January 26, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3045 Filed 2-2-84; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-83-151-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 490, Athens, Ohio 45701 has filed a petition to modify the application of 30 CFR 75.1700 (barriers around oil and gas wells) to its Meigs No. 1 Mine (I.D. No. 33-01172), Meigs No. 2 Mine (I.D. No. 33-01173) both located in Meigs County, Ohio and its Raccoon No. 3 Mine (I.D. No. 33-02308) located in Vinton County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. Petitioner states that establishing and maintaining barriers around the

wells interferes with the maintenance of effective roof control be exposing miners to the hazards involved in the relocation of the shield supports in the longwall section.

3. As an alternate method, petitioner proposes to plug the abandoned wells with a technique developed by the U.S. Bureau of Mines, U.S. Department of Energy and the coal industry, depending upon conditions discovered upon reopening the boreholes. The plugged boreholes will then be mined through during a normal mining cycle. Petitioner will notify MSHA officials before any plugging and mining through activity is conducted; plugging and mining through operations will be conducted in the presence and under the direction of MSHA personnel as deemed necessary.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1984. Copies of the petition are available for inspection at that address.

Dated: January 26, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3042 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-149-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 490, Athens, Ohio 45701 has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (quantity and location of firefighting equipment) to its Meigs No. 1 Mine (I.D. No. 33-01172) and its Meigs No. 2 Mine (I.D. No. 33-00173), both located in Meigs County, Ohio, and its Raccoon No. 3 Mine (I.D. No. 33-02308) located in Vinton County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that one portable fire extinguisher and 240 pounds of rock dust be provided at each temporary electrical installation.

2. Petitioner states that it is impractical to store rock dust for firefighting due to the deterioration of the sacks and dust because of the wet and humid conditions in the mine.

3. As an alternate method, petitioner proposes to provide two portable fire extinguishers or one extinguisher having at least twice the minimum capacity at each temporary electrical installation.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1984. Copies of the petition are available for inspection at that address.

Dated: January 27, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-3044 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-161-C]

Tucker Hill Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Tucker Hill Coal Company, Tucker Hill, New Philadelphia, Pennsylvania 17959 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Tucker Hill No. 1 Slope (I.D. No. 36-07478) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minutes;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries by 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the alternate method proposed will at all times provide the same measure of protection for the miners as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1984. Copies of the petition are available for inspection at that address.

Dated: January 27, 1984.

Patricia W. Silvey,

Director, Office of Standard, Regulations and Variances.

[FR Doc. 84-3043 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-43-M

Wage and Hour Division

Florida Rural Legal Services, Inc., Petitioner; Proceedings To Determine Fair Value or Reasonable Cost of Facilities Furnished to Employees

Pursuant to authority in section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)), Reorganization Plan 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), Secretary's Order 16-75 (40 FR 55913), Employment Standards Order No. 78-1 (43 FR 51469), Secretary's Order 1-81 (46 FR 28048), and 29 CFR 531.4 and 531.5, the Administrator of the Wage and Hour Division, on the petition of Florida Rural

Legal Services, Inc., proposes to determine the "fair value" or "reasonable cost" of the meals, lodging and other facilities customarily furnished to the employees of: Wardell Williams, Dorothy Williams, Morrell Williams, Juanita Williams, and Brenda Williams.

The Division has decided that a hearing at which all interested parties will have the opportunity to present pertinent information is appropriate.

Opportunity will be provided for interested persons to make oral presentations of data, views, or arguments before an Administrative Law Judge appointed under 5 U.S.C. 3105, at the Twiggs Building, 700 Twigg Street, Tampa, Florida, at 1:00 p.m., March 12, 1984. Participants should report to the Office of the Chief Clerk for a specific room assignment.

Pertinent data relate to the cost of furnishing meals, lodging and other items to the employees. Data relating to lodging should include in an organized form such information as the operating expenses of the lodging furnished to the employees (gas, electric, sewage, water, etc.), the annual depreciation claimed for tax purposes, real estate taxes paid and how assessed, invoices from maintenance expenditures, numbers of employees engaged in maintenance of the lodging, and number of types of vehicles used to maintain the lodging. In addition, data should be submitted regarding the number and type of vehicles used to transport the employees to work sites, the location of the work sites and the type of products harvested and their distance from the lodging facilities.

Notice of intention to appear should be filed with the Office of Administrative Law Judges, U.S. Department of Labor, 1111 20th Street, N.W., Washington, D.C. 20036 not later than March 5, 1984, with copies served on Florida Rural Legal Services, Inc., P.O. Box 1109, Immokalee, Florida 33934 and the Office of the Solicitor, Department of Labor, 1371 Peachtree Street, N.E., Atlanta, Georgia 30367.

Interested persons may submit written data, views, or arguments pertinent to this question by mail to the Office of Administrative Law Judges, U.S. Department of Labor, 1111 20th Street, N.W., Washington, D.C. 20036. Such materials must be received not later than March 5, 1984.

All persons making oral presentations shall be subject to cross examination by counsel for Florida Rural Legal Services, inc., counsel for the above-named employer, and counsel for the Secretary of Labor. The Administrative Law Judge shall govern the course of the proceeding, hold presentations to relevant matters, govern the content of the record, have disciplinary power to exclude persons from the room where oral presentations are made, and see that the proceedings are stenographically reported and transcripts made available to persons participating upon payment of fees therefore. The Administrative Law Judge shall certify the record, together with his recommended findings, to the Administrator for consideration of all relevant matters presented and resolution of the issues.

So that all parties have an opportunity to present their arguments before the Determination is issued, exceptions to the recommended decision of the Administrative Law Judge should be filed with William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 within 30 calendar days of the Judge's decision. Responses to the exceptions may be submitted within 45 days of the date of the Judge's recommended decision.

Upon publication of this notice the above-named employer shall notify his employees of the place, date, and purpose of the hearing hereby announced by posting a copy of this notice in a conspicuous place on the premises of the facility in which his employees are housed.

Signed at Washington, D.C., this 31st day of January 1984.

William M. Otter,

Administrator.

[FR Doc. 84-3061 Filed 2-2-84; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (84-11)]

NASA Advisory Council (NAC), Life Sciences Advisory Committee; Meeting Changes

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting Changes.

SUMMARY: The agenda for the scheduled meeting on February 13–14, 1984, of the NAC Life Sciences Advisory Committee, published in the **Federal Register** on January 23, 1984, (49 FR 2835–2836), has been changed as follows:

February 13, 1984

8:30 a.m.—Opening Remarks (Open session).

9:30 a.m.—Life Sciences Program Plan (Open session).

10:30 a.m.—Status of Space Adaptation Syndrome (Open session).

11:30 a.m.—Life Sciences Space Station Plan (Open session).

2 p.m.—Space Station (Open session).

4 p.m.—LSAC Membership (Closed session).

February 14, 1984

8:30 a.m.—SL–1 Preliminary Results (Open session).

12 noon—Adjourn.

Also, the meeting will be held in the same room on both days—Room 625–T, 600 Independence Avenue, SW., Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Henry V. Bielstein, M.D., Code EB, National Aeronautics and Space Administration, Washington, D.C. 20546 (202/453–1546).

Dated: January 27, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84-2944 Filed 2-2-84; 8:45 am]

BILLING CODE 7510-01-M

[Notice 84-12]

National Environmental Policy Act; Finding of No Significant Impact

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of finding of no significant impact.

SUMMARY: The eleventh flight of the Space Shuttle (STS–41B), with a crew of five astronauts, is currently scheduled for early February 1984 from Kennedy Space Center (KSC), Florida. The objectives of this flight are to: (1) Deploy two Hughes HS–376 satellites for two communication networks (Palapa B–2 and Westar–VI); and (2) conduct research, development, and testing activities, using the properties of space, for the following payloads located either in the mid-deck or Shuttle Cargo Bay: SPAS–01A; Integrated Rendezvous Target; eight Get Away Special Experiments; Cinema 360 Camera; Monodisperse Latex Reactor (MLR); Reduction Monitoring Equipment; Isoelectric Focusing Experiment; Acoustic Containerless Experiment; Student Experiment on Arthritis; and Manned Maneuvering Unit and Other Support Equipment for Extravehicular Activity.

Several of these payload missions or similar systems were successfully flown on previous missions (e.g., SPAS–01, MLR, Hughes HS–376 satellites) and represent an effort to further develop

and enhance our research capabilities and knowledge of the space environment. None of the payloads utilize significant quantities of hazardous materials or involve high-risk operations.

Two major alternatives to the Proposed Action were considered as reasonable approaches to achieving the payload mission objectives. These included the use of Expendable Launch Vehicles (ELV Alternative) and terrestrial systems (No-Action Alternatiye). Because of technical and operational constraints, many of the proposed missions on STS–41B could not be achieved under the two alternatives.

Under the ELV Alternative, several of the automated missions, such as satellite deployment and small research missions, could be achieved. For the No-Action Alternative, virtually all of the research missions would have to be abandoned with the exception of communications-related missions.

The results of this assessment indicate that the launch vehicle impacts would essentially eclipse those associated with the payloads. Previous environmental studies addressing launch vehicle operational impacts (i.e., the Space Shuttle and ELV's) have been incorporated into this assessment and are summarized briefly here.

During the launch phase of the Shuttle from KSC, hydrogen chloride (HCL) will be introduced into the stratosphere causing a small decrease in ozone. Temporary perturbations to the ionosphere will occur from the orbital maneuvering system firings and propellant dumps as well as during entry. As the orbiter descends, a low magnitude sonic boom will be produced along the groundtrack with the maximum overpressure occurring near the landing site at KSC, Florida. The sonic boom will effect approximately 500,000 people in a 60 kilometer x 120 kilometer area. The maximum overpressure will be 101 newtons/square meter over a 161 square kilometer area. The boom will expand the entire width of the state and will be audible as far north as Orlando and as far south as Sarasota. The overpressures are temporary and, in most cases, in the range of nuisance or annoyance. Effects of sonic booms on humans, animals, and marine life are expected to be limited to startle responses. Non-primary structures or buildings may sustain minor damage at overpressures ranging from 48 to 144 newtons/square meter.

The alternate landing site is Edwards Air Force Base. Based on orbiter landings at this latter site on earlier missions, there have been no significant environmental impacts associated with the orbiter reentry. The maximum population affected by a sonic boom is about 50,000 in a sparsely populated region northwest of Los Angeles, California. Experiments on the effects of sonic booms indicate that wildlife reaction up to 300 newtons/square meter do not involve frantic or panic reaction. Several species specific studies on the effect of impulse noise (similar to that produced by the Shuttle) indicate little effect on physiology, reproduction, or nesting behavior.

From the perspective of payload, ground, and flight operations, no significant long-term, adverse impacts are anticipated under the Proposed Action. Specific findings of this analysis with respect to the payloads include:

Socioeconomics. Employment levels associated with payload manufacture, support, and servicing would be relatively small and geographically dispersed in comparison with launch vehicle systems. Of greater significance are the potential social (e.g., education, technology spinoffs) and customer (e.g., cost savings, research knowledge gains) benefits anticipated under the Proposed Action. With the use of alternative launch vehicles or ground-based systems, many of these benefits would be markedly reduced or eliminated.

Space Quality. The present and future orbital debris population in Low Earth Orbital (LEO) and Geostationary Orbit (GEO) was analyzed to determine the collision probability of orbital debris with operational payloads. For the Proposed Action, the only measurable long-term impact from these payload missions is the addition of two expendable Propulsion Assist Module (PAM) Solid Rocket motors and two communications satellites (after completion of the 8 to 10-year mission life) to the debris population. Under the ELV Alternative, the Delta's second stage would be an additional debris source.

In both LEO and GEO, on-orbit collisions will adversely affect future space operations by increasing the likelihood of additional collisions and presenting a failure mechanism for operating spacecraft. While the threat to space operations from the debris population is not yet severe, continued use of space without regard to the consequences of populating the environment with additional objects may have a significant and adverse effect on space operations over the next 30 years. Programs to control the rate of debris deposition represent the most effective, near-term alternative to controlling the debris hazard.

Air, Land, and Water Quality. The payload environmental effects on air, land, and water quality from payload manufacture through post-flight processing are expected to be negligible. Sources of these effects include payload manufacture (waste products from primary production and assembly operations); launch site processing and testing; and post-flight reprocessing (e.g., venting, purging, and cleaning operations). Adherence to regulatory and safety practices and procedures would limit the impact to air, land, and water quality from the storage, release, or use of materials and/or wastes.

Noise. Noise effects from payloads are expected to occur in association with payload manufacture and launch site pre- or post-processing activities. Relative to other noise sources and levels, these sources should not cause a disturbance or annoyance to the general public. Occupational-type noise, together with road traffic noise, are the two major noise sources that affect people. Occupational safety and health regulations limit worker exposure over a period of 8 hours to a sound level of less then 90 dB_A. Engineering controls and safe practices serve to protect worker health. No adverse noise impacts are anticipated from payload manufacture or launch site operations.

Ecological Resources. Based on the results of the analyses performed relative to the potential for waste steam generation from payload activities, no long-term or cumulative effects are predicted on flora or fauna. Most of these effects are traceable to the manufacturing process and, on a per payload basis, are negligible. Direct impacts on endangered or threatened species and critical habitat are not anticipated because of the small quantities of waste or low risk associated with the payload manufacturing and operational cycle.

Health. Public and occupational health effects are not anticipated to be significant. Payload, ground, and flight operations involving hazardous emissions or operations are controlled and minimized to protect the life and safety of crew and employees through the use of safety design and operational procedures.

Resources Use. Natural and cultural resource commitments are insignificant when compared to national data bases. Shuttle-related energy and material demands are significantly larger than payload commitments. Generic estimating techniques indicate that total energy commitments will require about 750×10^9 Kilojoule (kJ) and 6×10^9 kJ for a Shuttle launch and satellite payload.

respectively. Relative to the total U.S. energy consumption of 84×10^{15} kJ, these demands are insignificant. Material commitments also are negligible on a national scale and primarily involve steel, aluminum, composites, titanium, and solid and liquid propellants.

Accidents. Under worst-case scenarios, some payloads and payload operations could result in damage to the Space Transportation System equipment or personnel. The probability and severity of these events, however, are reduced or eliminated with appropriate hazard controls.

Differences between the Proposed and Alternative Actions' environmental effects are not significant. The most noteworthy differences involve the reduced benefits to society and STS customers because of the more limited capabilities and services offered by alternative launch systems or ground-based systems. Reductions in environmental effects also would be commensurate with the number of missions that would have to be abandoned with the ELV Alternative; additional space debris would be generated over the Space Shuttle option for a given mission. The space debris issue is present regardless of the alternative examined and will require further monitoring and evaluation during the next decade.

SUPPLEMENTARY INFORMATION: The environmental assessment for this proposed project was completed by the National Aeronautics and Space Administration in January 1984.

Conclusion

The Shuttle launch of the STS-41B payloads will not result in any significant adverse environmental impacts. No environmental impact statement is required for this launch.

EFFECTIVE DATE: February 3, 1984.

ADDRESS: National Aeronautics and Space Administration, Code MCP, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Don Turner (202) 453-2400.

Dated: January 31, 1984.

John W. Boyd,

Associate Administrator for Management.

[FR Doc. 84-3057 Filed 2-2-84; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office Building, 1100 Pennsylvania Ave., NW., Washington, D.C. 20506:

Date: February 23-24, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications in the field of American Studies submitted to the Reference Works Program: Editions, Division of Research Programs, for projects beginning after July 1, 1984.

Date: February 23-24, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 316.
Program: This meeting will review applications submitted for the Elementary and Secondary Education Program, Division of Education Programs, for projects beginning after January 1984.

Date: February 23-24, 1984.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Special Projects/Youth Programs, Division of General Programs, for projects beginning after July 1, 1984.

Date: February 27, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications in the field of History submitted to the Reference Works Program: Research Tools, Division of Research Programs, for projects beginning after July 1, 1984.,

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency be grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552 of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-9322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84-3005 Filed 2-2-84; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Programs; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Polar Programs.

Date and Time: February 21-22, 1984, 9:00 a.m.-5:00 p.m. February 23, 1984, 9:00-12:00 noon.

Place: Room 642, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550 (Room to be announced for February 23).

Type of Meeting: Closed—February 21 (all day). Open—February 22 (all day) and February 23 (9:00 a.m.-12:00 noon).

Contact Person: Dr. Edward P. Todd, Division Director, Division of Polar Programs, Room 620, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357-7766.

Purpose of Committee: Serves to provide expert advice to the U.S. Antarctic Program and the Arctic Program, including advice on polor operations support, budgetary planning, polar coordination and information and science programs.

AGENDA:

February 21—Review of Polar Earth Sciences Program

February 22:

—Review of multidisciplinary/multi-institutional research with special reference to the arctic

—Discussion of mail versus panel review of proposals

February 23—Committee Discussion on next meeting and future business

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt materials that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within

exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Office pursuant to provisions of section 10 (d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

Summary Minutes: May be obtained from Contact Person.

Dated: January 31, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–3008 Filed 2–2–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for PCM Subpanel on Genetic Biology; Meeting

In accordance with the Federal Advisory Panel Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Genetic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and Time: February 22–24, 1983, 9:00 a.m.–5:30 p.m.

Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Philip Harriman, Program Director, Genetic Biology Program, Room 329, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–9687.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: January 31, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–3006 Filed 2–2–84; 8:45 am]

BILLING CODE 7555–01–M

Subpanel on Molecular Biology, Group B, of the Advisory Panel for the Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Biophysics/Biochemistry Programs, Group B, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: February 27 and 28, 1984, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Mary E. Kirtley, Program Director, Biochemistry Program, Room 329, National Science Foundation, Washington, DC 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in Biophysics/Biochemistry Programs.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a propriety or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exemptions (4) and (6) of 5 U.S.C. 552B(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Office pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 31, 1984.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 84–3007 Filed 2–2–84; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Reports, Recommendations and Responses

Reports Issued:

Railroad Accident Report: Derailment of Amtrak Train No. 820 (The Crescent) on Southern Railway System Track, Rockfish, Virginia, April 3, 1983 (NTSB/RAR–83/10) (NTIS Order No. PB83–916310).

Aircraft Accident Report: A. E. Staley Manufacturing Company, Inc., Canadair Challenger CL–600, N805C, Hailey, Idaho, January 3, 1983 (NTSB/AAR–83/05) (NTIS Order No. PB83–91045).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Recommendations to:

Federal Aviation Administration: Jan. 6: A–84–1: Issue an Emergency Airworthiness Directive applicable to Bellanca Aircraft Models 14–19–2, 14–19–3, 14–19–3A, 17–30, 17–31, 17–31TC, 17–30A, 17–31A, 17–31 ATC, CH, CH–300 Pacemaker, 300–W Pacemaker, CH–400 Skyrocket, E. Pacemaker, F. Skyrocket, 14–9, 14–9L, 14–12F–3, 14–13, 14–13–2, 14–3–3, 14–13–3W, and 31–42 Pacemaker requiring an immediate inspection of the wing structure; this inspection should include wing removal/ disassembly and/or removal of lower wing straps and bolts as necessary to assure prompt, positive detection of decay in the wing spars of these airplanes. *A–84–2:* Reevaluate AD 76–08–04, AD 76–20–07, and Bellanca Service Letter No. 87A in conjunction with the manufacturer. Supplemental inspection methods or techniques should be incorporated in these requirements as necessary to provide for a routine inspection of the Bellanca airplanes' wing structure. The inspection should be able to be performed reliably even by maintenance personnel who do not specialize in wood construction. *A–84–3:* Emphasize on a recurrent basis in Advisory Circular No. 43–16, General Aviation Airworthiness Alerts, inspection methods, techniques, and information to assist in detecting deterioration of wooden components in aircraft.

Governor of Alaska: Jan. 20: P–84–1: Through the Alaska Pipeline Commission and the Alaska Public Utilities Commission, encourage and assist municipalities where underground facilities exist to develop and implement a one-call excavation notification and damage prevention system for all areas of the State where underground utilities are located. *P–84–2:* Request the Alaska State Legislature to enact legislation requiring persons excavating or discharging explosives near underground utilities to notify operators of public utilities in advance using a one-call notification system where it is established.

Anchorage Area Utility Association: Jan. 20: P–84–3: Encourage and assist operators of underground facilities, the State legislature, and the municipalities within the State of Alaska in the development and implementation of a one-call excavation notification and damage prevention system for all areas of the State where underground utilities are located.

Enstar Natural Gas Company: Jan. 20: P–84–4: Encourage other operators of underground facilities to join in the establishment of a one-call excavation notification and damage prevention system in its area of operation and assist in its implementation.

Norfolk and Portsmouth Beltline Railroad Company: Jan. 20: R–84–1: Provide training and reference materials to rail yard employees responsible for the repair of rail

cars containing hazardous materials so that they are familiar with the potential dangers posed by these materials. *R–84–3:* Establish procedures by which rail cars containing regulated hazardous materials will be repaired only after the hazards associated with the cargo are ascertained, and upon a determination by a responsible official that the repairs can be made safely. *R–84–3:* Establish guidelines or recommend procedures which describe immediate actions to be taken and the organizations to be contacted for assistance in all types of hazardous materials emergencies.

U.S. Coast Guard: Jan. 24: M–84–5: Provide written guidance to U.S. Coast Guard inspectors regarding the inspection of vessels over 20 years of age, including specific structural gauging, equipment renewal, and testing requirements. *M84–6:* Require that structural gaugings of vessels be conducted at 2-year intervals after a vessel reaches 20 years of age. *M–84–7:* Provide written guidance to U.S. Coast Guard inspectors specifying their responsibility for the inspection of items, such as the weathertightness of hatch covers, that have been delegated to the American Bureau of Shipping under the Load Line Regulations. *M–84–8:* Evaluate the design of the bilge pumping systems in the cargo holds of U.S. flag bulk carriers in the coal trade similar to the MARINE ELECTRIC to determine if the systems are compatible with the cargo, and require modifications if necessary to those vessels which do not comply with U.S. Coast Guard regulations (46 CFR 56.50–50) that they may be operable under "all practicable conditions."

American Bureau of Shipping: Jan. 24: M–84–9: Require that structural gaugings of vessels be conducted at 2-year intervals after a vessel reaches 20 years of age. *M–84–10:* Require that steel weatherdeck hatch covers be gauged at all special surveys. *M–84–11:* Require its surveyors to examine hatch covers for wastage during all annual load line surveys.

Federal Communications Commission: Jan. 24: M–84–12: Require a design change to the MARTECH Whaler EB–2BW Emergency Position Indicating Radio Beacon to improve its maintainability and reliability.

El Paso Natural Gas Company: Jan. 17: P–83–31: Review periodically the maintenance records of its compressors and other machinery in critical service to detect in a timely manner potential problems and determine the cause(s) of equipment malfunction so that appropriate corrective action can be implemented. *P–83–32:* Include in its Maintenance and Operations Manual torquing specifications for machinery in critical service as well as the correct sequence of bolt tightening, and prohibit the practice of tightening bolts under pressure. *P–83–33:* Instruct and test its maintenance personnel in the correct method of tightening head nuts and bolts on machinery in critical service, emphasizing the importance of the correct use of torque wrenches and of uniformly tightening these fittings in the prescribed sequence. *P–83–34:* Revise its Emergency Plant Plan to describe the various potential emergencies, to explain the intended use and operation of the emergency shoutdown and blowdown facilities, and to delineate the circumstances under which they should be activated. *P–83–35:* Train, drill, and test employees periodically in the execution of the Emergency Plant Plan. *P–83–36:* Install emergency blowdown system activators for compressor plants A and B so that they can be operated from at least two plant exits. Incorporate within its emergency plans for its Blanco Plant and other plants the use of emergency response resources, such as the Bloomfield Volunteer Fire Department, and familiarize each with the layout and firefighting facilities of applicable plants.

American Gas Association and Interstate Natural Gas Association: Jan. 17: P–83–38: Notify its member companies of the circumstances of the accident in Bloomfield, New Mexico, on May 26, 1983, and urge them to emphasize to their maintenance employees the importance of bolt tightening procedures, the correct sequence of bolt tightening, and the hazards of tightening bolts under pressure. *P–83–39:* Urge its member companies to review their Emergency Operations for clarity and specificity and to train, drill, and test their employees on their knowledge of these procedures. *P–83–40:* Advise its member companies to coordinate and cooperate with local fire and emergency agencies along their systems to allow them to become familiar with company facilities and to provide facility maps to these agencies in order that rapid, efffective response can be made in emergency situations.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses from:

Aviation—*Federal Aviation Administration: Jan. 4: A–82–163 and –65:* A joint Aviation/Industry Landing and Takeoff Performance Task Group will be making recommendations that the FAA will consider in initiating necessary policy and/or rulemaking projects concerning requirements that manufacturers of transport category airplanes provide data for operators regarding takeoff and landing performance. *A–82–168:* FAA and National Aeronautics and Space Administration have an Aircraft/Ground Vehicle Runway Friction Program to determine if aircraft and ground friction measurement devices can be correlated. *Jan. 17: A–80–36 and –37:* Previous information supplied to the FAA by the Board indicates that between the years 1968 through 1980 there were 6 of 696 scheduled 14 CFR Part 135 air carrier accident/incidents where a crew member was age 60 or older. Does not believe that these limited data alone are sufficient justification to continue efforts in the area of age limitations for pilots beyond those that have taken place. *Jan. 20: A–82–72 and –73:* Believes that Change 1 to Order 8430.1C, to be issued in March or April, will address the intent and concerns of the recommendations concerning the accessibiltiy and location of fire extinguishers in passenger compartments and aircraft in commuter service. *Jan. 20: A–83–67 through –69:* Air filter failures are more related to operating conditions and the environment than to time in service or hours of operation. Will publish information on carburetor air induction system filters in the General Aviation Airworthiness Alert Advisory Circular (AC 43–16) to be published in Alert No. 66 dated January 1984.

Highway—*State of Texas: Dec. 7: H–81–40:* Intends to adhere to the current D–7 code as prescribed by the United States Standards Institute for Highway Traffic Safety regarding tire tread.

State of Texas, Lieutenant Governor: Jan. 3: H–83–49 and –50: Is forwarding recommendations concerning child passenger safety to Senator Carl Parker.

State of New Jersey Department of Law and Public Safety: Dec. 38: H–83–52: Has an aggressive public information campaign to inform citizens in the proper use of child restraints through informational brochures and posters which are available in obstetrician and pediatrician offices, hospitals, health care centers, shopping centers, municipal offices, schools, car dealerships, toll booths, etc. Has public service announcements regarding child restraints on New Jersey's 33 radio stations. Office of Highway Safety has produced a film, "The Safety Connection—Safety Belts" for television. Is conducting statewide child restraint workshops to emphasize the new statute and to insure that child restraints are being used properly.

State of Pennsylvania Department of Transportation: Dec: 29: H–83–52: Is implementing a public information education program regarding child restraints. Will train state and municipal police regarding enforcing the law and on the proper use of child safety seats. Will inform hospital personnel and pediatricians to encourage their patients to use child safety seats and to emphasize the importance of properly installing the seats.

State of California Office of Traffic Safety: Dec. 27: H–83–51: Has provided a grant to the California Highway Patrol for a statewide public information campaign emphasizing California's child restraint law, its requirements, and methods of compliance. The California Child Passenger Safety Association conducts a variety of child passenger safety activities. The Los Angeles Child Passenger Safety Association has developed a slide presentation about the proper use and installation of child safety seats.

State of California Department of Education: Jan. 5: H–83–67: Recommendation concerning retrofitting certain schoolbuses with Federal Motor Vehicle Safety Standard 222 approved seat and restraining barriers is being forwarded to the Highway Patrol for response.

State of California Department of Motor Vehicles: Jan. 3: H–83–65 and –66: The statement on applications for class 1 and 2 motor vehicle operator's license regarding physical qualification for driving is required to be answered at the time of each license

renewal, at four-year intervals. Prior to 1976, a medical report was required at every renewal of a class 1 or 2 license, but a study determined that the requirement was not cost-effective because so few unacceptable reports were made.

State of Montana Board of Public Education: Dec. 29: H–83–46 through –48: Is working with the highway patrol to improve schoolbus inspections. Does not have uniform maintenance requirements for schoolbuses. Local school districts have complete control over school activity trip vehicles. Some schools use over-the-road coaches and standard vans, and under current laws and policies inspection of these vehicles is not required. Would be difficult to institute more extensive quality control procedures without the use of costly certified mechanics. Legislation would be needed to require that certified schoolbuses are used for activities. Will consider the requirement for a second fire extinguisher in the rear of each schoolbus. *H–83–39 through –41:* Permits the use of conventional four-wheel drive vans and suburbans to transport children to and from school and school activities. Local school districts have complete control of activity trips. Schoolbus drivers are not required by law or State policy to wear safety belts. Office of Public Instruction will work for a policy requiring all passengers in small schoolbuses to wear safety restraint systems and requiring all schoolbus drivers to wear safety belts.

State of Oregon: Dec. 21: H–83–52: Information about the proper use of safety seats will be part of the public education process for the State's child passenger safety law.

State of New York: Jan. 3: H–83–51: Plans to augment its existing public information program for occupant restraints with a variety of new materials which, among other issues, will address proper use of child restraints.

State of West Virginia: Jan. 4: H–83–51: Recommendations concerning the misuse of child safety seats will be forwarded to the 40 child safety seat loan programs located throughout West Virginia. Information on misuse will be included in a manual which is planned for development by the Health Education office of the Department of Health and the State Highway Safety Office. Will highlight misuse in all aspects of the Occupant Protection Program in its public information endeavors.

State of Florida: Jan. 13: H–83–51, which recommended that the State include, as part of a statewide child passenger safety program, public information and education activities specifically aimed at combating misuse of child safety seats: The Highway Patrol has been issuing citations and making arrests in regard to the child restraint law.

State of Colorado, President of Senate: Jan. 12: H–83–52: Has a public education program regarding the use of child safety seats.

State of Washington: Jan. 12: H–83–52: Programs designed to make new and expectant parents aware of the serious nature of the problem, to increase their perception of risk, to inform them of the benefits of using child safety seats and safety belts, to educate them in the proper use of using child safety seats and safety belts, and to educate them in the proper use of passenger protection devices have been incorporated into prenatal classes, new parent programs, hospitals, health departments, and early childhood education programs. Educational programs also have been developed for children, ages 2–5, to encourage them to develop the good habits of child safety seat and safety belt use and the sharing of the "buckle-up" message to friends and families.

State of Maryland: Jan. 13: H–83–52: The Motor Vehicle Administration and the Maryland State Police have been designing a public information program for the public and law enforcement agencies on responsibilites and enforcement of the State's child passenger safety restraint law. A seminar was held for State law enforcement agencies to inspect the various restraints available and their attachment into various vehicles. Department of Health and Mental Hygiene has a program for safety seats aimed at new mothers and conducted through the health clinics and obstetric units in hospitals.

State of Kansas: Jan. 13: H–83–51: The Kansas University Medical Center in Kansas City is conducting research to evaluate the effectiveness of seat restraint programs in the State. The Department of Transportation distributes posters, handouts, fact sheets, pamphlets, tent cards, films, and audio/visual kits regarding child safety seats at or through county health departments, day care centers, county extension services, the Kansas Department of Health and Environment, schools, shopping malls, PTA meetings, and the news media. Safety specialists conduct demonstrations at schools, seminars, and other events.

Nissan Motor Corporation in U.S.A.: Jan. 6: H–83–60: The instructions and illustrations for use of the Nissan Child Safety Seat seem to be sufficiently clear to avoid misunderstandings and misuse. However, after a careful review of illustrations, we note that the rear-facing installation shows the shoulder straps throught the upper guide holes. While this is technically possible for a tall infant, the more likely situation is to have the shoulder straps through the lower guide holes with the seat rear-facing. We will change these illustrations in future printings to reflect the more usual routing. *H–83–61:* Permanent labels with appropriate installation diagrams are attached to the seat. The diagrams illustrate correct vehicle seatbelt routings, shoulder strap routings, and recline positions for forward and rear-facing positions. Does not expect damage or deterioration of label because it is on the seat back.

International Association of Chiefs of Police, Inc.: Jan. 12: H–83–62 and –63: Recommendations to coordinate and promote the development of training programs for State and local law enforcement officers on the use and misuse of child safety seats and to promote the use of statewide traffic accident data systems to collect and analyze specific data identifying the use and misuse of child safety seats and safety belts in motor vehicles involved in accidents will be included on the agenda of the next meeting of the Highway Safety Committee.

Volvo North American Car Operations: Jan. 3: H–83–60 and –61: The directions for the Volve Child Safety Cushion are straightforward, easy to read and understandable. A permanently affixed instruction label can be found on the back of every child cushion sold in North America. Is not aware of any customer complaints regarding the ambiguity of instructions or of misuse problems. Is investigating the necessary modifications required for making the Volvo Child Safety Seat available in the United States. The Volvo Owner's Manual has a section on child safety seats.

Federal Highway Administration: Jan. 23: H–76–13: The National Bridge Inspection Standards (23 CFR 650.3) were modified in May 1979 to extend both the Highway Bridge Replacement and Rehabilitation Program and the inventory, inspection, and evaluation criteria to all highway bridges on public roads.

Marine—*State of Florida Department of Natural Resources: Dec. 30: M–83–76 and –77:* The Florida Marine Patrol has proposed legislation regarding alcohol abuse related to boating accidents.

U.S. Coast Guard: Jan. 6: M–83–69: Is strengthening boating safety courses with regard to alcohol abuse in cooperation with the National Association of State Boating Law Administrators (NASBLA), and is encouraging greater participation in these course through Federal financial assistance. The National Safe Boating Council will address the public at large on the risks involved in drinking and boating in its 1984 and 1985 Safe Boating Week campaigns. The 1984 National Boating Education Seminar will serve as a forum to emphasize the problem of alcohol and boating safety and encourage improvements to educational materials. The National Boating Safety Advisory Council will review the safety problems posed by boaters' use of alcohol and is also expected to propose new initiatives. NASBLA is drafting a model State statute addressing boat operation while intoxicated. The Coast Guard will foster adoption of an agreed-upon model State statute through its coordinating role under the Federal Boating Safety Act. *M–83–70:* With the NASBLA, will review the boating accident report form to consider adding data elements dealing with alcohol, perhaps for use only in cases where the form is prepared/reviewed by law enforcement officials. Statistically valid data on this subject cannot be obtained using a self-reporting system. Will foster improved accident investigative procedures which will make investigators more aware of the potential contributions of alcohol to accidents. *M–83–71:* The Coast Guard Auxiliary will incorporate information on the effects of alcohol with course material on hypothermia. Intends to make alcohol abuse education a priority subject for the award of financial assistance to national nonprofit public service organizations. *Jan. 3: M–83–60:* Does not have a history of expansion joint failures that would justify a requirement for periodic renewal of these joints. Specific inspection guidelines will be published in the Coast Guard Marine Safety Manual to emphasize the importance of thorough

external and internal inspections of nonmetallic joints. *M–83–61:* Volume II (Material Inspection) of the Marine Safety Manual is being revised to contain a new section on nonmetallic expansion joints. Included in the change are guidelines for visual examinations of nonmetallic expansion joints including requirements for internal examinations.

State of Wisconsin: Jan. 11: M–8376 and –78: Law requires coroner to test for alcohol content the blood of a person who dies in a boating accident.

State of Colorado: Jan. 3: M–83–76 and –78: Legislation has been drafted that will define the level of legal intoxication for recreational boat operators and provide for chemical testing of a suspected intoxicated operator's breath of blood. Toxicological tests are called for in the event of a recreational boating fatality.

District of Columbia Office of Policy and Program Development: Dec. 27: M–83–76 and –77: Existing statutes prohibit boat operators from consuming alcoholic beverages to excess, but do not specify a blood alcohol content level for impairment. Is exploring alternative ways of strengthening laws, either by direct reference to intoxication language already used in motor vehicle legislation, or some other means of accomplishing the desired result.

State of Texas Lieutenant Governor: Jan. 10: M–83–76 and –77: The Parks and Wildlife Department states that legislation requiring toxicological tests on all boat-related fatalities would be helpful in accurately defining the problem of alcohol abuse in recreational boating accidents. There is a State statute prohibiting the operation of a motorboat while intoxicated. It would enhance enforcement efforts if legislation were adopted that would require a chemical test of blood, breath, or urine, if a boat operator is suspected of being intoxicated.

Research and Special Programs Administration: Jan. 13: M–81–40: A centerline stowage requirement for containerized dangerous cargo would not be practicable because (1) the accident that prompted the recommendation appears to be an isolated incident because no similar occurrences are known; (2) new restrictions in addition to the location and separation requirements already imposed by 49 CFR Part 176 would increase the frequency of rescheduling of incompatible shipments and the associated risks and costs of delayed shipments; (3) cargo is loaded considering ease of offloading at intermediate ports, and additional repositioning required at such ports might further exacerbate the risk of damage; and (4) smaller ports, not possessing equipment for full access to all ship cargo locations, might be precluded from handling centerline cargoes. Also, the potential for shipboard contamination and explosion caused by accidental spills amidships must be weighed against risk factors associated with overboard spills.

Triangle Fleeting Corp. (Chairman of the New Orleans Port Safety Council): Jan. 9: M–82–12: As a result of the Safety Board's recommendations, the Federal Communications Commission (FCC) has greatly increased its maritime radio enforcement activities in the New Orleans Port area. Local FCC personnel have visited virtually every barge fleeting company between Baton Rouge and below New Orleans to educate the maritime radio users and to ask them to use the low power setting when talking within their fleets. Although a mobile van is now stationed permanently in New Orleans to monitor radio misuse and abuse and has resulted in a drastic improvement in compliance with maritime radio use regulations, the van cannot monitor overpowering abuse, and a van for such monitoring is needed.

Pipeline—*Interstate Natural Gas Association of America: Jan. 20: P–83–38 through –40:* Notified its members of the circumstances of the accident in Bloomfield, New Mexico, on May 26, 1983, and urged them to (1) emphasize to their maintenance employees the importance of bolt tightening procedures, the correct sequence of bolt tightening, and the hazards of tightening bolts under pressure; (2) review their Emergency Operations for clarity and specificity and to train, drill, and test their employees on their knowledge of these procedures; and (3) coordinate and cooperate with local fire and emergency agencies along their systems to allow them to become familiar with company facilities and to provide facility maps to these agencies in order that rapid, effective response can be made in emergency situations.

Railroad—*Illinois Central Gulf Railroad: Jan. 9: R–81–74:* Will modify its operating procedures between Laurel Street and Kansas City Junction, Springfield, Illinois.

Commonwealth of Pennsylvania: Jan. 3: R–83–44 and –45: The Pennsylvania Public Utility Commission advised all presidents of railroads under the Commission's jurisdiction to strictly enforce all prohibitions concerning the use of drugs and alcohol by railroad employees and to provide the Commission a report detailing their company's efforts to prevent problems in this area. The Commission supports the Federal Railroad Administration's efforts to establish uniform, national drug and alcohol standards.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
January 31, 1984

[FR Doc. 84–3031 Filed 2–2–84; 8:45 am]
BILLING CODE 7533–01–M

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Final notice of modification to existing system of records.

SUMMARY: The purpose of this document is to publish final notice of a records system description change to Postal Service system USPS 050.020, Finance Records—Payroll System which has recently appeared for public comment in the **Federal Register.**

EFFECTIVE DATE: February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, USPS Records Office, (202) 245–5568.

SUPPLEMENTARY INFORMATION: On December 15, 1983, the Postal Service published in the **Federal Register** (48 FR 55790) advance notice of a proposal to add a temporary routine use to Postal Service system USPS 050.020, Finance Records—Payroll System. Interested persons were invited to comment on the proposed temporary routine use. No comments were received. No changes in the advance temporary routine use modification are being made. Final notice of this temporary routine use and the system to which it applies follow:

USPS 050.020

System Name:

Finance Records—Payroll System

"28. (Temp.) To provide to the Department of Education, home address information on former postal employees for the purposes of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Education and for taking subsequent actions to collect those debts. (Note: this routine use will be in effect for a period of one year ending (one year from date of publication)."

A complete statement of the revised system appears below:

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees and postmaster relief/replacement employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding, allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003, 5 U.S.C. 8339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.

2. To provide information to USPS Management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection committee and Regional Postmasters General.

3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C., Section 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployement Offices at the request of separated USPS employees.

4. Employee Address File—For W–2 tax mailings and Postal mailing such as Postal Life. Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FI (SS Tax) Deduction—To SS Administration as record of earnings under the SS act for all casual employees not under retirement.

7. Determine eligibility for coverage and payments of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of Individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service competition date, retirement system, and FEGLI status) for use by OPM's Compensation Group collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the

active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

26. (Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania, School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendances/payment files. (Note: this routine use will be in effect for a period of one year from its effective date.)

27. To union-sponsored Insurance carriers for the purpose of determining eligibility for coverage and payments of benefits under union-sponsored, nonfederal insurance plans and transferring related records as appropriate.

28. (Temp.) To provide to the Department of Education, home address information on former postal employees for the purposes of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Education and for taking subsequent actions to collect those debts.

Note—this routine use will be in effect for a period of one year ending February 3, 1985.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

Records are retained and updated throughout employment with the Postal Service. Upon separation records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records Center nearest the pay location.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Finance Department and APMG, Employee Relations Department at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84–3025 Filed 2–2–84; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 13737; 811–3208]

Alpha Cash Management Fund, Inc.; Application

January 27, 1984.

Notice is hereby given that Alpha Cash Management Fund, Inc. ("Applicant") Suite 500, Two Piedmont Center, NE., Atlanta, Georgia 30363, registered under the Investment Company Act of 1940 ("Act") as a no-load, open-end, diversified management investment company, filed an application on October 20, 1983, and an amendment thereto on January 17, 1984, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it filed its notification of registration and registration statement under the Act on June 19, 1981. Applicant represents that on August 19, 1983, its Board of Directors resolved to cease all further sales of Applicant's stock effective August 31, 1983, thereafter to pay all dividends to the stockholders in cash, and that when the number of stockholders became fewer than one hundred, the appropriate officers of Applicant were authorized to file an application for deregulation of Applicant under the Act. Applicant represents that it is no longer offering any shares of its stock for sale to any investors.

According to the application, Applicant is not subject to the registration requirements of the Act by virtue of Section 3[c](1) thereof because its outstanding securities are beneficially owned by fewer than 100 persons and it does not propose to make a public offering of its securities. Applicant states that except for ordinary processing of redemption requests and the payment of accrued dividends, there have been no transfers of Applicant's assets to its stockholders or to any separate trust the beneficiaries of which are or were securityholders of Applicant. Finally, Applicant states that no final decision to liquidate or dissolve Applicant has been made, thus there is no present plan for the distribution of Applicant's assets to its stockholders, other than the normal response to redemption requests.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3062 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13740; 812-5711]

American Balanced Fund, Inc., et al.; Filing of Application

January 27, 1984.

In the matter of American Balanced Fund, Inc., The Growth Fund of America, Inc., The Income Fund of America, Inc. and New Perspective Fund, Inc., 333 South Hope Street, Los Angeles, CA 90071.

Notice is hereby given that American Balanced Fund, Inc., The Growth Fund of America, Inc., The Income Fund of America, Inc., and New Perspective Fund, Inc. ("Applicants"), all registered under the Investment Company Act of 1940 ("Act"), as open-end, diversified, management investment companies, filed an application on November 28, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, declaring that Robert A. Fox, a director of each of the Applicants, shall not be deemed to be an "interested person" of the Applicants within the meaning of Section 2(a)(19) of the Act solely by reason of his being a director of HL Capital Management Corporation ("HLCM"), which has a wholly-owned subsidiary registered as a broker-dealer under the Securities Exchange Act of 1934 ("1934 Act"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions thereof.

According to the application, HLCM, incorporated in the State of Delaware, is a privately held, diversified insurance and financial services company having two wholly-owned subsidiaries, Pacific Compensation Insurance Company ("PCI") and Captive & Self Insurance Services, Inc. ("CSI"). Applicants state that PCI is a California specialty workers' compensation insurer; CSI is engaged in providing insurance services, such as risk management and consulting services, to policyholders of PCI. Applicants further represent that Captive & Self Insurance Securities, Inc. ("CSIS"), a wholly-owned subsidiary of CSI, is registered as a broker-dealer under the 1934 Act in order to assist policyholders of PCI in forming and funding offshore reinsurance companies which reinsure a portion of the policies of PCI policyholders.

Applicants aver that Mr. Fox's connection with CSIS is such that he has no personal interest in its business and his relationship with CSIS is so remote and irrelevant to his functioning as an independent director of Applicants that an exemption, pursuant to Section 6(c) of the Act, is appropriate. The application represents that since CSIS acts only to set up transactions between offshore insurance companies—created by its parent, CSI—and policyholders, Applicants, and Mr. Fox, as an independent director of Applicants, could never deal with CSIS. The applicantion represents that Applicants will have no occasion to obtain the reinsurance that CSIS arranges with PCI because Applicants cannot sell insurance policies under their charters or under the Act. As a result, Applicants contend that Mr. Fox's position as an independent director of Applicants will in no way be affected by his position with HLCM. Applicants further state that Mr. Fox is a man of independent means and standing in the business community, his remuneration as a director of HLCM is an insignificant portion of his total income, and there is no other way in which he is affiliated or dependent upon HLCM.

In connection with the application, the following representations have also been made: (1) The Applicants represent that they will not use CSIS for portfolio transactions or for the distribution of their shares so long as Mr. Fox is a director, director emeritus, officer or employee of HLCM; (2) Mr. Fox will not take part in the selection of broker-dealers or the placement of transaction orders on behalf of the Applicants; (3) Mr. Fox has informed the Applicants that he will not be a director or officer of CSIS and will have no authority or responsibility for the management of the operations of CSIS while he is a director of Applicants; and (4) Applicants believe that the relationship of Mr. Fox with HLCM and CSIS will not impair his independence in acting on behalf of Applicants.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3059 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13738; 812-5686]

EBI Equity, Inc., et al.; Filing of Application

January 27, 1984.

In the Matter of EBI Equity, Inc., EBI, Income, Inc., and EBI Cash Management Inc., 400 Colony Square, Suite 1000, 1201 Peachtree Street NE., Atlanta, Georgia 30361.

Notice is hereby given that EBI Equity, Inc., EBI Income, Inc. ("Funds"), and EBI Cash Management, Inc. ("Cash Management") (collectively, "Applicants"), registered under the Investment Company Act of 1940 ("Act") as open-end diversified, management investment companies, filed an application on October 27, 1983, and an amendment thereto on January 23, 1984, requesting an order, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit Applicants to assess a contingent deferred sales charge on certain redemptions of shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below and to the Act and the Rules thereunder for the complete text of the applicable provisions.

According to the application, Applicants are Georgia corporations, organized on October 19, 1983. The application indicates that each of the Applicants has filed a registration statement, pursuant to the Securities Act of 1933, in which they propose that shares in each of Applicants are to be offered for sale primarily to profit sharing and pension trusts through the Applicants' principal underwriter, Gemini Capital Management, Inc. ("Distributor"); shares may be sold through other broker-dealers, pursuant to dealer agreements with the

Distributor. The application further states that each of the Funds requires a minimum investment of $100,000, less only any amounts invested in the other Applicants. The respective boards of directors of the Funds have determined that the Funds should each finance in part the distribution of its shares; the Funds' directors and the Distributor, the sole shareholder of each of the Funds, have approved plans of distribution, pursuant to Rule 12b–1 of th Act ("Rule 12b–1 Plans"). The board of directors of Cash Management does not presently intend to adopt a Rule 12b–1 Plan.

Applicants propose that a contingent deferred sales charge be imposed with respect to those shares on which the Funds have paid commissions and which are redeemed before the sales commissions can be recouped through Rule 12b–1 Plan payments. The application states that the amount of the contingent deferred sales charge will decline from 5% to 0% depending on the length of time the investment has been held in the Funds. In no event could the amount of the charges, in the aggregate, ever exceed 5% of the lesser of (1) the net asset value of the shares redeemed, or (2) the total cost of such shares ("reference value"). Applicants represent that no contingent deferred sales charge will be imposed when the investor redeems (1) amounts derived from increases in the value of his account above the total cost of shares being redeemed due to increases in the net asset value per share, (2) shares with respect to which the Funds did not pay a commission on issuance (including shares acquired through reinvestment of dividend income and capital gains distributions), or (3) shares which, together with exchanged shares, have been held continuously for 30 months.

The application indicates that the Funds propose to calculate any applicable charge by determining the month during which the purchase payment (which was the source of the investment being redeemed) was made and applying the appropriate percentage to the amount of the redemption subject to the charge. The contingent deferred sales charge is 5% of the reference value times a fraction, the numerator of which is 30 minus the number of whole or partial calendar months elapsed since the initial purchase and the demoninator of which is 30. The application states that in determining whether a contingent deferred sales charge is payable and, if so, the percentage charge applicable, it is assumed that shares held the longest are the first to be redeemed.

Applicants represent that no charge is imposed on exchanges of shares between the Applicants; however, if shares of Cash Management are acquired as a result of an exchange of shares from the Funds and the shares being tendered for exchange are subject to a contingent deferred sales charge, the charge will carry over to the Cash Management shares being acquired. Applicants further represent that shares held in Cash Management (for purposes of determining the length of time shares have been held by an investor), which are subject to a contingent deferred sales charge, will not be credited with the time those shares are held in Cash Management.

The application states that each Fund's Rule 12b–1 Plan provides that the Fund may incur certain distribution expenses which may not exceed for any calendar quarter a maximum amount equal to 0.3125% of the Fund's average daily net assets during the quarter (an amount approximately equivalent to 1.25% annually of the Fund's average daily net assets). These amounts may be paid to the Distributor as commissions for shares of the Fund actually sold after the inception of the Rule 12b–1 Plan; all or part of these commissions may be allowed to others. The application further states that, under the Rule 12b–1 Plans, each of the Funds may pay the Distributor a maintenance fee of up to .25% per annum of the average net asset value of the shares sold by the Distributor which remain outstanding on the books of the Fund for specified periods. Applicants finally propose that each of the Funds may also pay to the Distributor amounts sufficient to enable the Distributor to pay to others (e.g., broker-dealers) maintenance or other fees with respect to Fund shares sold by others after inception of the Rule 12b–1 Plan and remaining outstanding on the books of the Fund for specified periods.

Applicants assert that their proposal permits shareholders to have the advantages of greater investment dollars working for them from the time of their purchase. Moreover, Applicants state that the contingent deferred sales charge will not apply to redemptions of shares held continuously for 30 months after date of purchase, or to increases in the investor's account through reinvestment of distributions on increases in net asset value per share.

Applicants request an exemption from the operation of Section 2(a)(32) of the Act to the extent necessary to permit imposition of the proposed contingent deferred sales charge. Applicants believe that imposition of the contingent deferred sales charge will not restrict a shareholder from receiving his proportionate share of the current net assets of the Applicants, but will merely defer the deduction of a sales charge and make it contingent upon an event which may never occur.

Applicants also request an exemption from the provision of Section 2(a)(35), to the extent necessary to permit imposition of the proposed charge. Applicants aver that the proposed contingent deferred sales charge is consistent with the intent of the Act's definition of "sales load" in Section 2(a)(35). The contingent deferred sales charge is paid to the Funds to reimburse them for expenses related to the sale of their shares and, therefore, Applicants submit that this arrangement is within the Section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Applicants contend that the deferral of its sales charge, and its contingency upon the occurrence of an event which may not occur, does not change the basic nature of this charge, which is in every other respect a sales charge.

In order to avoid any possibility that questions might be raised as to the potential applicability of Section 22(c) of the Act and Rule 22c–1 thereunder to the proposed imposition of contingent deferred sales charges, Applicants request an exemption from the provisions of that section and rule to the extent necessary to permit Applicants to implement the proposed contingent deferred sales charge.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–3060 Filed 2–2–84; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 13739; 812-5732]

Koenig Tax-Advantaged Liquidity Fund, Inc.; Filing of Application

January 27, 1984.

Notice is hereby given that Koenig Tax-Advantaged Liquidity Fund, Inc. ("Applicant") 50 Broadway, New York, NY 10004, filed an application on December 27, 1983, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from the provisions of Section 22(d) of the Act to the extent necessary to permit Applicant to base its sales load applicable to additional investments by any investor on that investor's cumulative investment in Applicant, including reinvested distributions, if any, but without regard to redemptions of the investor's shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable sections.

According to the application, Applicant is registered under the Act as an open-end, non-diversified, management investment company and its investment adviser is F. Martin Koenig & Company, a New York limited partnership. Applicant's principal underwriters are Bear, Stearns & Co., F. Martin Koenig, Inc., and McMahon, Brofman, Morgan & Co. Applicant states that a sales load which is dependent on the amount of funds invested, is currently imposed on purchases of Applicant's shares. According to the application a 3% load is imposed on the $1,000,000 minimum investment, a load of $30,000 plus 1.5% of amounts over $1 million is imposed on investments of $1 to $5 million, a load of $90,000 plus .75% of amounts over $5 million is imposed on investments of $5 million to $10 million, a load of $127,500 plus .375% of amounts over $10 million is imposed on investments of $20 million or more.

Applicant proposes to base its sales load applicable to additional investments by an investor on that investor's cumulative investment in Applicant, including reinvested distributions, if any, but without regard to redemptions. Under Rule 22d-1(a)(1)(ii) the sales load for additional investments is based on the net asset value of Applicant's shares actually owned by the investor at the time of the additional investment plus the amount of the additional investment minus the applicable sales load. Applicant represents that the proposed fee structure will enable an investor making an additional investment to receive credit, with respect to the amount of sales load presently charged, for past investments. The application states that past investors in Applicant will not be penalized for having withdrawn their investments and may be encouraged to make future investments.

Applicant represents that the sales load charged any particular investor for any investment or additional investment will be evident from Applicant's prospectus and will not be subject to anyone's discretion. Applicant further represents that the sale effort required to obtain additional investments is substantially less than the effort required to obtain initial investments.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3061 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 30, 1984.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Time, Incorporated

Common Stock, $1 Par Value

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 21, 1984, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3058 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20602; File No. SR-Amex 83-34]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating To Certain Required Provisions in The Certificate of Designation of Listed Preferred Stock

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend that portion of Section 124 of the Amex Company Guide which requires the consent of existing preferred stockholders before an issuer is permitted to create an additional class of preferred stock ranking prior to, or in parity with, the listed issue.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* The purpose of amending certain of the voting provisions of Section 124 is to remove outdated and definitionally vague portions of the rule while retaining the significant investor protections afforded by other provisions of the rule.

Section 124 provides two very important and basic voting rights to preferred holders. First, it requires that holders be given the right to elect at least two members of the company's board of directors if, for a two year period, there has been a default in payment of fixed dividends. Second, a two-thirds approval requirement limits the company from changing any right, privilege or preference of the listed preferred without prior approval of two-thirds of the outstanding shares. The Exchange intends to retain these essential rights. As part of its ongoing review of all listing rules, however, the Exchange has determined that two other voting provisions contained within Section 124(b)(ii) are unnecessary and should be deleted.

Section 124(b)(ii) of the Amex Company Guide states that, in order for a preferred stock to be eligible for listing, the issue must by its terms prohibit the creation of any additional class of preferred stock unless approved by holders of at least:

(i) *Two-thirds* of the issue to be listed if the company intends to create a class of preferred stock *senior* to the issue to be listed; or

(ii) A *majority* of the issue to be listed if the company intends to create a class *equal* in preference to the issue to be listed.

The Exchange considered the following in reaching its determination to delete these two provisions:

(i) The blurring of any meaningful differences between the terms "class" and "series" thereby in many cases permitting a company's board to avoid the rule by designating new preferred stock issuances as a "series" rather than a new "class" of securities;

(ii) The trend in state corporate law permitting stockholders to delegate to the board of directors the ability to issue and fix the terms of authorized preferred stock without further approval;

(iii) The knowledge of investors of the authority of the Board of Directors to issue additional securities which may rank above or below the preferred stock; and

(iv) The lack of any rational basis for regulating only one element of the total capitalization of a company. For example, since common stockholders have the least preferences in a corporate capital structure and are seldon, if ever, provided the right to approve issuances of any additional or superior securities, it appears anomalous to provide additional protections—not otherwise bargained for—to an already preferred security.

(b) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act in general and further the objectives of Section 6(b)(5) of the Act in particular in that the amended rule is designed to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that the proposed rule change will enhance competition by providing greater flexibility to the management of Exchange listed-companies.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commissions' Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 26, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3064 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20589; File No. SR-BSECC-83-10]

Self-Regulatory Organizations; Proposed Change By Boston Stock Exchange Clearing Corp.; Relating to Increased Fees for Clearing Services

Pursuant to Section 19(b) of the Securities Exchange Act of 1984, 15 U.S.C. 78s(b)(1), notice is hereby given that on 12-30-83 the Boston Stock Exchange Clearing Corporation filed with the Securities and Exchanges Commission the proposed change as described in Item I, II, and III below, which items have been prepared by the self-regulatory organization.

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Boston Stock Exchange Clearing Corporation has proposed to revise its fees as contained in its filing with this Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places set forth in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Basis for, the Proposed Rule Change

(a) Due to the changing economic and operational environment of the Clearing Corporation, a Fee Committee was established to review projected costs and revise, where appropriate, all fees of the Clearing Corporation. In reviewing the 1984 operating budget, the Fee Committee recommended and the Board of Directors approved a number of changes in its fee structure. These changes include elimination of the 15% surcharge which was adopted as a temporary measure in May of 1981 until new fees could be established and conversion of its clearing system completed. These changes also include a reduction in trade recording and comparison fees and establishment of reduced incremental rates based on monthly volume. These measures were recommended to offer members and participants incentives to increase orderflow to the Boston Stock Exchange and Clearing Corporation. Finally, the increases in fixed fee categories were extablished to match more closely these revenues to the fixed cost associated with providing the related services.

(b) The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder applying to the Boston Stock Exchange Clearing Corporation because it continues the equitable allocation of fees charged to all participants. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in its custody or control or for which it is responsible because it would insure an efficient system for the settlement of trades and the safekeeping of assets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

No burden on competition is perceived by adoption of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were solicited from members and participants on November 30, 1983. One response was received from a small broker-dealer in upstate New York who felt that the increase in account maintenance was excessive and not in accord with the overall plan to reduce transaction costs.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change became effective January 1, 1984 pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed change that are filed with the Commission, and all written communications relating to the proposed change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 24, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3063 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20607]

Approval of Fingerprinting Plan of the Chicago Board Options Exchange, Inc.

On November 7, 1983 The Chicago Board of Exchange ("CBOE") submitted a fingerprinting plan for Commission approval pursuant to Rule 17f-2(c) under the Securities Exchange Act of 1934 (the "Act").[1] Under the terms of this plan, the CBOE will collect fingerprint cards submitted by its members, forward the cards to the Attorney General of the United States for identification and appropriate processing, and return the fingerprint cards and any information received as a result of such processing to the submitting members. The Commission is approving the CBOE plan as filed.

Under its fingerprinting plan, the CBOE would collect fingerprint cards from its members, forward the cards to the FBI (the fingerpring processing arm of the Attorney General) for identification and appropriate processing, and there after return the fingerprint cards and any information received from the FBI to the submitting member. Thus, partners, directors, officers, and employees of such organizations who do not meet the conditions for exemption from the fingerprinting requirement under Rule 17f-2 may submit fingerprints to the CBOE in accordance with the provisions of the CBOE's plan. Through this service, CBOE members should experience decreased delay and expense associated with submitting employee fingerprint cards by members and associated persons and employees of members processed though the National Association of Securities Dealers.

The Commission has reviewed the procedures detailed in the plan. The CBOE's fingerprinting plan is similar to other existing self-regulatory organization plans.[2] In particular, the

[1] Rule 17f-2(c) [17 CFR § 240.17f-2(c)] under Section 17(f)(2) of the Act [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)].

[2] Plans submitted by the Boston Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., and the Pacific Stock Exchanges, Inc., were approved by the Commission on June 22, 1976. *See* Securities Exchange Act Release No. 12566 (June 22, 1976) for the approval of these plans, a discussion of the background and purpose of Rule 17f-2, and the role

Continued

CBOE undertakes no responsibility other than the conveyance of fingerprint records and criminal history record information between participating entities and the Attorney General of the United States. The Commission believes this plan is in the public interest and consistent with the protection of investors. Thus, the Commission declares the plan to be effective on January 27, 1984.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: January 27, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3066 Filed 2-2-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2115]

Texas; Declaration of Disaster Loan Area

Nueces County and the adjacent Counties of Aransas, Jim Wells, Kleberg and San Patricio in the State of Texas constitute a disaster area because of damage caused by below freezing temperatures on December 22–29, 1983. Applications for loans for physical damage may be filed until the close of business on March 30, 1984, and for economic injury until the close of business on October 30, 1984, at the address listed below: U.S. Small Business Administration, Corpus Christi Branch Office, P.O. Box 9253, 3105 Leopard Street, Corpus Christi, Texas 78408, or other locally announced locations.

Interest rates for this disaster are:

Homeowners with credit available elsewhere, 12.500%.

Homeowners without credit available elsewhere, 6.250%.

Businesses with credit available elsewhere, 11.000%.

Businesses without credit available elsewhere, 8.000%.

Businesses (EIDL) without credit available elsewhere, 8.000%

Other (non-profit organizations including charitable and religious organizations), 10.500%.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1984.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 84-3047 Filed 2-2-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Material Correction Factors for Type Certification of Structure of Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides guidance material for an acceptable means of demonstrating compliance with the requirements of Part 23 of the Federal Aviation Regulations which ensures that the structural strength of production airframes is equal to, or exceeds, the structural design strength of the test airframe.

DATE: Commenters must identify File AC 23–XX; Subject: Material Correction Factors for Type Certification of Structures of Small Airplanes, and comments must be received on or before March 19, 1984.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Gabriel, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Commercial Telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited: Interested parties are invited to submit comments on the draft AC. The draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri, on December 27, 1983.

Barry D. Clements,

Director, Central Region.

[FR Doc. 84-2943 Filed 2-2-84; 8:45 am]

BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

Delegation Order No. 84–2 to the Associate Director for Educational and Cultural Affairs

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, and by Executive Order 12048 of March 27, 1978, there is hereby delegated to the Associate Director for Educational and Cultural Affairs, the following described authority:

1. The authority under section 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1981, as amended, to approve a per diem rate above the standard allowance when the status of a high official of a foreign government requires special treatment.

2. Notwithstanding any other provision of this order, the Director may at any time exercise any function or authority delegated herein.

This delegation is effective immediately.

Dated: January 23, 1984.

Charles Z. Wick,

Director, United States Information Agency.

[FR Doc. 84-2982 Filed 2-2-84; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Geriatrics and Gerontology Advisory Committee will be held in Room 817 at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on February 22 and 23, 1984. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Administrator and the Cheif Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Educational and Clinical Centers established by the Department of Medicine and Surgery.

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of self-regulatory organizations in implementing the mandate of Section 17(f) of the Act. Plans submitted by the American Stock Exchange, Inc. and the Philadelphia Stock Exchange, Inc. were approved by the Commission on July 8, 1976. *See* Securities Exchange Act Release No. 12609 (July 8, 1976). A plan submitted by the Midwest Stock Exchange, Inc., was approved by the Commission on August 4, 1976. *See* Securities Act Release No. 12687 (August 4, 1976).

The sessions will convene at 8:30 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Von Hudson, Program Assistant, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/389–2298) prior to February 15, 1984.

Dated: January 24, 1984.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 84–3023 Filed 2–2–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 24
Friday, February 3, 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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Equal Employment Opportunity Commission	1
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Federal Home Loan Bank Board	5
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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, February 7, 1984, 9:30 a.m. (Eastern Time).

PLACE: Commission Conference Room No. 200–C, second floor, Columbia Plaza Office Building, 2401 "E" Street, N.W., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal Request No. 83–11–FOIA–180–SL. concerning a request for information regarding ADEA charges.
4. Proposed Order 110—Criteria for Designation of Field Offices.
5. Request for Authorization to Award Contract and Obligate FY 1984 and FY 1985 Funds.

Closed:

1. Litigation Authorization; GC Recommendations.
2. Consideration of ORA Decisions.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions.)

Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

Dated: January 31, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84–3154 Filed 2–2–84; 11:30 am]

BILLING CODE 6750–06–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Additional Matters to be Considered at Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at the open session of the Federal Deposit Insurance Corporation's Board of Directors meeting schedule to commence at 2 p.m. on Monday, Febraury 6, 1984, the following matters are expected to be considered, in addition to those matters previously announced:

Discussion Agenda:

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations which would implement section 905(a) of the International Lending Supervision Act of 1983 by requiring banking institutions to establish special reserves against the risks presented in certain international assets.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 906 of the International Lending Supervision Act of 1983 by prescribing the accounting treatment for fees charged by banking institutions in connection with international loans.

Memorandum and resolution re: (1) Proposed amendments to Part 338 of the Corporation's rules and regulations, entitled "Fair Housing," which would eliminate the requirement that insured State nonmember banks collect and record in a log-sheet certain data concerning home loan inquiries while retaining the requirement that information on all home loan applications be recorded and retained for 25 months; and (2) a request for public comment on a possible reduction in the number of banks required to maintain log-sheets.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 31, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–3097 Filed 2–1–84; 8:45 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, January 30, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations which would implement section 905(a) of the International Lending Supervision Act of 1983 by requiring banking institutions to establish special reserves against the risks presented in certain international assets.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 906 of the International Lending Supervision Act of 1983 by prescribing the accounting treatment for fees charged by banking institutions in connection with international loans.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 907 of the International Lending Supervision Act of 1983, pertaining to the collection and disclosure of certain international lending data.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting,

on less than seven days' notice to the public, of the following matters:

Application of Mutual Savings Company of Omaha, Omaha, Nebraska, an operating noninsured industrial bank, for Federal deposit insurance.
Request of Mutual Savings Company of Omaha, Omaha, Nebraska, an operating noninsured industrial bank, for exemptions to section 348.4(b)(5) of the Corporation's rules and regulations.
Memorandum re: Review of the Space Situation in the Ecker Square Condominium and Recommendation to Purchase Additional Space.

The Board further determined, by the same majority vote, that Corporation business required, on less than seven day's notice to the public, the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting to be held at 2:30 p.m. that same day, of the following matters:

Application of Barnett Bank of Volusia County, De Land, Florida, for consent to establish two remote service facilities at Volusia Mall, 1700 Volusia Avenue, Daytona Beach, Florida, and at Embry Riddle (Aeronautical College), Daytona Beach Regional Airport, Daytona Beach, Florida.
Application of Barnett Bank of Columbia County (formerly The State Exchange Bank), Lake City, Florida, for consent to establish a remote service facility at Gleason's Corner, U.S. Highway 90 West, Lake City, Florida.
Application of Barnett Bank of Polk County, Lakeland, Florida, for consent to establish three remote service facilities at Florida Southern College, Lake Hollingsworth Drive, Lakeland, Florida, at Polk Community College, 999 Avenue H, N.E., Winter Haven, Florida, and at Winter Haven Hospital, 200 Avenue, F, N.E., Winter Haven, Florida.
Application of Barnett Bank of Tallahassee, Tallahassee, Florida, for consent to establish a remote service facility at the Student Union Building 194 on the Florida State University Campus, Tallahassee, Florida.
Application of Barnett Bank of Indian River County (formerly Commercial Bank of Vero Beach), Vero Beach, Florida, for consent to establish a remote service faciltiy at Vero Beach Mall, 1255 South U.S. Highway 1, Vero Beach, Florida.
Memorandum re: Proposed study to identify technical and operational solutions to problems experienced by the Corporation's Division of Liquidation in automating the payment of insured deposits in closed banks.

In voting to move these matters from open session to closed session, the Board further determined, by the same majorty vote, that the public interest did not require consideration of the matters in a meeting open to public observation and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii)).

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: January 31, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3098 Filed 2-1-84; 11:22 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 30, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Memorandum and Resolution re: American City Bank, Los Angeles, California
Case No. 45,927-L: First National Bank of Midland, Midland, Texas
Recommendation regarding certain litigation involving the Corporation
Memorandum re: Deferral of consideration of a merger application
Memorandum re: Review of the Space Situation in the Ecker Square Condominium and Recommendation to Purchase Additional Space

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: January 31, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3099 Filed 2-1-84; 11:22 am]

BILLING CODE 6714-02-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 3562, Friday, January 27, 1984.

PLACE: Board Room Sixth Floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee (202-377-6970).

CHANGES IN THE MEETING: The following items have been withdrawn from the open portion of the Bank Board meeting scheduled Friday, February 3, 1984, at 2:30 p.m.:

Brokered Deposits
Insurance Coverage of Accounts Held by Investment Companies, Insurance of Joint Accounts
Deposit Growth

[No. 70, January 31, 1984]

J. J. Finn,

Secretary.

[FR Doc. 84-3080 Filed 2-1-84; 10:49 am]

BILLING CODE 6720-01-M

6

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 3720, January 30, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, February 2, 1984.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed response to the Securities and Exchange Commission on its proposal to require banks that conduct certain securities activities to register as broker/dealer

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204

Dated: January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3081 Filed 2-1-84; 10:49 am]

BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, February 8, 1984, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed building design plans and budget for the Omaha Branch of the Federal Reserve Bank of Kansas City.
2. Renovation proposal by the Federal Reserve Bank of New York.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3095 Filed 2-1-84; 11:11 am]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, February 8, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda:

1. Proposal to establish two reports to collect annual percentage rates charged by creditors for representative types of credit and to evaluate the feasibility of publishing a "shopper's guide to credit."

Discussion Agenda:

2. Federal Reserve proposals regarding Automated Clearing House (ACH) fee schedules, float elimination and pricing, and service issues. (Proposed earlier for public comment; Docket No. R-0482.)
3. Proposed Federal Reserve cash service standards and prices.
4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 31, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3096 Filed 2-1-84; 11:11 am]

BILLING CODE 6210-01-M

federal register

Friday
February 3, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notices

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California: CA83–5128	Dec. 9, 1983.
Colorado: CO82–5127	Nov. 5, 1982.
District of Columbia: DC82–3031	Nov. 12, 1982.
Iowa:	
IA83–4022	Mar. 11, 1983.
IA83–4033	Apr. 29, 1983.
IA83–4035	May 13, 1983.
Michigan: MI83–2006	Feb. 11, 1983.
New Jersey:	
NJ83–3015	June 17, 1983.
NJ83–3016	June 17, 1983.
NJ83–3026	July 29, 1983.
New Mexico: NM83–4071	Oct. 7, 1983.
New York: NY81–3045	July 17, 1981.
North Dakota: ND81–5130	July 6, 1981.
Pennsylvania:	
PA82–3028	Sept. 10, 1982.
PA81–3091	Dec. 28, 1981.
PA82–3027	Oct. 8, 1982.
PA84–3000	July 6, 1983.
South Carolina: SC83–1089	Nov. 25, 1983.
Virginia: VA81–3015	Mar. 6, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Mississippi: MS83–1006 (MS84–1001)	Feb. 11, 1983.
Texas: TX81–4008 (TX84–4004)	Jan. 6, 1981.

Signed at Washington, D.C. this 27th day of January 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. CA83-5128 - MOD. #1 (48 FR 55239 - December 9, 1983) Lake, Marin, Mendocino, & Sonoma Cos., California	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Electricians - Area 9	$22.85	4.74 + 3%
Cable Splicers	25.14	4.74 + 3%

DECISION NO. CO82-5127-MOD #5 (47 FR 50418 - November 5, 1982) Las Animas, Otero and Pueblo Counties, Colorado	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters	12.22	3.33

DECISION NO. DC82-3031-MOD. #17 (47 FR 51304-NOVEMBER 12, 1982)	Basic Hourly Rates	Fringe Benefits
District of Columbia;Marvland Montgomery & Prince Georges Counties;DC Training School;Virginia-Independent City of Alexandria; Arlington & Fairfax Ctvs.		
ADD:		
Laborers(Brick Masonry-Apartment Buildings over 4 Stories):		
Common Laborer	$6.25	.98
Scaffold Builders,Mortarman Jackhammer,Mason Tenders	6.45	.98

DECISION NO. MI83-2008 - Mod #4 (48 FR 6456 - February 11, 1983) Alger, Baraga, Chippewa, Dickinson, Delta, Gogebic, Houghton, Iron Kaweena, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties, Michigan	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Alger & Marquette Counties:		
Contracts $70,000 or less		
Electricians	12.65	2.33+ 3.75%
Cable Splicers	14.65	2.33+ 3.75%
Contracts over $70,000		
Electricians	15.05	2.33+ 3.75%
Cable Splicers	17.05	2.33+ 3.75%

DECISION NO. NM83-4071 - MOD. #5 (48 FR 45910 - 10/7/83) Statewide New Mexico	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers:		
Zone II-A	$13.80	2.07+3%
Zone II-B	15.30	2.07+3%
Zone II-C	16.05	2.07+3%

DECISION NO. IA83-4022 - MOD. #3 (48 FR 10577 - 3/11/83) Statewide Iowa (except Cerro Gordo, Scott & Webster Cos.)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters,piledrivermen & millwrights:		
Zone 1:		
Carpenters	$13.33	2.10
Carp.(creosote)	13.58	2.10
Piledrivermen	13.455	2.10
Laborers:		
Zone 1 - Group 1	9.70	1.80
Group 2	9.82	1.80
Group 3	10.05	1.80
Group 4	9.99	1.80
Group 5	10.43	1.80

DECISION NO. IA83-4033 - MOD. #2 (48 FR 19568 - 4/29/83) Statewide Iowa (except Cerro Gordo, Scott & Webster Cos.)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters/piledrivermen:		
Zone 1:		
Carpenters	13.33	2.10
Carp.(creosote)	13.58	2.10
Piledrivermen	13.455	2.10
Laborers:		
Zone 1 - Group 1	9.70	1.80
Group 2	9.82	1.80
Group 3	10.05	1.80
Group 4	9.99	1.80
Group 5	10.43	1.80

DECISION NO. IA83-4035 - MOD. #5 (48 FR 21783 - 5/13/83) Pottawattamie Co.,Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers	$12.10	3.90
Laborers:		
Common laborers	10.41	2.80
Mason tenders;mortar mixers;buggymobile	10.585	2.80
Pipelayers	10.75	2.80
Plasterers' tenders	10.795	2.80

MODIFICATIONS

DECISION NO. ND81-5130 - MOD. #4
(46 FR 35005 - July 6, 1981)
Statewide, North Dakota

	Basic Hourly Rates	Fringe Benefits
Omit:		
Line Construction schedule originally issued		
Add:		
Line Construction:		
Lineman, Cable Splicer	$15.50	7½%+ 1.00
Line Equipment Op.	13.95	7½%+ 1.00
Groundman	8.93	7½%+ 1.00

DECISION #SC83-1089-Mod.#2
(48 FR 53268-November 25, 1983)
Statewide South Carolina except Berkeley County

CHANGE DESCRIPTION OF WORK TO READ:
HEAVY AND WATER AND SEWER CONSTRUCTION PROJECTS (EXCLUDING DAM CONSTRUCTION PROJECTS)

DECISION NO. NY81-3045 - MOD. #5
(46 FR 37204 - July 17, 1981)
NIAGARA CO., NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Electricians	18.38	3.275+ 3%
Cable Splicers	20.22	3.275+ 3%
PLUMBERS & STEAMFITTERS	19.00	3.25
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):		
Group I	16.70	4.05+a
Group II	15.49	4.05+a
Group III	11.96	4.05+a
Group IV	13.46	4.05+a
Group V	11.70	4.05+a
Group VI	17.92	4.05+a
Group VII	17.20	4.05+a
POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION):		
Group I	16.70	4.05+a
Group II	15.49	4.05+a
Group III	12.18	4.05+a
Group IV	13.68	4.05+a
Group V	11.70	4.05+a
Group VI	17.92	4.05+a

DECISION NO. VA81-3015-MOD. #16
(46 FR 15666-MARCH 6,1981)
RADFORD ARMY AMMUNITION PLANT, VIRGINIA

CHANGE LABORERS TO READ:

COMMON LABORERS	$7.60	1.10
MASON TENDERS	7.70	1.10
MORTARMEN & HOD CARRIERS	7.85	1.10
ELECTRIC OR AIR TOOL OPR.	7.85	1.10
POWER SAW OPERATOR	7.85	1.10
MOTORIZED BUGGY OPERATOR	7.85	1.10
PIPELAYERS	7.85	1.10
SCAFFORD BUILDER	7.85	1.10
VIBRATOR OPERATOR	7.85	1.10
BURNERS	8.20	1.10
WAGON DRILL OPERATOR	8.05	1.10
CAISSON WORKER-TOPMAN	7.75	1.10
CAISSON WORKER-BOTTOM MAN	8.25	1.10

MODIFICATIONS

DECISION NO. NJ83-3015 - MOD. #11
(48 FR 27991 - June 17, 1983)
Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Cos., New Jersey

Change:

	Basic Hourly Rates	Fringe Benefits
Bricklayers, Cement Masons, Plasterers and Stonemasons:		
Zone 1	$15.47	3.55
Carpenters, Insulators and Millwrights:		
Zone 2	16.57	4.18
Zone 3:		
Carpenters & Insulators	17.25	20.5%
Millwrights	17.75	20.5%
Electricians:		
Zone 6:		
Wiremen	19.56	18%+ 1.50+ 100.00 per/yr
Cable Splicers	20.87	18%+ 1.50+ 100.00 per/yr
Railroad Construction:		
Bergen & Hudson Cos.	19.96	21.5%
Commercial Telephone Installation:		
Bergen & Hudson Cos.	19.96	21.5%
Glaziers:		
Zone 2	16.90	2.75
Zone 3	17.95	5.55
Painters:		
Zone 2:		
Premium Rate	16.25	4.12
Paper Hanging and Wall Covering	16.10	4.12
Regular Rate	15.00	4.12
Repaint Rate	14.00	4.12
Pipefitters:		
Zone 3	18.62	3.51
Plumbers:		
Zone 3	18.62	3.51
Roofers:		
Zone 2:		
Composition, Damp and Waterproofers	18.17	2.73
Mechanic II (handle and Transport all materials, Tools and Equipment; Clean-up Debris)	8.25	2.73
Zone 6:		
Composition, Damp and Waterproofing	14.60	8.19
Line Construction:		
Linemen & Equipment Operators	19.56	18%+ 1.50+ 100.00 per/yr
Cable Splicers	20.87	18%+ 1.50+ 100.00 per/yr
Truck Drivers:		
Zone 3:		
Group 1	13.97	2.00+ h+i+j
Group 2	14.20	2.00+ h+i+j
Group 3	14.25	2.00+ h+i+j
Group 4	14.35	2.00+ h+i+j
Group 5	14.45	2.00+ h+i+j

Footnotes:

j. Employee contribution of $170.00 per month per employee to Health and Welfare Fund.

DECISION NO. NJ83-3015 CONT'D	Basic Hourly Rates	Fringe Benefits
Power Equipment Operators: (Excluding Steel Erection and Oilostatic Mainlines and Transportation Pipe lines): Change Class 4 to read Class 3; Class 5 to read Class 4; Class 6 to read Class 5; and Class 7 to read Class 6		
DECISION NO. NJ83-3016 - MOD. #12 (48 FR 28003 - June 17, 1983) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, Salem Counties, New Jersey		
Change:		
Electricians:		
Zone 3	18.58	10.75% +1.70
Zone 4	19.77	10%+ 2.89
Plumbers:		
Zone 1	17.82	4.30
Roofers:		
Zone 1:		
Composition, Damp and Waterproofers	18.17	2.73
Mechanic II (Handle and Transport all Materials, Tools and Equipment; Clean-up Debris)	8.25	2.73

DECISION NO. NJ83-3026- MOD. #6 (48 FR 34624 - July 29, 1983) Bergen, Essex, Hudson, and Passaic Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers, Cement Masons, Plasterers & Stonemasons:		
Zone 1:	15.47	3.55
Electricians & Cable Splicers:		
Other Residential Construction:		
Bergen & Hudson Cos.	19.96	21.5%
Passaic Co.:		
Wiremen	19.56	18%+ 1.00+ 100.00 per/yr
Cable Splicers	20.87	18%+ 1.00+ 100.00 per/yr
Glaziers:		
Essex and Hudson Cos.	17.95	4.55
Truck Drivers:		
Zone 2:		
Group 1	13.97	2.00+ h+i+j
Group 2	14.20	2.00+ h+i+j
Group 3	14.25	2.00+ h+i+j
Group 4	14.35	2.00+ h+i+j
Group 5	14.45	2.00+ h+i+j
Footnotes:		
j. Employee contributes 170.00 per month per Employee to Health and Welfare Fund		
Add:		
Truck Drivers Zones:		
Zone 1:		
Bergen, Hudson & Passaic Cos.		
Zone 2:		
Essex County		

DECISION #PA82-3028-Mod.#8 47FR29972 - Sept. 10, 1982 Elk, Forest, McKean and Warren Counties, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
Common laborers, carpenters tender, scaffold builder for masons, window cleaner, from stripper & mover, scaffold & mover, scaffold & runways, building materials handlers (Loading and unloading), concrete pitman, puddler, mason tender	$13.35	20%
Mechanical tampers (power) powered wheelbarrows & work lifts, sweepers & similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, drill runner's helper (includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burner-cutting torch, carryable pumps, chain saw operator, pipelayers all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plasterer tender, form cleaning machine operator, plasterer applicating and/or pump machine op., paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman, blacksmith, tool dresser (cable tool)	13.60	20%

LABORERS (cont'd):	Basic Hourly Rates	Fringe Benefits
Blasters, wagon drill operator, drill runner, gunnite nozzleman, grout machine operator, walk behind power roller and tamper, welder, driller (cable tools)	$14.15	20%
Wrecking Laborers	13.35	20%
Low Burner	13.60	20%
Jackhammer Operator	13.60	20%
High Burner	14.40	20%
High Burner helper	14.10	20%

MODIFICATIONS

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA81-3091		
MOD. NO. 8		
(46 FR 62761 - December 28, 1981)		
Greene, Somerset & Potter Counties, Pennsylvania		
CHANGE:		
Electricians:		
Potter County	$13.06	3.57
Laborers		
Potter County		
Class 1	13.35	20%
Class 2	13.60	20%
Class 3	14.15	20%
DECISION NO. PA82-3027		
MOD. NO. 8		
(47 FR 44670 - October 8, 1982)		
Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford and Venango Counties, Pa.		
CHANGE:		
Laborers		
Zone 3		
Class 1	13.35	20%
Class 2	13.60	20%
Class 3	14.15	20%
Sheet metal workers		
Zone 2	15.23	4.39

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA84-3000		
MOD. NO. 1		
(46 FR 34934 - July 6, 1983)		
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Mercer, Lawrence, McKean, Mifflin, Potter, Somerset, Venango, Warren, Washington, Westmoreland		
CHANGE:		
ZONE 2		
CLASS 1		
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	$12.35	20%

SUPERSEDEAS DECISION

STATE: MISSISSIPPI — COUNTIES: **SEE BELOW
DECISION NUMBER: MS84-1001 — DATE: DATE OF PUBLICATION
Supersedes Decision Number MS83-1006 dated February 11, 1983 in 48 FR 6458
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION PROJECTS (does not include Building Structures in Rest Area Projects and Railroad Construction; Bascule; Suspension; & Spandrel Arch Bridges; Bridges designed for Commercial navigation; Bridges involving Marine Construction and other major Bridges).

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
CARPENTERS	$6.60	$6.50	$6.07	$6.50	$6.43	$6.25
CEMENT FINISHERS/MASONS	5.07	6.50	6.00	6.50	6.00	6.13
ELECTRICIANS	5.50	6.00	10.65	7.00	9.70	6.00
IRONWORKERS	6.25	4.75	5.60	5.50	6.50	8.50
LABORERS:						
Air Tool Operators	----	3.50	4.56	4.25	----	4.10
Asphalt Rakers	5.00	3.76	4.57	4.86	4.65	4.75
Concrete Saw Operators	4.50	4.25	----	4.00	4.25	5.00
Form Setters	----	----	----	----	----	5.75
Grade Checkers	5.32	3.75	5.59	4.10	5.00	4.00
Mason Tenders	4.95	4.00	4.77	4.90	4.00	5.58
Pipelayers	4.50	3.50	4.50	4.00	----	4.00
Unskilled	4.00	3.35	4.00	4.00	4.00	4.00
PAINTERS	4.75	4.50	5.00	6.00	4.00	5.43
PILEDRIVERMEN	4.25	----	----	----	5.50	5.52
TRUCK DRIVERS	4.68	4.50	4.50	4.74	4.50	4.25
TUG BOAT OPERATORS	----	----	----	----	----	5.50
POWER EQUIPMENT OPERATORS:						
A-Frame Truck (winch)	----	----	5.00	4.00	6.50	4.50
Aggregate Spreader	4.88	4.57	4.00	5.50	4.40	4.00
Air Compressor	----	3.35	----	4.00	4.88	4.00
Asphalt Distributor & Spreader	5.33	4.15	5.23	5.23	4.64	5.42
Asphalt Plant	4.75	3.35	4.75	4.00	4.88	5.50
Backhoe	6.00	5.80	6.06	6.00	5.50	5.50
Bulldozer	6.15	6.30	6.00	6.00	6.33	6.50
Concrete Batch Plant	5.50	6.00	4.25	4.00	4.50	5.30
Concrete Finishing Machine	5.79	5.55	5.57	5.50	----	6.50
Concrete Paving Machine	4.50	6.50	5.80	5.80	4.00	4.00
Concrete Spreader Machine	5.50	3.35	4.25	4.00	----	4.00
Crane/Dragline	6.85	7.00	6.50	6.00	6.50	6.00
Crusher Feeder	----	3.35	4.25	4.00	----	4.00
Earth Auger	4.00	3.35	5.00	4.00	----	4.00
Guardrail Post Driver	----	3.50	----	4.00	----	4.00

[FR Doc. 84-2775 Filed 2-2-84; 8:45 am]
BILLING CODE 4510-27-C

Decision Number: MS84-1001 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	ZONE 1 Basic Hourly Rates	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates	ZONE 4 Basic Hourly Rates	ZONE 5 Basic Hourly Rates	ZONE 6 Basic Hourly Rates
Firemen	$5.00	$3.35	$----	$4.00	$----	$----
Loader	6.50	4.75	5.10	5.50	6.00	5.13
Mechanic	6.50	6.50	7.00	6.50	6.56	6.30
Mixer	4.91	4.75	4.25	5.00	----	5.00
Motor Patrol	5.94	6.00	6.50	6.00	6.54	6.40
Oiler/Greaser	6.00	4.25	5.00	5.25	5.25	6.00
Piledriver	6.25	5.50	5.00	4.25	5.75	6.25
Roller (self-propelled)	4.68	4.00	4.75	5.06	4.52	5.50
Scales	----	4.00	4.00	4.00	4.00	4.00
Scraper	6.25	5.00	6.00	5.50	6.00	5.25
Shovel	6.00	5.80	6.06	6.00	5.50	5.50
Spreader	----	3.35	----	4.19	----	----
Striping Machine	6.25	6.50	4.00	6.25	6.00	4.00
Subgrade Machine	----	4.00	----	----	----	4.00
Tractor (track type)	4.00	5.02	4.00	4.00	----	5.00
Tractor (wheel type)	4.00	5.00	4.64	4.13	5.00	4.00
Trenching Machine	6.25	3.88	----	4.35	5.00	4.00
WELDER - Receives rate prescribed for craft performing operation to which Welding is incidental						

** COUNTIES:
ZONE 1 - ALCORN, BENTON, CALHOUN, CHICKASAW, CHOCTAW, CLAY, ITTAWAMBA, LAFAYETTE, LEE, LOWNDES, MARSHALL, MONROE, OKTIBBEHA, PONTOTOC, PRENTISS, TIPPAH, TISHOMINGO, UNION & WEBSTER
ZONE 2 - BOLIVAR, CARROLL, COAHOMA, DESOTA, GRENADA, LEFLORE, MONTGOMERY, PANOLA, QUITMAN, SUNFLOWER, TALLAHATCHIE, TATE, TUNICA, WASHINGTON & YALOBUSHA
ZONE 3 - CLAIBORNE, COPIAH, HINDS, HOLMES, HUMPHREYS, ISSAQUENA, MADISON, RANKIN, SHARKEY, SIMPSON, WARREN & YAZOO
ZONE 4 - ATTALA, CLARK, JASPER, KEMPER, LAUDERDALE, LEAKE, NESHOBA, NEWTON, NOXUBEE, SCOTT, SMITH & WINSTON
ZONE 5 - ADAMS, AMITE, COVINGTON, FORREST, FRANKLIN, GREENE, JEFFERSON, JEFFERSON DAVIS, JONES, LAMAR, LAWRENCE, LINCOLN, MARION, PERRY, PIKE, WALTHALL, WAYNE & WILKINSON
ZONE 6 - GEORGE, HANCOCK, HARRISON, JACKSON, PEARL RIVER & STONE

Unlisted classifications needed for work not included within the scope of the classifications listed may be added only after award as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)(A)).

SUPERSEDEAS DECISION

STATE: TEXAS COUNTY: Smith
DECISION NO.: TX84-4004 DATE: Date of Publication
Supersedes Decision No. TX81-4008, dated January 6, 1981, in 46 FR 1550.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	BASIC HOURLY RATES	FRINGE BENEFITS
BRICKLAYERS & STONEMASONS	$13.00	$ .55
CARPENTERS	11.98	
CEMENT MASONS	8.10	
ELECTRICIANS:		
Electrician	14.14	.80+7-3/8%
Cable Splicer	14.71	.80+7-3/8%
GLAZIERS	10.45	
IRONWORKERS	12.50	
LABORERS:		
Common	4.93	
Mason Tenders (brick)	6.31	
PAINTERS	7.00	
PLUMBERS & PIPEFITTERS	14.67	1.99
ROOFERS	10.00	
SHEET METAL WORKERS	16.34	2.065 + 3%
SOFT FLOOR LAYERS	8.81	
TILE SETTERS	9.00	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

federal register

Friday
February 3, 1984

Part III

Department of Energy

Office of the Secretary

10 CFR Parts 600 and 1035
41 CFR Part 9-1
Debarment and Suspension Provisions; Final Rule

DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Parts 600 and 1035

41 CFR Part 9-1

Debarment and Suspension Rules

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The final rules govern the debarment and suspension of organizations and individuals from participating in DOE procurement contracts, sales contracts, real property purchase agreements, grants, cooperative agreements, loans, loan guarantees, price supports, market agreements, subsidies (hereafter sales contracts, real property purchase agreements, grants, cooperative agreements, loans, loan guarantees, price supports, market agreements, and subsidies shall be referred to collectively as "nonprocurement agreements"), and subcontracts and other subagreements.

These rules revise current DOE policies and procedures (41 CFR Subpart 9-1.6) governing the debarment and suspension of organizations and individuals from procurement contracting and subcontracting, and establish DOE policy and procedures governing the debarment and suspension of organizations and individuals from participating in nonprocurement agreements, subcontracts, and other subagreements.

The final rules being issued today amend Title 10 of the Code of Federal Regulations by adding a new Part 1035, and amend Part 600 of Title 10 and Part 9-1 of Title 41 of the Code of Federal Regulations by providing cross-references to 10 CFR Part 1035 at, respectively, 10 CFR 600.27 and 41 CFR Subpart 9-1.6.

EFFECTIVE DATE: March 5, 1984.

FOR FURTHER INFORMATION CONTACT:

Scott Sheffield, Procurement Management Review Division (MA-442), Procurement and Assistance Management Directorate, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-8267,

or

Carol A. Cowgill, Office of the Assistant General Counsel for Procurement and Financial Incentives (GC-44), Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6902.

SUPPLEMENTARY INFORMATION:

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I. Background
II. Discussion of Comments on the Proposed Rule and Changes Made in the Final Rule
III. Review Under Executive Order 12291
IV. Review Under the Regulatory Flexibility Act
V. Review Under the National Environmental Policy Act
VI. List of Subjects in 10 CFR Part 1035

I. Background

On July 27, 1983, DOE published proposed rules (48 FR 34203) containing policies and procedures applicable to the debarment and suspension of organizations and individuals from participating in DOE procurement and nonprocurement transactions.

The preamble provided for a public hearing to be held on August 18, 1983, and an opportunity of interested parties to present oral testimony concening the proposed rules. One individual identifying himself as a student requested an opportunity to present oral testimony at the hearing on his own behalf. The requestor did not appear at the hearing which was held as scheduled. No other person appeared at the hearing to present a statement.

The preamble also provided for a 60-day comment period ending on September 26, 1983. In response to the notice, DOE received comments from the Section of Public Contract Law of the American Bar Association. DOE has evaluated the comments and has adopted the commenter's recommendation, made a responsive modification, or decided not to adopt the recommendation as indicated below. In addition, DOE has, on its own initiative, made modifications which clarify the intended meaning of the proposed rule. Changes in this category are also described below.

II. Discussion of Comments on the Proposed Rule and Changes Made in the Final Rule

DOE moved the text of paragraph (d) of proposed § 1035.3 to the final § 1035.5 to create a new paragraph (c). This paragraph, which describes the obligation to report information which may "constitute or contribute to grounds for debarment or suspension * * *" is directly related to the topic addressed in § 1035.5—*i.e.*, the causes for debarment and suspension.

The definition of "agency" in the final § 1035.4 has been revised to conform to the definition in the Federal Acquisition Regulations (FAR). 48 CFR 9.403 (effective April 1, 1984).

The term "DOE certified organization" has been deleted from the final § 1035.4 ("Definitions") because it is not used anywhere else in the final rule.

Also in final § 1035.4, DOE modified the definition of "DOE List" to include in the full title of the list the word "Ineligible." The full title of the DOE List thus becomes "DOE Consolidated List of Debarred, Suspended, Ineligible, and Voluntarily Excluded Awardees."

A definition of the term "ineligible" has been added to the final § 1035.4. This definition is the same as that prescribed by the FAR. 48 CFR 9.403 (effective April 1, 1984).

The proposed definition of "notice" stated in the last sentence that receipt would be presumed if DOE did not receive the return receipt within 10 days of mailing. Because of postal service delays DOE and other Federal agencies have occasionally experienced, it was decided that the proposed 10-day turnaround time might be too short and, therefore, might create unnecessary problems for the Department and for respondents. Accordingly, the final definition of "notice" has been amended by enlarging the proposed 10-day time period to 20 days.

The proposed definition of "procurement contract" has been revised based on the definition of "acquisition" in the FAR. 48 CFR Subpart 2.1 (effective April 1, 1984).

The commenter had two objections to proposed § 1035.5 (a)(3) and (b) which provided that "unmitigated refusal to pay a debt (including disallowed costs and overpayments) owed to DOE" would be a cause for suspension and debarment. The first objection was that, as written, this provision would authorize suspension and debarment in cases where the debt was being challenged by the awardee under the Contract Disputes Act or some other legal authority: *e.g.*, the Debt Collection Act of 1982, Pub. L. 97-365 or the DOE Financial Assistance Rules (*see*, 10 CFR 600.26, 48 FR 34402 (July 28, 1983)).

DOE did not intend that the suspension/debarment procedure be used in situations where a debt is disputed, and agrees with the commenter that the proposed language did not make the intended scope clear. Accordingly, § 1035.5 has been revised in three significant respects. First, the proposed phrase "unmitigated refusal" has been replaced by the phrase "inexcusable, prolonged, or repeated failure." The latter phrase is taken from the second sentence of § 102.8 of the Federal Claims Collection Standards issued by the General Accounting Office and the Department of Justice, and published at 4 CFR Chap. II. (First sentence of § 102.9 of the proposed revised Federal Claims Collection Standards (48 FR 23249 at 23253, col. 1,

May 24, 1983).) For purposes of debarment and suspension, failure to pay a debt owed to DOE may be excused by financial incapacity (*e.g.*, bankruptcy).

The second amendment is the addition of the proviso that the awardee must have been notified of the determination of indebtedness. The third amendment is an additional proviso "that the time for initiating any administrative or legal action to oppose or appeal the determination of indebtedness has expired or that such action, if initiated, has been concluded."

The commenter's second objection was that failure to pay a debt owed to DOE should not be a ground for suspension. The Department disagrees for several reasons. First, given the provisos (described immediately above) which have been added to this cause, there would never be any uncertainty over the existence or amount of the debt owed to DOE. In addition, under §§ 1035.6 and 1035.8 of the final rule, an opportunity to respond would be available to the suspended debtor within 30 days. During this interval, the suspended debtor could repay the debt or agree to a repayment schedule acceptable to DOE, thereby eliminating the cause for continuing the suspension.

The commenter criticized the use of "organization or individual" in proposed § 1035.5, pointing out that an organization or individual may be debarred only if the organization or individual is an awardee or an affiliate of a debarred awardee. In response to this comment, DOE has revised § 1035.5(a) by substituting the word "awardee" for the phrase "organization or individual." The same substitution has been made after the word "debarred" in § 1035.5(a)(5) which now reads:

"(5) On the basis that an individual or organization is an affiliate of a debarred awardee."

The commenter expressed opposition to the proposal in § 1035.5 (a)(1)(i) and (b)(1) that fraud or criminal conduct incident to obtaining or performing "agreements or subagreements with a * * * private organization or with an individual" would constitute cause for debarment or suspension. The commenter recommended that this cause be limited, as in OFPP Policy Letter 82–1, to fraud or criminal conduct in connection with public contracts. OFPP Policy Letter 82–1, 47 FR 28854 (July 1, 1982), paragraphs 7.2(a)(1) and 8.2(a)(1); FPR Temp. Reg. 65, 47 FR 43692 (Oct. 4, 1982), §§ 1–1.605–2(a)(1) and 1–1.606–2(a)(1); FAR Subpart 9.4, 48 FR 42148 (Sept. 19, 1983), §§ 9.406–2(a)(1) and 9.407–2(a)(1).

The Department decided not to adopt this comment. DOE believes that fraud committed in either a private or public contractual context may seriously affect the present responsibility of a DOE awardee. DOE believes that ignoring any evidence of nonresponsibility would be inconsistent with our legal obligation to assure that awards are made only to responsible individuals and organizations. However, in response to advice provided by the Office of Federal Procurement Policy (OFPP), the reference to fraud and other criminal conduct in connection with private agreements has been placed in paragraph (a)(3) of the final § 1035.5. OFPP indicated this change was necessary to conform the DOE rule to the FPR Temp. Reg. 65.

The word "DOE" has been deleted from proposed § 1035.5(a)(2) and a cross-reference to § 1035.5(a)(2) has been added to paragraph (a)(4) of the final § 1035.5. These changes make this section consistent with §§ FPR 1–1.605–2 (b) and (d).

Proposed § 1035.6 has been renumbered § 1035.7, and proposed § 1035.7 has been renumbered § 1035.6. This sequence is more logical because the section on coordination with the Department of Justice prescribes the coordination procedures DOE must follow after a suspension or proposed debarment notice has been issued (if the respondent requests a meeting or fact-finding conference).

The commenter made two recommendations about the use of *in camera* evidence authorized by proposed § 1035.6 (§ 1035.7 in the final rule), a section which contains the procedures for coordination DOE suspensions and proposed debarments with related civil and criminal actions undertaken by the Department of Justice. The commenter's first recommendation was that the use of *in camera* evidence be permitted only in suspension cases because OFPP Policy Letter 82–1 does not refer to this procedure in the debarment decisionmaking procedures.

DOE proposed to extend the *in camera* evidence procedure to debarment cases because of the DOE practice of proposing debarment, in appropriate cases, before an indictment has been returned and before related civil or criminal proceedings have been concluded. *See, e.g.*, Notice of suspension and proposed debarment (47 FR 31957, July 23, 1982). Conduct for which an awardee has not yet been indicted or convicted (or for which prosecution is declined) may nevertheless constitute a serious violation of a DOE agreement or subagreement (proposed § 1035.5(a)(2)), or "any other cause of so serious or compelling a nature that it affects * * * present responsibility * * *." Proposed § 1035.5(a)(3). The latter cause may be the basis for a suspension, for a proposed debarment, or both.

Because debarment may be proposed simultaneously with or without (see, final § 1035.5(f)) a suspension notice, DOE proposed the *in camera* procedure to avoid compromising related legal proceedings by either a DOE debarment or a DOE suspension proceeding. OFPP has advised that OFPP Policy Letter 82–1 does not authorize the use of *in camera* evidence in proposed debarment cases. In accordance with this advice and the commenter's suggestion, the final § 1035.7 provides that the *in camera* procedure may be used only in connection with suspension cases.

The commenter's second recommended change to proposed § 1035.6 (§ 1035.7 in the final rule) was to amend paragraph (b) so that the Director would be required to submit to the fact-finding panel, for *in camera* inspection, any evidence relied upon for the suspension/proposed debarment decision which, based on a request by the Department of Justice, could not be disclosed to the respondent. DOE agrees with the commenter that such evidence (assuming it is relevant to a disputed material fact) should be made available to the fact-finding panel in every case. Accordingly, the second sentence of proposed § 1035.6(b) [§ 1035.7(b) in the final rule] has been revised to read as follows: "At the fact-finding conference, the Director shall make any such evidence which is relevant to a disputed material fact available to the fact-finding panel for *in camera* inspection."

Commenting on the notice requirements in proposed § 1035.7 (§ 1035.6 in the final rule), the commenter stated that affiliates should be notified of a suspension or proposed debarment action at the same time their affiliated awardee is notified. Although such simultaneous notification is the Department's typical practice, DOE recognizes that affiliate relationships may be created after a suspension/proposed debarment notice is issued or while a period of suspension or debarment is in effect. *See e.g.*, Notices of suspension and proposed debarment (47 FR 56694, December 20, 1982) and (48 FR 8855, March 2, 1983). This phenomenon is also recognized in the FPR Temp. Reg 65 which provides that the debarring official "may extend the debarment decision to include any affiliates" provided they are "given

written notice * * * and an opportunity to respond." Thus, the FPR does not require simultaneous notification of the awardee and affiliates; the FPR requires actual notification of affiliates—notification which may occur simultaneously with or subsequent to notification of the awardee. For these reasons, no change in the affiliate notification procedure has been made in the final rule.

The commenter observed that the notice required under proposed § 1035.7(b) (§ 1035.6(b) in the final rule) would be strengthened if it explained how and why the misconduct complained of supports a determination that the respondent is "not presently responsible for purposes of doing business with the Department." The commenter asserted that, absent such a showing, there is a "risk of an erroneous determination based on past misconduct that is no longer relevant to any question as to the awardee's present responsibility." No further explanation of the nature of this risk was provided. The commenter's apparent concern is that suspension/proposed debarment actions may be based on misconduct which occurred so far in the past, it may no longer be a valid indicator of present responsibility. It is DOE practice, when issuing notices of suspension and/or proposed debarment, to indicate when the misconduct occurred. To date none of the suspension/proposed debarment notices issued by DOE has involved misconduct which occurred more than two years before the date of the notice. Most actions involved misconduct which occurred less than one year before the notice was issued. In the Department's opinion, the risk that future debarment actions will be based on "stale" allegations of misconduct is small.

As the commenter is aware, the preamble to OFPP Policy Letter 82–1 emphasizes that a "contractor's lack of responsibility in the past may be considered when determining whether * * * a contractor is presently responsible." (47 FR at 28856, col. 1, July 1, 1982.) The preamble explains that one of the reasons for the amendments to subparagraph 7.2, which contains the causes for debarment, was to make "it * * * clear that evidence of a contractor's lack of responsibility in the past may be considered when determining whether a contractor is *presently* responsible." (47 FR at 28855, col. 1, July 1, 1982), emphasis in the original. The OFPP position is consistent with the cases holding that past acts may be the basis for a finding of present lack of responsibility. *See; e.g., Schlesinger* v. *Gates*, 249 F.2d 111 (D.C. Cir. 1957) (per curiam), *cert. denied*, 335 U.S. 939 (1958); *Roemer* v. *Hoffman*, 419 F. Supp. 130 (D.D.C. 1976).

The commenter criticized the provision in proposed § 1035.7(f) (§ 1035.6(f) in the final rule) that every proposed debarment (issued without a suspension notice) would have the effect of a suspension "from further business dealings with the Department for the duration of the debarment proceeding." This proposed provision was based on the FPR Temp. Reg. 65 guidance which states that if no suspension is in effect when a contractor is proposed for debarment, the proposing agency shall not award contracts to or approve or consent to subcontracts with the contractor pending a final debarment decision. 41 CFR § 1–1.605–1(d); 48 CFR § 9.406–3(c)(7) (effective April 1, 1984). Thus, every proposed procurement debarment would have the effect of an intra-agency suspension.

The Department has been advised by OFPP that in order to comply with OFPP Policy Letter 82–1, every proposed DOE procurement debarment must have the effect of a suspension from DOE contracting. Accordingly, with respect to DOE proposed procurement debarments, the commenter's recommendation was not adopted in the final rule. Similarly, this recommendation was rejected with respect to proposed nonprocurement debarments because DOE decided it would be preferable, from an administrative policy standpoint, to make the intra-departmental suspension effect apply uniformly to both procurement and nonprocurement DOE proposed debarment actions.

The commenter objected to the composition of the proposed fact-finding panel, arguing (1) that it represents an impermissible combination of prosecutorial and judicial functions and (2) that because of his or her organizational loyalties, each panel member would be biased against the respondent. Based on these two arguments, the commenter concludes that respondents would be unable to obtain a fair hearing before the proposed fact-finding panel.

It should be emphasized that, for purposes of the Government-wide procurement debarment and suspension system, agency debarring officials are authorized but not required to delegate the fact-finding function to another agency official. Rather than allow the Director to delegate this function to a single official of his or her choosing, DOE decided—in the interest of fairness—to require the Director to use a panel consisting of three senior DOE officials. Of the three designated agency officials, only one panel member may come from the Procurement and Assistance Management Directorate.

The commenter states that the senior attorney member will come from the same office that will prosecute the case before the panel. The commenter's objection to the third proposed panel member is that the program officer may belong to the same office from which the debarment or suspension action originated. The Director understands the commenter's concerns about the impartiality of officials appointed to a fact-finding panel, and will avoid selecting individuals whose past and present work responsibilities or organizational affiliations would create the impression or undue risk of partiality for or against the respondent.

The commenter asserts that the panel members, individually and collectively, would be biased because of their organizational loyalties and that this bias would prevent them from fairly considering a respondent's case. The Department disagrees with the commenter's assessment. *See, Schweiker* v. *McClure*, 456 U.S. 188, 196 n.10 (1982). Because the proposed fact-finding panel membership will be drawn from three different organizations within DOE, we believe the panel structure is not inherently biased. Accordingly, the final rule retains the fact-finding panel as originally proposed.

Proposed § 1035.8(b)(3) has been revised to indicate that the information and opposing argument submitted in response to a suspension or proposed debarment may include identification of the material facts disputed by the respondent.

The commenter recommended that the term "conference" in proposed § 1035.8(d), which prescribes the fact-finding conference procedures, be changed to "hearing." DOE has not accepted this recommendation because, in the Department's opinion, the proposed term is consistent with the Government-wide guidance that agencies "establish procedures * * * that are as informal as is practicable * * *" FAR 9.406–3(b)(1); FPR Temp. Reg. 65 § 1.605–3(b)(1). The term "hearing connotes and may encourage a degreee of formality which the guidance suggests should be avoided—in the interest of fairness to all parties.

In connection with proposed § 1035.8(d), the commenter also stated that the Director should not be authorized to determine when there is a genuine dispute over material facts, and that the fact-finding panel should make, rather than "propose," the finding of

fact. These suggestions are inconsistent with the guidance provided in the Government-wide procurement debarment and suspension rule (FAR 9–406.3(d)(2)(ii); FPR Temp. Reg. 65 § 1–1.605–3(d)(2)(i)), and, therefore, have not been adopted in the final DOE rule.

The commenter recommended that DOE adopt procedural rules (for the fact-finding conference) modelled on the Federal Rules of Civil Procedure (F.R. Civ. P.) and the Federal Rules of Evidence (F.R. Evid.), and that DOE use the rulemaking procedure to issue such procedural rules. The Department has not yet decided what process shall be used to adopt procedural rules, nor has a decision been made concerning the substance of such rules. It should be noted, however, that the Administrative Procedure Act exempts rules of procedure from the rulemaking requirement, 5 U.S.C. 553(a)(3)(A). Finally, DOE does not intend to adopt procedural rules for the fact-finding conference which are as elaborate or as restrictive as the F.R. Civ. P. and F.R. Evid.

The commenter expressed the opinion that the respondent's challenge to the findings of fact should be by judicial review rather than by submitting written exceptions to the Director, as provided in proposed § 1035.8(d)(8). Nothing in proposed § 1035.8(d)(8) precludes judicial review; the effect of this provision and proposed § 1035.8(d)(9) is to make judicial review a right which becomes available only after the Director has issued a final decision. No change has been made, in response to this comment, to proposed § 1035.8(c)(8) or any other provision of the proposed rule.

The commenter also objected to conferring authority on the Director to set aside proposed findings of fact (proposed § 1035.8(b)(9)), arguing that this is a judicial function which should be safeguarded against *ex parte* influence, as the Director is not. The commenter's argument is rebutted by two factors. First, the rules for the Government-wide procurement debarment and suspension system specify that when the debarring official refers a case to other agency official(s) for fact-finding, the debarring official may set aside any proposed findings of fact he or she determines to be arbitrary or clearly erroneous. FAR 9.406–3(d)(2); FPR Temp. Reg. 65 § 1–1.605–3(d)(2). Second, the Director is and will be required, under the latter rules and under the final § 1035.8(d)(9), to base his or her final decision on the administrative record. Although no decisionmaker can be entirely insulated from *ex parte* contacts, the requirement that the decision be based on the record provides adequate assurance that *ex parte* contacts will be avoided and those that do occur will be reported by the Director to all parties. In addition, restrictions on *ex parte* contacts will be included in the procedural rules to be issued by the Office of General Counsel as provided in § 1035.8(d)(4). For these reasons, no change has been made in the final rule to the Director's authority to set aside proposed findings of fact.

DOE reconsidered the 20-day deadlines provided in proposed § 1035.8(d)(8) for the fact-finding panel to complete its conference report and for the respondent to submit written exceptions to the Director. Based on this reconsideration, it was decided that 20 days might prove to be too short a time for the panel to complete its report and, similarly, that 20 days might be too short a time for respondents and/or their attorneys to prepare written exceptions. Accordingly, the proposed 20-day deadlines have been enlarged in the final § 1035.8(d)(8) to 30 days.

The commenter noted that proposed § 1035.9(a) makes no mention of the evidentiary standard for debarment decisions. The evidentiary standards for both suspension and debarment decisions are specified in § 1035.8(d) and in § 1035.8(d)(8). Final § 1035.9(a) has not been amended to repeat these evidentiary standards.

The commenter contended that defining "conviction" for debarment purposes to include pleas of *nolo contendere* violates Rule 11(e)(6) of the Federal Rules of Criminal Procedure and Rules 410 and 803(22) of the Federal Rules of Evidence. In rejecting this contention, DOE relies upon the response made by the Intergovernmental Task Force on Debarment and Suspension when the same objection was raised concerning the use of *nolo contendere* pleas in proposed OFPP Policy Letter 81–3. For the same reasons stated in the preamble to final OFPP Policy Letter 82–1 (47 FR 28854, at 28856, col. 2, July 1, 1982), the Department has determined that reliance on pleas of *nolo contendere* is a legally permissible and sound administrative policy.

Proposed § 1035.10 has been modified to make it clear that in addition to withdrawing a proposed debarment, the Director may terminate a suspension when a voluntary exclusion is negotiated. A voluntary exclusion has the effect, in either case, of an intra-agency debarment. See §§ 1035.13 and 1035.15.

In response to advice from OFPP, proposed § 1035.11(c), which prescribes the bases for reconsidering the scope, duration or effects of a debarment/suspension action, has been revised by adding at paragraph (4) of the final section the phrase, "[e]limination of other causes for which the debarment/suspension was imposed," and at paragraph (5) of the final section the phrase, "[o]ther reasons the Director deems appropriate * * *." The text of the former paragraph is derived from FPR Temp. Reg. 65, §§ 1–1.605–4(c)(4) and 1–1.606–3(d)(3), and FAR 9.406–4(c)(4) and 9.407–3(d)(3); the latter phrase in paragraph (5) is derived from FAR 9.406–4(c)(5) and 9.407–3(d)(3). Paragraph (5) also includes the text of proposed § 1035.11(c)(4), thereby identifying "restitution and other acts in mitigation" as examples of the "other reasons" that may be the basis for responding affirmatively to a request for reconsideration.

All references in proposed § 1035.13 to DOE certified organizations have been deleted because the requirements applicable to such organizations for reviewing and applying the DOE and GSA Lists are and will be set forth in other DOE and Federal regulations (*e.g.*, 41 CFR 9–50.103).

Paragraphs (d) and (e) of proposed § 1035.13 provided that DOE would instruct DOE certified organizations not to award, extend, or renew subagreements with awardees on the DOE List or subcontracts with contractors on the GSA List. These paragraphs have been removed from the final § 1035.13 because they would duplicate proposed DOE requirements (*e.g.*; 48 CFR 970.4403(f), 48 FR 43772 at 43934, col. 1, September 26, 1983).

Paragraph (f) of proposed § 1035.13 has been re-designated paragraph (d) in the final rule.

Paragraphs (g) and (h) of proposed § 1035.13 have been combined into a single provision which appears at § 1035.13(e) of the final rule.

The lengthy termination provisions at paragraph (i) of proposed § 1035.13 have been replaced by a single sentence at paragraph (f) of the final § 1035.13. This substitute sentence states "DOE shall review existing agreements and may review any subagreements with a contractor or awardee on the DOE or GSA List for the purpose of determining whether termination or other remedial action, available under the terms of the agreement, subagreement, or applicable law, is necessary to protect the Government's interest." DOE is of the opinion that this short statement is preferable because of the considerable

variety of termination and other legal remedies available under the many agreement types covered by the debarment and suspension rule.

The provision concerning the review of the DOE and GSA Lists set forth in paragraph (j) of proposed § 1035.13 has been re-designated paragraph (g) in the final § 1035.13.

III. Review Under Executive Order 12291

In accordance with the requirements of Executive Order 12291 (46 FR 13193, February 17, 1981), this final rule has been reviewed by OMB. Prior to publication of the proposed rule, DOE concluded that this is not a "major rule" because its promulgation will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete in domestic or export markets. No comments were received which disagreed with this determination.

IV. Review Under the Regulatory Flexibility Act

As indicated in the preamble to the proposed rule (48 FR 34203), the proposed rule was reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354). DOE certified that this rule would not have a significant economic impact on a substantial number of small entities, and, therefore, no initial regulatory flexibility analysis was prepared. In the absence of any public comment on the DOE certification in the proposed rule, DOE certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no final regulatory flexibility analysis has been prepared.

V. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these wholly procedural rules clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq. (1976)); the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508); and the DOE guidelines (45 FR 20694, March 28, 1980) and, therefore, do not require an environmental impact statement pursuant to NEPA.

List of Subjects

10 CFR Part 600

Administrative practice and procedure, reporting and recordkeeping requirements, suspension and debarment.

10 CFR Part 1035

Administrative practice and procedure, suspension and debarment.

41 CFR Part 9–1

Government procurement, suspension and debarment.

Issued in Washington, D.C., on January 26, 1984.

Donald Paul Hodel,

Secretary of Energy.

1. Title 10 of the Code of Federal Regulations is amended by adding a new Part 1035 and by amending Part 600, as follows:

1. Part 1035 is added to read as follows:

PART 1035—DEBARMENT AND SUSPENSION

Sec.

1035.1 Scope of part.
1035.2 Applicability.
1035.3 Policy
1035.4 Definitions.
1035.5 Causes for debarment and suspension.
1035.6 Suspension and proposed debarment notices.
1035.7 Coordination with Department of Justice.
1035.8 Decisionmaking.
1035.9 Notice of final decision.
1035.10 Voluntary exclusion.
1035.11 Period of debarment and suspension.
1035.12 Scope of debarment and suspension.
1035.13 Effects of being listed on the DOE and GSA Lists.
1035.14 Notification of GSA.
1035.15 DOE Consolidated List of Debarred, Suspended, Ineligible, and Voluntarily Excluded Awardees.

Authority: Secs. 307, 644, and 646, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7156, 7254, and 7256); FPR Temporary Regulation 65, 41 CFR Part 1–1, 47 F.R. 43692 (October 4, 1982) (effective through March 31, 1984) and Federal Acquisition Regulations, 48 CFR Subpart 9.4, 48 FR 42102, 42148 (September 19, 1983) (effective April 1, 1984).

§ 1035.1 Scope of part.

This part—

(a) Prescribes policies and procedures governing the debarment and suspension of organizations and individuals from participating in Department of Energy agreements and DOE approved subagreements, including DOE procurement contracts and DOE approved subcontracts;

(b) Sets forth the causes, procedures, and requirements for determining the scope, duration, and effect of DOE debarment and suspension actions; and

(c) Implements and supplements 41 CFR Subpart 1–1.6 with respect to the exclusion of organizations and individuals from procurement contracting and Government approved subcontracting.

§ 1035.2 Applicability.

The provisions of this Part apply to all debarment and suspension actions initiated by DOE on or after the effective date of this part.

§ 1035.3 Policy.

(a) DOE shall not solicit proposals from, award agreements to, or approve or consent to subagreements with, organizations and individuals that are suspended, proposed for debarment, debarred, ineligible, or voluntarily excluded as indicated on the DOE List or that are debarred, suspended, or ineligible as indicated on the GSA List.

(b) Debarment and suspension are serious sanctions which may be imposed only in the public interest, for the Government's protection and not for the purpose of punishment. Debarment and suspension may be imposed only for the causes and only in accordance with the procedures set forth in this Part.

(c) Debarment and suspension actions taken under this Part shall be based on the administrative record and shall be limited in scope and duration to the minimum necessary to protect the Government's interest.

§ 1035.4 Definitions.

For purposes of this part—

"Adequate evidence" means information sufficient to support the reasonable belief that a particular act or omission has occurred.

"Affiliates." Organizations or individuals are affiliates if, directly or indirectly, (a) either one controls or can control the other, or (b) a third controls or can control both.

"Agency" means any executive department, military department or defense agency, or other agency or independent establishment of the executive branch.

"Agreement" means a procurement or sales contract, a real property purchase agreement, a grant, cooperative agreement, loan, loan guarantee, price support, market agreement, or subsidy.

"Awardee" means any organization or individual that: (a) submits proposals for, or is awarded, or reasonably may be expected to submit proposals for, or be awarded a DOE agreement or subagreement under a DOE agreement;

or (b) conducts business with DOE as an agent or representative of an awardee.

"Contractor" means an organization or individual that: (a) submits proposals for, or is awarded, or reasonably may be expected to submit proposals for, or be awarded, a Government procurement contract or a subcontract under a Government procurement contract; or (b) conducts business with the Government as an agent or representative of a contractor.

"Conviction" means a judgment or conviction of a criminal offense by any court of competent jurisdiction, entered upon a verdict or plea, including a plea of *nolo contendere*, or a pretrial diversion agreement wherein responsibility for the commission of a criminal offense is acknowledged.

"Debarment" means action taken by a debarring official under FPR 1–1.605 and/or this Part to exclude an organization or individual from receiving Federal procurement contracts and subcontracts or from receiving one or more types of agreements or subagreements for a reasonable, specified period of time. An individual or organization so excluded is "debarred."

"Debarring official" means the head of an agency or an official authorized by the head of an agency to impose debarment. The DOE debarring official is the Director, Procurement and Assistance Management Directorate.

"Director" means the Director, Procurement and Assistance Management Directorate, DOE.

"DOE" means the Department of Energy, including the Federal Energy Regulatory Commission.

"DOE List" means the DOE Consolidated List of Debarred, Suspended, Ineligible, and Voluntarily Excluded Awardees maintained by DOE in accordance with § 1035.15 of this Part.

"FPR" means 41 CFR Chapter 1.

"GSA" means General Services Administration.

"GSA List" means the Consolidated List of Debarred, Suspended, and Ineligible Contractors maintained and published by GSA in accordance with FPR Subpart 1–1.6.

"Indictment" means indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

"Ineligible" means excluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive order, or regulatory authority other than this regulation and its implementing and supplementing regulations; for example, pursuant to the Davis-Bacon Act and its related statutes and implementing regulations, the Service Contract Act, the Equal Employment Opportunity Acts and Executive orders, the Walsh-Healey Public Contracts Act, the Buy American Act, or the Environmental Protection Acts and Executive orders.

"Legal proceeding" means any civil judicial proceeding to which the Government is a party or any criminal proceeding. The term also includes appeals from such proceedings.

"Notice" means a written communication sent by certified mail, return receipt requested, to the last known address of a party, its identified counsel, or agent for service of process. In the case of an organization, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 20 calendar days of mailing, receipt shall be presumed.

"Preponderance of the evidence" means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

"Procurement contract" means an agreement for the acquisition of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease.

"Proposal" means a solicited or unsolicited bid, proposal, application or other offer for a DOE agreement or subagreement.

"Respondent" means an awardee or affiliate who is the subject of a suspension, proposed debarment, debarment, or voluntary exclusion action under this Part who has been notified as provided by § 1035.6.

"Subagreement" means an agreement under an agreement (*e.g.*, a contract or subgrant under a grant).

"Subcontract" means a procurement contract under a procurement contract.

"Suspending official" means the head of an agency or an official authorized by the head of an agency to impose suspension. The DOE suspending official is the Director, Procurement and Assistance Management Directorate.

"Suspension" means action taken by a suspending official under FPR 1–1.606 and/or this Part to exclude an organization or individual temporarily from receiving Federal contracts and subcontracts or from receiving one or more types of DOE agreements and subagreements. An individual or organization so excluded is "suspended."

§ 1035.5 Causes for debarment and suspension.

(a) The Director may debar an awardee:

(1) For conviction of or civil judgment for—

(i) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public agreement or subagreement;

(ii) Violation of Federal or State antitrust statutes relating to the submission of proposals;

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(iv) Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the present responsibility of an awardee.

(2) For violation of an agreement or subagreement so serious as to justify debarment, such as—

(i) Willful failure to perform in accordance with the terms of one or more agreements or subagreements; and

(ii) A history of failure to perform, or of unsatisfactory performance of, one or more agreements or subagreements.

(3) For any other cause of so serious or compelling a nature that it affects the present responsibility of a DOE contractor or awardee. Such cause may include but is not limited to:

(i) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a private agreement or subagreement; and

(ii) Inexcusable, prolonged, or repeated failure to pay a debt (including disallowed costs and overpayments) owed to DOE, provided the awardee has been notified of the determination of indebtedness, and further provided that the time for initiating any administrative or legal action to oppose or appeal the determination of indebtedness has expired or that such action, if initiated, has been concluded.

(4) On the basis of a debarment for any of the causes in paragraphs (a)(1), (a)(2), and (a)(3) of this section by another agency.

(5) On the basis that an individual or organization is an affiliate of a debarred awardee.

(6) For failure to observe the material provisions of a voluntary exclusion (see § 1035.10).

(b) The Director may suspend an organization or individual:

(1) Indicted for or suspected, upon adequate evidence, of the causes described in paragraphs (a)(1) and (a)(3) of this section.

(2) On the basis of a suspension or debarment by another agency for any of the causes in paragraphs (a)(1) and (a)(3) of this section.

(3) On the basis of the causes set forth in paragraphs (a)(3) and (a)(6) of this section.

(4) On the basis that an organization or individual is an affiliate of a suspended or debarred awardee.

(c) Offices responsible for the award and administration of agreements are responsible for reporting to both the Procurement and Assistance Management Directorate and the Inspector General, DOE, information about possible fraud, waste, abuse, or other wrongdoing which may constitute or contribute to a cause(s) for debarment or suspension under this Part. Organizations and individuals performing under agreements awarded by DOE shall be required to report such information to the contracting officer and to the Inspector General, DOE.

§ 1035.6 Suspension and proposed debarment notices.

When the Director, after consultation with legal counsel, determines that causes exist to suspend or propose debarment of an awardee or affiliate, the Director shall send the awardee or affiliate a notice containing, as appropriate, the following information:

(a) That a debarment is being proposed and/or a decision to suspend has been made.

(b) The reasons for the suspension and/or proposed debarment in terms sufficient to put the respondent on notice of the conduct or transaction(s) upon which the suspension or proposed debarment is based, except that the notice shall omit any information which, if disclosed, would prejudice an ongoing civil or criminal investigation or a pending or contemplated legal proceeding, or would compromise national security.

(c) The cause(s) relied upon under § 1035.5 of this Part and, if applicable, under FPR 1–1.605–2 or 1–1.606–2 for the suspension and/or proposed debarment.

(d) That within 30 days after receipt of the notice, the respondent may submit, or make a written request for an opportunity to submit, to the Director or designee, information and argument in opposition to the proposed debarment and/or suspension, including any additional specific information that may raise a genuine dispute over the material facts. The submission in opposition may be made in person, in writing, or through a representative.

(e) DOE's procedures governing debarment and/or suspension decisionmaking (see § 1035.8).

(f) The effects of the suspension and/or proposed debarment and the effects of a final debarment (see § 1035.13). If a notice of proposed debarment is issued to an awardee or affiliate who is not suspended, the notice shall state that, for purposes of affected DOE agreements and subagreements, the proposed debarment shall have the effect of a suspension.

(g) For suspension notices, that the suspension is effective as of the date of the notice.

(h) The respondent's name and address have been placed on the DOE List.

(i) If the respondent was suspended for one or more causes included in FPR Subpart 1–1.6, that a copy of the suspension notice was sent to GSA, and that the respondent's name will be added to the GSA List (FPR 1–1.603–1).

§ 1035.7 Coordination with Department of Justice.

Whenever a meeting or fact-finding conference is requested, under § 1035.8 (b)(1) or (b)(2), the Director's legal representative shall obtain the advice of appropriate Department of Justice officials concerning the impact disclosure of evidence at the meeting or fact-finding conference could have on any pending civil or criminal investigation or legal proceeding. If such official requests in writing that evidence needed to establish the existence of a cause for suspension not be disclosed to the respondent, the Director shall:

(a) Decline to rely on such evidence and withdraw (without prejudice) the suspension until such time as disclosure of the evidence is authorized; or

(b) Rely on such evidence without disclosing it to the respondent. At the fact-finding conference, the Director shall make such evidence available for *in camera* inspection to the fact-finding panel. Evidence submitted for *in camera* inspection shall be part of the administrative record, but may not be disclosed to the respondent or any member of the public until release is authorized in writing by an appropriate Department of Justice official or until related legal proceedings are concluded, whichever occurs first.

§ 1035.8 Decisionmaking.

(a) *Definitions.* (1) "Fact-finding panel" means a three-member panel appointed by the Director to conduct a fact-finding conference under paragraph (d) of this section. This panel shall consist of an office director within the Procurement and Assistance Management Directorate, a senior attorney nominated by the General Counsel or designee, and a senior official of a program or other office of the Department. (2) For purposes of this section, "timely" means mailed or delivered to the Director not later than 30 days after the date of the notice under § 1035.6 or on or before such later date as may be specified in the notice under § 1035.6. If the postmark date is affixed by a postage meter and DOE receives the document more than five days after the postmark date, the date of receipt shall be used to determine timeliness.

(b) *Written response.* A timely written response to a notice of suspension or proposed debarment may contain any or all of the following:

(1) A request for a meeting with the Director or designee (§ 1035.8(c));

(2) A request for a fact-finding conference (§ 1035.8(d)); and

(3) Information and argument in opposition to the suspension or proposed debarment including identification of disputed material facts. If the respondent fails to submit a timely written response to a notice of suspension or proposed debarment, the Director shall notify the respondent in accordance with § 1035.9 that the awardee remains suspended, or that the awardee is debarred, as applicable.

(c) *Meeting.* Upon receipt of a timely request therefor, the Director shall schedule a meeting with the Director or designee and the respondent, no later than 30 days from the date the request is received. The Director or designee may postpone the date of the meeting if the respondent requests a postponement in writing.

(1) At the meeting, the respondent, appearing personally or through an attorney or other authorized representative, may informally present and explain evidence that causes for suspension or debarment do not exist, evidence of any mitigating factors, and arguments concerning the imposition, scope, duration, or effects of a suspension, proposed debarment, or debarment. The respondent may offer or explain a previous offer to agree to a voluntary exclusion (§ 1035.10) at the meeting.

(2) Any written information or arguments submitted at or in connection with the meeting shall be included in the administrative record. The Director shall not be required to make a transcript of the meeting.

(3) Within two weeks following the date of the meeting, the Director shall send a notice to the respondent containing the following information:

(i) Names, organizational affiliations, titles, addresses, and telephone numbers of all individuals who attended;

(ii) A brief description of each document submitted by the respondent;

(iii) A summary of the issues discussed; and

(iv) A statement describing the action the Director has taken or proposes to take.

(d) *Fact-finding conference.* The purposes of a fact-finding conference under this section are to provide the respondent an opportunity to dispute material facts and to make arguments related to a suspension or proposed debarment, and to provide the Director with proposed findings of fact based, as applicable, on adequate evidence or on a preponderance of the evidence.

(1) *Appointment of fact-finding panel and notice to respondent.* If the Director determines that a written response or a presentation at the meeting puts material facts in dispute, the Director shall appoint a fact-finding panel. Upon appointment, the panel shall notify the respondent that the case has been referred to the panel and shall schedule a fact-finding conference.

(2) *Appearances.* The Director may be represented at the fact-finding conference by the General Counsel or designee. The respondent may appear personally or through an attorney.

(3) *Scope of the fact-finding conference.* The factual issues considered at the conference shall be limited to those identified in the Director's referral and any amendments thereto filed by the Director.

(4) *Procedures.* The fact-finding conference shall be conducted in accordance with applicable procedural rules adopted by the General Counsel or designee. The procedural rules shall be as informal as practicable, consistent with the principles of fundamental fairness, prompt decisionmaking, and with the evidentiary standards for suspension and debarment.

(5) *Preliminary administrative record.* At least 10 days before the fact-finding conference date, the Director shall file with the fact-finding panel, and mail or deliver to the respondent, a copy of the administrative record as of the date of the transmittal. The copy sent to the respondent shall not include any documents which, as provided in § 1035.7, may not be disclosed; the copy filed with the fact-finding panel shall identify which documents must be sealed and viewed by the fact-finding panel only *in camera*, as provided in § 1035.7.

(6) *Evidence and argument.* The respondent and the Director shall have the opportunity to submit documentary evidence, to examine and cross-examine witnesses, and to present argument. Only evidence which is relevant to the issues referred for the fact-finding conference and which is reliable and probative shall be admissible.

(7) *Transcript.* The fact-finding panel shall make a transcribed record of the fact-finding conference which shall be transmitted to the Director within 20 days after the hearing record is closed. The transcript shall be available at cost to the respondent. The requirement for a transcript may be waived by mutual agreement of the Director and all respondents.

(8) *Fact-finding conference report.* Within 30 days after the conference record is closed, the fact-finding panel shall transmit to the respondent (by notice) and to the Director a written report setting forth proposed findings of fact. The findings shall resolve any disputes over material facts based on a preponderance of the evidence if the case involves a proposal to debar, or on adequate evidence if the case involves a suspension. The respondent shall have 30 days from receipt of the fact-finding panel's report to submit written exceptions to the Director.

(9) *Final decision.* The Director's final decision shall be based on the administrative record, including the fact-finding conference report and any written exceptions submitted by the respondent. The Director may set aside findings of fact in the conference report only if the Director specifically determines the finding(s) to be arbitrary and capricious or clearly erroneous. If the final decision sustains a proposed debarment, the debarment may begin no earlier than ten days after the date of the notice of final decision (§ 1035.9), a copy of which shall be transmitted to the fact-finding panel.

§ 1035.9 Notice of final decision.

(a) Upon deciding to impose debarment or sustain a suspension, the Director shall promptly send each affected respondent a notice with the following information, as appropriate:

(1) The notice of suspension or proposed debarment, the meeting and the fact-finding conference shall be referenced;

(2) The Director's findings of fact and conclusions of law;

(3) The reasons for the debarment or for sustaining a suspension shall be specified;

(4) For debarments, the period of debarment, including effective dates (see § 1035.11) shall be stated; and

(5) The types of agreements and subagreements covered by the debarment or suspension. The decision may limit the debarment or suspension action to affected agreements involving particular commodities, products, services, or forms of energy, or to projects or work performed in specified geographic regions.

(6) A reference to the Director's waiver authority under § 1035.13.

(7) If the respondent has been debarred or suspended for one or more causes included in FPR Subpart 1–1.6, the notice shall also state that the debarment or suspension is effective throughout the Executive Branch as provided in FPR §§ 1–1.605–1(c) and 1–1.606–1(d).

(8) Modifications, if any, of the terms of the suspension.

(9) The names and addresses of the respondents that will be or have been placed on the DOE List.

(10) If the respondent has been debarred for one or more causes included in FPR Subpart 1–1.6, that a copy of the debarment notice was sent to GSA and that the respondent's name and address will be added to the GSA List.

(11) If less than an entire organization is suspended or debarred, the identity or description of the organizational element(s) or individual(s) included within the scope of the suspension or debarment.

(b) If the Director decides to withdraw a proposed debarment or to terminate a suspension, the Director shall promptly send, using the notice procedure, each affected respondent a copy of the final decision required under this section.

§ 1035.10 Voluntary exclusion.

At any time prior to the issuance of a final decision under § 1035.9, the Director may, in the public interest, agree, in writing, to terminate a suspension or withdraw a proposed debarment on the conditions that the respondent voluntarily refrain from attempting to obtain, and from entering into, one or more types of DOE or other agency agreements or subagreements. Failure to observe such conditions shall be an independent cause for debarment or suspension. The name and address of the respondent who is a party to a voluntary exclusion shall be placed on the DOE List. The Director shall not enter into a voluntary exclusion if the proposed debarment is based on conviction of or civil judgment for any of the causes in § 1035.5(a)(1), or if the suspension was based on an indictment for any of the causes in § 1035.5(a)(1).

§ 1035.11 Period of debarment and suspension.

(a) The duration of a period of debarment imposed under this Part shall be commensurate with the seriousness of the cause(s). Generally, a debarment

should not exceed three years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. The Director may extend the debarment for an additional period if the Director determines that an extension is necessary to protect the Government's interest. However, the Director may not extend a debarment solely on the basis of the facts and circumstances upon which the initial debarment action was based. the Director shall follow the procedures in §§1035.6 and 1035.8 to extend the debarment.

(b) Suspension shall remain in effect pending completion of investigation and any ensuing legal proceedings, unless sooner terminated by the Director or as provided in this paragraph. If legal proceedings are not initiated within 12 months after the date of the suspension notice, the Director shall terminate the suspension unless the Department of Justice requests an extension, in which case the Director may extend the suspension for an additional six months. If legal proceedings are initiated before the period of suspension expires, the suspension may continue until legal proceedings are concluded. The Director shall notify the Department of Justice of a proposed termination of the suspension at least 30 days before the 12-month period expires to give that agency an opportunity to request an extension.

(c) At any time during a period of suspension, proposed debarment, or debarment, a respondent may submit to the Director a written request for reconsideration of the scope, duration, or effects of the debarment/suspension action because of new information or changed circumstances such as:

(1) Newly discovered material evidence;

(2) Dismissal of the indictment or reversal of the conviction or judgment upon which the suspension/debarment action was based;

(3) Bona fide change in ownership (including dissolution of the business organization) or management;

(4) Elimination of other causes for which the debarment/suspension was imposed; or

(5) Other reasons the Director deems appropriate such as restitution and other actions in mitigation.

In reviewing a request for reconsideration, the Director may, in his or her discretion, utilize any of the procedures (meeting and factfinding conference) set forth in § 1035.8. The Director's final disposition of the reconsideration request shall be in writing and shall set forth the reasons why the request has been granted or denied. A notice transmitting a copy of the final decision shall be sent to the respondent and, if a factfinding conference under § 1035.8 is pending, a copy shall be transmitted to the fact-finding panel.

§ 1035.12 Scope of debarment and suspension.

Debarment or suspension of an awardee or affiliate under this Part constitutes debarment or suspension of all divisions or other organizational elements of the awardee or affiliate for all DOE agreements and subagreements, and, debarment or suspension of a contractor or affiliate under FPR Subpart 1–1.6 constitutes debarment or suspension of all divisions or other organizational elements of the contractor or affiliate for all executive branch procurement contracts and subcontracts unless the debarment or suspension decision is limited by its term to one or more specifically identified individuals or organizational elements (§ 1035.9(a)(10)) and/or to specific agreement types (§ 1035.9(a)(11)). For purposes of determining the scope of debarment and suspension, conduct may be imputed as follows:

(a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with an awardee may be imputed to the awardee when the conduct occurred in connection with the individual's performance of duties for or on behalf of the awardee, or with the awardee's knowledge, approval, or acquiescence. The awardee's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of an awardee may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the awardee who participated in, knew of, or had reason to know of the awardee's conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one awardee participating in a joint venture or similar arrangement may be imputed to other participating organizations or individuals if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval, or acquiescence of those organizations or individuals. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

§ 1035.13 Effects of being listed on the DOE and GSA Lists.

The Director may waive the prohibitions of paragraphs (a) through (e) of this section by issuing a written determination setting forth the compelling reasons justifying the waiver.

(a) DOE shall not solicit, or consider, and shall return any proposal submitted by a contractor or awardee on the DOE List or a contractor on the GSA List, to the extent that the solicitation activity or proposal falls within the scope of the suspension, proposed debarment, debarment, ineligibility of voluntary exclusion, as indicated on the DOE or GSA List.

(b) DOE shall not award, extend, or renew any agreement with an awardee on the DOE List or any procurement contract with a contractor on the GSA List, to the extent that the activity falls within the scope of the suspension, proposed debarment, debarment, ineligibility of voluntary exclusion, as indicated on the DOE or GSA List.

(c) DOE shall not approve or consent ot the award, extension, or renewal of a subagreement with a contractor or awardee on the DOE List and shall not approve or consent to the award, extension, or renewal of a subcontract with a contractor on the GSA List, to the extent that the award falls within the scope of the suspension, proposed debarment, debarment, ineligibility or voluntary exclusion.

(d) DOE may disapprove or not consent to the selection (by an awardee) of an individual to serve as a principal investigator, as a project manager, in a position of responsibility for the administration of Federal funds, or in another key personnel position, if the individual is on the DOE or GSA List.

(e) DOE shall not conduct business with an agent or representative of a contractor or awardee if the agent's or representative's name appears on the DOE or GSA List.

(f) DOE shall review existing agreements and may initiate a review of any subagreements with a contractor or awardee on the DOE List or a contractor on the GSA List for the purpose of determining whether termination or other remedial action, available under the terms of the agreement, subagreement, or applicable law, is necessary to protect the Government's interest.

(g) DOE shall review the DOE and GSA Lists before conducting a pre-award survey or soliciting proposals, awarding agreements, renewing or otherwise extending the duration of existing agreements, or approving or

consenting to the award, extension, or renewal of subagreements.

§ 1035.14 Notification of GSA.

Within five working days after debarring or suspending a contractor or affiliate from procurement contracting and subcontracting in accordance with FPR Subpart 1–1.6 or modifying or rescinding such an action, the Director shall transmit the information set forth in § 1035.15 to GSA.

§ 1035.15 DOE Consolidated List of Debarred, Suspended, Ineligible, and Voluntarily Excluded Awardees.

The Director shall compile and maintain a list of awardees and affiliates who are currently suspended, proposed for debarment, debarred, or voluntarily excluded under this part. The DOE List shall contain the following information at a minimum:

(a) The awardee's or affiliate's name and address;

(b) The cause(s) relied upon under this part, and as applicable, under FPR Subpart 1–1.6 for each action (see § 1035.5);

(c) The effect of each action (see § 1035.13);

(d) The effective date of the action and, in the case of debarment, the expiration date; and

(e) The name and telephone number of the DOE official who can be contacted for additional information about the action.

PART 600—[AMENDED]

2. 10 CFR Part 600 is amended by revising § 600.27 to read as follows:

§ 600.27 Debarment and suspension.

Applicants, recipients, subrecipients, and contractors under financial assistance awards may be debarred and suspended for the causes and in accordance with the procedures set forth in 10 CFR Part 1035. Title 41 of the Code of Federal Regulations is amended as follows:

PART 9–1—[AMENDED]

3. 41 CFR Part 9–1 is amended by revising Subpart 9–1.6 to read as follows:

Subpart 9–1.6 Debarred, Suspended, and Ineligible Bidders.

Section 9–1.600 Bidders, contractors, and subcontractors may be debarred and suspended for the causes and in accordance with the procedures set forth in 10 CFR Part 1035.

[FR Doc. 84–2737 Filed 2–2–84; 8:45 am]
BILLING CODE 6450–01–M

federal register

Friday
February 3, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notices

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1055]

Notices of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 30, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 30, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** OHIO DEPARTMENT OF NATURAL RESOURCES **********									
-B T SIMPSON JR				RECEIVED:	01/04/84	JA: OH			
8414380		3415723935		103		FRANCES FOSTER #2	UHRICHSVILLE	50.8	EAST OHIO GAS CO
8414379		3407521974		103		GEORGE BOWER #1	NASHVILLE	100.0	COLUMBIA GAS TRAN
-BAKERWELL INC				RECEIVED:	01/04/84	JA: OH			
8414381		3407524187		103		EBERT #3	WASHINGTON	7.2	EAST OHIO GAS CO
8414382		3415723955		103		GIBSON #3	WASHINGTON	7.2	EAST OHIO GAS CO
-BELDEN & BLAKE & CO 83				RECEIVED:	01/04/84	JA: OH			
8414383		3415123926		103		R & H HALTER - 1-341342	ORNABURG	36.5	
-BELDEN & BLAKE CORPORATION				RECEIVED:	01/04/84	JA: OH			
8414384		3415122837		103		J R & J L HEMINGER #1	MARLBORO	36.5	
-BERRESFORD ENTERPRISES INC				RECEIVED:	01/04/84	JA: OH			
8414400		3411522153		107-TF		ALBRIGHT #1	CENTER	0.0	
8414417		3416727049		107-TF		BARNETT, ET AL #1	WATERFORD	0.0	
8414398		3416726302		107-TF		CHARLES W NEWBERGER #1	WATERFORD	0.0	
8414396		3416726298		107-TF		CLARA MYERS #1	WATERFORD	0.0	
8414385		3416725464		107-TF		DAVID STORY #1	WATERFORD	0.0	
8414390		3416726062		107-TF		DONAL O'CARROLL #1	WATERFORD	0.0	
8414397		3416726300		107-TF		EILEEN TAYLOR #3	WATERFORD	0.0	
8414407		3411522645		107-TF		FLORENCE STIERS #1	CENTER	0.0	
8414412		3416726787		107-TF		GEORGE GORDON #1	WATERFORD	0.0	
8414386		3416725508		107-TF		GEORGE GORDON #2	WATERFORD	15.0	
8414388		3416726060		107-TF		GEORGE SINGREE #1	WATERFORD	0.0	
8414414		3416726859		107-TF		HOLIDAY/SINGREE #1	WATERFORD	0.0	
8414392		3416726066		107-TF		HOLLIE MICHAEL #1	WATERFORD	0.0	
8414404		3411522375		107-TF		JAMES HOPKINS ET AL #1	CENTER	0.0	
8414411		3416726671		107-TF		JOE MISEL #1	WATERFORD	0.0	
8414395		3416726232		107-TF		KEITH MILLER #1	WATERFORD	0.0	
8414402		3411522283		107-TF		KENT PLACE #1	CENTER	0.0	
8414408		3412122541		107-TF		LEE WEISAND #1	JACKSON	0.0	
8414403		3411522290		107-TF		LEORA TAYLOR #1	CENTER	0.0	
8414393		3416726867		107-TF		LOUIS SCHILLING #2	WATERFORD	0.0	
8414415		3416726868		107-TF		LOUIS SCHILLING #3	WATERFORD	0.0	
8414413		3416726854		107-TF		LOUIS SCHILLING #5	WATERFORD	0.0	
8414394		3416726231		107-TF		MARILYN COMBS #1	WATERFORD	0.0	
8414401		3411522212		107-TF		PAUL DIETZ #1	CENTER	0.0	
8414405		3411522485		107-TF		PAUL DIETZ #3	CENTER	0.0	
8414406		3411522644		107-TF		PHILLIS #1	CENTER	0.0	
8414391		3416726064		107-TF		RALPH & ALTA COFFMAN #1	WATERFORD	0.0	
— 8414410		3416725425		107-TF		RAYMOND TAYLOR #1	WATERFORD	15.0	
8414416		3416726868		107-TF		RUSKIN ADAMS #1	WATERFORD	0.0	
8414387		3416725985		107-TF		SCHILLING #1	WATERFORD	0.0	
8414422		3416727406		107-TF		SCHILLING #17	WATERFORD	0.0	
8414418		3416727317		107-TF		SCHILLING #8	WATERFORD	0.0	
8414419		3416727318		107-TF		SINGREE #3	WATERFORD	0.0	
8414420		3416727320		107-TF		SINGREE #4	WATERFORD	0.0	
8414421		3416727379		107-TF		TAYLOR #6	WATERFORD	0.0	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414389		3416726061		107-TF		VIRGIL PORTER #1	WATERFORD	0.0	
8414399		3416726660		107-TF		WARD #1	WATERFORD	0.0	
8414409		3416723810		107-TF		WILLIAM BONAR #1	DUNHAM	3.0	
-BILL BLAIR INCORPORATED				RECEIVED:	01/04/84	JA: OH			
8414423		3402920959		103	107-TF	MOUNTZ #1	HANOVERTON	12.0	EAST OHIO GAS CO
8414424		3402920960		103	107-TF	MOUNTZ #2	HANOVERTON	14.0	EAST OHIO GAS CO
8414425		3402920961		103	107-TF	MOUNTZ #3	HANOVERTON	14.0	EAST OHIO GAS CO
8414427		3402920963		103	107-TF	SOSENKO #1	HANOVERTON	12.0	EAST OHIO GAS CO
8414426		3402920962		103	107-TF	SOSENKO #2	HANOVERTON	2.0	EAST OHIO GAS CO
-BLAUSER WELL SERVICE INC				RECEIVED:	01/04/84	JA: OH			
8414435		3416725095		107-DV		DAVID D DUNBAR #2	FAIRFIELD TOWNSHIP	0.5	COLUMBIA GAS TRAN
8414434		3416725094		107-DV		DAVID D DUNBAR #3	FAIRFIELD TOWNSHIP	0.5	COLUMBIA GAS TRAN
8414433		3416725083		107-DV		E GRANT RUSSELL #1	FAIRFIELD TOWNSHIP	1.1	COLUMBIA GAS TRAN
8414432		3416725082		107-DV		F GRANT & LEANA J RUSSELL #2	FAIRFIELD TOWNSHIP	1.1	COLUMBIA GAS TRAN
8414428		3416724354		107-DV		HENRY WUNDERLICH #1	SALEM TOWNSHIP	4.5	COLUMBIA GAS TRAN
8414429		3416725048		107-DV		HENRY WUNDERLICH #2	SALEM TOWNSHIP	1.1	COLUMBIA GAS TRAN
8414430		3416725049		107-DV		HENRY WUNDERLICH #3	SALEM TOWNSHIP	1.1	COLUMBIA GAS TRAN
8414439		3416725114		107-DV		HOWARD L MATLACK #1	DECATUR TOWNSHIP	2.7	COLUMBIA GAS TRAN
8414441		3416725116		107-DV		HOWARD L MATLACK #2	DECATUR TOWNSHIP	2.7	COLUMBIA GAS TRAN
8414443		3416725137		107-DV		HOWARD L MATLACK #3	DECATUR TOWNSHIP	2.7	COLUMBIA GAS TRAN
8414431		3416725081		107-DV		ROBERT J KUBOTA #1	SALEM TOWNSHIP	3.3	COLUMBIA GAS TRAN
8414437		3416725112		107-DV		ROBERT J KUBOTA #2	SALEM TOWNSHIP	3.3	COLUMBIA GAS TRAN
8414436		3416725098		107-DV		RUSSELL F & MARY L MCVICAR #1	FAIRFIELD TOWNSHIP	1.0	COLUMBIA GAS TRAN
8414440		3416725115		107-DV		RUSSELL F & MARY L MCVICAR #2	FAIRFIELD TOWNSHIP	1.0	COLUMBIA GAS TRAN
8414438		3416725113		107-DV		RUSSELL F & MARY L MCVICAR #3	WASHINGTON TOWNSHIP	1.0	COLUMBIA GAS TRAN
8414442		3416725136		107-DV		RUSSELL F & MARY L MCVICAR #4	FAIRFIELD TOWNSHIP	1.0	COLUMBIA GAS TRAN
-BULLS INVESTMENTS				RECEIVED:	01/04/84	JA: OH			
8414444		3411522500		107-TF		PAUL DIETZ/KENT PLACE #2	CENTER	0.0	
-CA D' ORA INC				RECEIVED:	01/04/84	JA: OH			
8414451		3416727589		103		DALE SCHWENDEMAN #1	WATERTOWN	7.0	
8414445		3416727468		103		DAVID SCHAAD #2	WATERTOWN	10.5	
8414448		3416727578		103		MILDRED WILKING #1	WATERTOWN	14.0	
8414447		3416727542		103		NORBERT LANG #2	WARREN	7.0	
8414450		3416727579		103		ROGER SAMPSON #1	WATERTOWN	3.5	
8414449		3416727590		103		WALTER RAUCH #3	WATERTOWN	10.5	
8414446		3416727541		103		WILBER WALTER #1	WATERTOWN	10.5	
-CARL E SMITH PETROLEUM INC				RECEIVED:	01/04/84	JA: OH			
8414452		3410522445		107-DV		ELBERFELD FARM INC 246	ORANGE	16.0	COLUMBIA GAS TRAN
-CARLTON OIL CORP				RECEIVED:	01/04/84	JA: OH			
8414453		3421223074		107-TF		BROWN #4	JACKSON	15.0	EAST OHIO GAS CO
-CENTRAL OIL FIELD SUPPLY CO				RECEIVED:	01/04/84	JA: OH			
8414454		3400922913		103	107-TF	GILCHRIST #1	BERN	5.0	COLUMBIA GAS TRAN
-CNG DEVELOPMENT CO				RECEIVED:	01/04/84	JA: OH			
8414455		3412123069		103	107-TF	DALE LOTHES #1 CNGD #310	JACKSON	4.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	01/04/84	JA: OH			
8414456		3411122982		103	107-TF	FRANK ROSE #4	WASHINGTON	43.6	
-DREVE WENDEL E JR				RECEIVED:	01/04/84	JA: OH			
8414569		3416727517		103	107-TF	SCHNEIDER #1	SALEM	23.7	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED:	01/04/84	JA: OH			
8414464		3413321021		108		BROSIUS #1		9.0	EAST OHIO GAS CO
8414467		3413321057		108		BROSIUS #2		6.0	EAST OHIO GAS CO
8414473		3413321241		108		BROSIUS #3-A		10.0	EAST OHIO GAS CO
8414472		3413321160		108		CHULAINN INC #1		8.0	EAST OHIO GAS CO
8414480		3413321664		108		COLLINS #1		10.0	EAST OHIO GAS CO
8414481		3413321665		108		COLLINS #2		6.0	EAST OHIO GAS CO
8414476		3413321470		108		H CARLISLE #3		7.0	ANCHOR HOCKING CO
8414459		3413320831		108		HOSKINS #1		6.0	EAST OHIO GAS CO
8414466		3413321034		108		JACKSON #1		7.0	EAST OHIO GAS CO
8414475		3413321260		108		JONES #2		7.0	ANCHOR HOCKING CO
8414474		3413321259		108		JONES #3		6.0	ANCHOR HOCKING CO
8414465		3413321031		108		KNIPPER #3		8.0	EAST OHIO GAS CO
8414479		3413321635		108		KNIPPER WELL #4		10.0	EAST OHIO GAS CO
8414478		3413321522		108		MINER #4		9.0	ANCHOR HOCKING CO
8414471		3413321127		108		MINER #6		10.0	ANCHOR HOCKING CO
8414468		3413321105		108		MINER #7		6.0	ANCHOR HOCKING CO
8414470		3413321126		108		MINER #8		6.0	ANCHOR HOCKING CO
8414469		3413321125		108		MINER #9		7.0	ANCHOR HOCKING CO
8414458		3413320808		108		NEBE #1		7.0	ANCHOR HOCKING CO
8414463		3413321011		108		PERGE #1		8.0	EAST OHIO GAS CO
8414460		3413320984		108		PETERS #1		8.0	EAST OHIO GAS CO
8414462		3433210101		108		PETERS #2		9.0	EAST OHIO GAS CO
8414461		3433209850		108		PETERS #3		9.0	EAST OHIO GAS CO
8414482		3413322912		108		POLLOCK #2		7.0	ANCHOR HOCKING CO
8414477		3413321505		108		THOMPSON-ALGER #2		8.0	ANCHOR HOCKING CO
-ENINUN INC				RECEIVED:	01/04/84	JA: OH			
8414483A		3411926732		103		CLEMENT VENSIL #2	LICKING	20.0	NATIONAL GAS & OI
8414483B		3411926732	D	107-TF		CLEMENT VENSIL #2	LICKING	20.0	NATIONAL GAS & OI
-FREDERICK PETROLEUM CORP				RECEIVED:	01/04/84	JA: OH			
8414484		3411122691		107-DV		CAPPADONA #2	FRANKLIN	9.0	
8414485		3411122768		107-DV		FREDERICK #4-20	FRANKLIN	9.0	
-G W F CORP				RECEIVED:	01/04/84	JA: OH			
8414486		3416726527		103	107-TF	ARTHUR D HUNTER #1	ADAMS	15.0	COLUMBIA GAS TRAN
-GENERAL ELECTRIC CO				RECEIVED:	01/04/84	JA: OH			
8414487		3400722329		103	107-TF	SHUKAITIS #1	CHERRY VALLEY	20.0	EAST OHIO GAS CO
-HAMILTON LEONARD O				RECEIVED:	01/04/84	JA: OH			
8414532		3416727604		103		LEONARD HAMILTON #1	LUDLOW TOWNSHIP	200.0	RIVER GAS CO
-HERALD OIL & GAS CO				RECEIVED:	01/04/84	JA: OH			
8414489		3410522787		107-TF		BAILEY-GILKEY #1	SALISBURY	273.8	COLUMBIA GAS TRAN
8414490		3410522792		107-TF		MILDRED DYER #1	RUTLAND	273.8	COLUMBIA GAS TRAN
8414492		3410522798		107-TF		NATHAN BIGGS #1	SALISBURY	237.3	COLUMBIA GAS TRAN
8414491		3410522794		107-TF		RALPH DUNCAN #1	SALISBURY	219.0	COLUMBIA GAS TRAN
8414488		3410522775		107-TF		WOODROW ENGLE #1	SALISBURY	237.2	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED:	01/04/84	JA: OH			
8414493		3410522788		107-DV		AGNES BROWN #6	CHESTER	10.0	COLUMBIA GAS TRAN
8414494		3410522804		107-DV		JANICE WEBER-CHARLES RITCHIE #1	CHESTER	9.0	COLUMBIA GAS TRAN
-J O B INC				RECEIVED:	01/04/84	JA: OH			
8414495		3416727520		107-DV		ARZA PRYOR #2	GRANDVIEW	5.0	RIVER GAS CO
8414499		3416727562		107-TF		ROBERT RUDOLPH #1	MUSKINGUM	4.0	RIVER GAS CO
8414500		3416727563		103	107-TF	RUDOLPH #2	MUSKINGUM	4.0	RIVER GAS CO
8414501		3416727564		103	107-TF	RUDOLPH #4	MUSKINGUM	4.0	RIVER GAS CO
8414502		3416727565		103	107-TF	RUDOLPH #6	MUSKINGUM	5.0	RIVER GAS CO
8414503		3416727569		103	107-TF	SMITH #1	MUSKINGUM	0.0	RIVER GAS CO
8414504		3416727570		103	107-TF	SMITH #2	MUSKINGUM	6.0	RIVER GAS CO
8414496		3416727556		103	107-TF	WHITING #1	MUSKINGUM	4.0	RIVER GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414497		3416727557		103	107-TF	WHITING #2	MUSKINGUM	4.0	RIVER GAS CO
8414498		3416727558		107-TF		WHITING #3	MUSKINGUM	4.0	RIVER GAS CO
-JAMES E DIDDLE				RECEIVED:	01/04/84	JA: OH			
8414505		3410522755		107-TF		ZELMA STEWART #1	SALISBURY	7.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED:	01/04/84	JA: OH			
8414509		3403122868		108		ALOIS DARLING #1	WARSAW	2.4	COLUMBIA GAS TRAN
8414515		3403123093		108		CHESTER NIKODYM #1	CLARK	3.0	COLUMBIA GAS TRAN
8414506		3403122384		108		DALE REIGLE #1	WARSAW	1.5	COLUMBIA GAS TRAN
8414517		3403122377		108		EVERETT GIAUQUE #1	WARSAW	3.0	COLUMBIA GAS TRAN
8414512		3403122995		108		FRANKLIN FUNK #1	WARSAW	1.5	COLUMBIA GAS TRAN
8414511		3403122993		108		FRANKLIN FUNK #2	WARSAW	1.2	COLUMBIA GAS TRAN
8414516		3403123539		108		FRANKLIN FUNK #3	WARSAW	1.5	COLUMBIA GAS TRAN
8414513		3403123038		108		JOHN C CONKLE #1	CLARK	6.0	COLUMBIA GAS TRAN
8414514		3403123088		108		JOHN C CONKLE #2	CLARK	6.0	COLUMBIA GAS TRAN
8414508		3403122857		108		ROY GROSS #1	WARSAW	1.5	COLUMBIA GAS TRAN
8414507		3403122818		108		W D LANHAM UNIT #1	NELLIE	5.0	COLUMBIA GAS TRAN
8414510		3403122880		108		W D LANHAM UNIT #2	CLARK	5.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED:	01/04/84	JA: OH			
8414518		3407524112		103		C ARDIS DEUTSCHLANDER #1	RICHLAND	15.0	COLUMBIA GAS TRAN
-JOHN TANSKY				RECEIVED:	01/04/84	JA: OH			
8414523		3400922823		103	107-TF	ERNEST & SHIRLEY KYLE #1	LODI	7.0	
8414519		3400922797		103	107-TF	JERRY TITCO #1	LODI	7.0	
8414520		3400922820		103	107-TF	JOHN & PAULINE PENCE #1	LODI	7.0	
8414522		3400922822		103	107-TF	RAINBOW LAKE OF ATHENS INC #2	LODI	7.0	
8414521		3400922821		103	107-TF	RICHARD & GLENNA GRIM #2	LODI	7.0	
-JONSU OIL CORP				RECEIVED:	01/04/84	JA: OH			
8414525		3408924600		103		KENT #3	PERRY	4.0	NATIONAL GAS & OI
8414524		3403125162		103		OGLE #2	CLARK	8.0	NATIONAL GAS & OI
-KEN-TRAK				RECEIVED:	01/04/84	JA: OH			
8414530		3410522247		107-TF		ROBERT DAILEY #2	LOWER MISSISSIPIAN	0.0	
-KRAMER EXPLORATION CO				RECEIVED:	01/04/84	JA: OH			
8414531		3410522490		103	107-TF	BARTON #5	RUTLAND	36.0	COLUMBIA GAS TRAN
-LEACH JOSEPH L & BARBARA J				RECEIVED:	01/04/84	JA: OH			
8414526		3405320846		107-TF		LEACH #3	GALLIPOLIS	24.0	COLUMBIA GAS TRAN
8414527		3405320848		107-TF		LEACH #4	GALLIPOLIS	22.5	COLUMBIA GAS TRAN
8414528		3405320849		107-TF		LEACH #5	GALLIPOLIS	24.0	COLUMBIA GAS TRAN
8414529		3405320850		107-TF		LEACH #6	GALLIPOLIS	22.5	COLUMBIA GAS TRAN
-LIBERTY OIL&GAS CORP				RECEIVED:	01/04/84	JA: OH			
8414533		3400922173		107-DV		MILLS #1-C	CARTHAGE	0.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC				RECEIVED:	01/04/84	JA: OH			
8414536		3415123405		108		M W C D #9		9.1	REPUBLIC STEEL CO
8414539		3415123753		108		STEFFY UNIT #2		17.8	REPUBLIC STEEL CO
— 8414538		3415123628		108		VICK #1		42.7	REPUBLIC STEEL CO
8414537		3415123472		108		WESTFALL UNIT #1		13.2	REPUBLIC STEEL CO
-M C F OIL CO				RECEIVED:	01/04/84	JA: OH			
8414534		3407523030		103		A LOUISE MCCOY #2	MONROE	1.0	COLUMBIA GAS TRAN
-MACKENCO INC				RECEIVED:	01/04/84	JA: OH			
8414535		3416727605		103	107-TF	CHRISTY HEIRS #1	WATERTOWN	12.0	GAS TRANSPORT INC
-MULTI BASIN ENERGY CORP				RECEIVED:	01/04/84	JA: OH			
8414540		3411123075		107-DV		H FRY #4	BENTON	30.0	RIVER GAS CO
—-OXFORD OIL CO				RECEIVED:	01/04/84	JA: OH			
8414558		3408924813		103		ANTHONY DIGIANDOMENICO #1	BOWLING GREEN	10.0	
8414557		3407322548		103		GREENHILL #19	GREEN	10.0	
8414559		3411924288		107-TF		LICKING VIEW REALTY #2	PERRY	10.0	
8414560		3412726002		107-TF		ROBERT ALLEN UNIT #1	HARRISON	10.0	
-PIP PETROLEUM CORP				RECEIVED:	01/04/84	JA: OH			
8414543		3416727292		103	107-TF	GREEN #1	PALMER	0.0	COLUMBIA GAS TRAN
8414545		3416727295		103	107-TF	SNIDER #1	PALMER	0.0	COLUMBIA GAS TRAN
8414547		3416727297		103	107-TF	SNIDER #1	PALMER	0.0	COLUMBIA GAS TRAN
8414546		3416727296		103	107-TF	STRAHLER #1	FAIRFIELD	0.0	COLUMBIA GAS TRAN
8414544		3416727294		103	107-TF	WAGGONER #1	PALMER	150.0	COLUMBIA GAS TRAN
-PDI ENERGY INC				RECEIVED:	01/04/84	JA: OH			
8414548		3400722343		103	107-TF	BABB #RM-1	WILLIAMSFIELD	25.0	
-POMSTONE CORP				RECEIVED:	01/04/84	JA: OH			
8414549		3403124335		108		HUFF #1		3.0	
-REDMAN OIL CO INC				RECEIVED:	01/04/84	JA: OH			
8414550		3411523125		103		FLODA DUSKEY #1	CENTER	15.0	COSHOCTON PIPE CO
8414551		3411523126		103		FLODA DUSKEY #2	CENTER	10.0	COSHOCTON PIPE CO
8414552		3411523168		103		PAUL DIETZ #1	CENTER	18.0	COSHOCTON PIPE CO
-REDSTONE CORP				RECEIVED:	01/04/84	JA: OH			
8414553		3403124282		108		C.L. NEWTON #3		11.0	
-RELIANCE ENERGY				RECEIVED:	01/04/84	JA: OH			
8414457		3408323316		103		LAKEN STAATS #1	HARRISON	3.0	COLUMBIA GAS TRAN
-SPARTA ENERGY CORP				RECEIVED:	01/04/84	JA: OH			
8414554		3411122069		107-TF		R. HESSIDENCE #1	SUMMIT	3.0	TEXAS EASTERN TRA
-STONE RESOURCE & ENERGY CORP				RECEIVED:	01/04/84	JA: OH			
8414555		3403124824		103		WILKINS #1	TUSCARAWAS	0.1	
-SUPERIOR PETROLEUM INC				RECEIVED:	01/04/84	JA: OH			
8414556		3411121941		107-TF		E J & HAZEL #1	MALAGE	20.0	TEXAS EASTERN TRA
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	01/04/84	JA: OH			
8414542		3415723928		103		D MONTE #1W	WARREN	7.5	EAST OHIO GAS CO
8414541		3411122657		107-TF		ROSSI #6M	SENECA	16.0	COLUMBIA GAS TRAN
-UNGER WELL DRILLING CORP				RECEIVED:	01/04/84	JA: OH			
8414561		3415723778		103	107-TF	TRIMMER HAMMOND & ROSS #1	UNION	14.6	EAST OHIO GAS CO
-UNIVERSAL MINERALS INC				RECEIVED:	01/04/84	JA: OH			
8414564		3416726551		107-TF		CALDWELL #1	WARREN	0.5	COLUMBIA GAS TRAN
8414565		3416726926		107-TF		CALDWELL #2	WARREN	0.5	
8414566		3416726930		107-TF		CALDWELL #3	WARREN	0.5	
8414562		3416725731		107-TF		POTTS #1	WARREN	0.5	
8414563		3416726529		107-TF		VICKERS #1	WARREN	0.5	
-VICTOR MCKENZIE DRILLING CO INC				RECEIVED:	01/04/84	JA: OH			
8414568		3412725976		103		HILL UNIT #1	MADISON	10.0	NATIONAL GAS & OI
8414567		3404520889		103		JOHN DOWNARD #1	RUSHCREEK	25.0	
-WILLIAM F HILL				RECEIVED:	01/04/84	JA: OH			
— 8414570		3407524126		103		E STANTON GAYLOR #1	HARDY	7.0	
8414571		3407524144		103		MARION DOTY #1	KNOX	6.0	

[FR Doc. 84-2990 Filed 2-2-84; 8:45 am]
BILLING CODE 6717-01-C

[Vol. 1056]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 30, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

ISSUED JANUARY 30, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-REEF PETROLEUM CORP				RECEIVED:	01/05/84	JA: MI			
8414609		2102500000		102-4		FREDERICK 7-29	CLARENCE "27"	30.0	BATTLE CREEK NATU
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/06/84	JA: NY			
8414663	5962	3101318587		103	107-TF	DREIBELBIS UNIT #1	WILDCAT	12.0	
8414664	5960	3101318641		107-TF		STRIDE UNIT #2	WILDCAT	11.0	
-BOUNTY OIL & GAS INC				RECEIVED:	01/06/84	JA: NY			
8414660	4801	3101318034		102-2	107-TF	KOTAR UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8414659	4799	3101317988		102-2	107-TF	MADDEN #1	WILDCAT	0.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	01/06/84	JA: NY			
8414661	5974	3101318240		103	107-TF	AMES UNIT #2	CHARLOTTE	20.0	COLUMBIA GAS TRAN
8414662	5972	3101318170		103	107-TF	WONCKI UNIT #2	CHARLOTTE	20.0	COLUMBIA GAS TRAN
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ALCOVE INVESTMENTS				RECEIVED:	01/05/84	JA: PA			
8414600	21774	3700522851		103		M J & O C HILTY #3	COWANSHANNOCK	25.0	APOLLO GAS CO
-ANGERMAN ASSOCIATES INC				RECEIVED:	01/05/84	JA: PA			
8414593	21599	3706327627		103		EDWARD B ROTHERHAM #1-IND-27621	WHITE	25.0	T W PHILLIPS GAS
8414591	21559	3706327344		103		K D COLEMAN #3-IND-27344	CONEMAUGH	25.0	PEOPLES NATURAL G
-ASHTOLA PRODUCTION CO				RECEIVED:	01/05/84	JA: PA			
8414572	18220	3705120296		102-3		H SHIROCKY #1	WALTERSBURG	50.0	UGI DEVELOPMENT C
-CASTLE GAS CO INC				RECEIVED:	01/05/84	JA: PA			
8414598	21761	3706325694		108		A CHUNORK #2 (C-477) IND-25694	YOUNG TOWNSHIP	20.5	INDUSTRIAL ENERGY
8414599	21762	3706325550		108		A CHUNORK #3 (C-703) IND-25550	YOUNG TOWNSHIP	2.0	INDUSTRIAL ENERGY
8414592	21565	3712922263		103		O A MYERS #4 (C-731) WES-22263	DERRY TOWNSHIP	70.0	PEOPLES NATURAL G
8414597	21760	3706327395		103		V ENDERLEIN #2 (C-768) IND-27395	WHITE TOWNSHIP	60.0	PEOPLES NATURAL G
-CNG DEVELOPMENT CO				RECEIVED:	01/05/84	JA: PA			
8414603	21796	3703321447		103		D M SPENCER #1 CNGD #109	PENN TOWNSHIP	8.0	
8414630	21820	3706327527		102-4		ELVA F FLEMING #2 CNGD #93	MONTGOMERY	187.0	
8414606	21799	3703321447		103		F SHUSTER #1 CNGD #123	PIKE TOWNSHIP	34.0	
8414629	21813	3703321632		103		H D SOMERVILLE CNGD #81	BURNSIDE	12.0	
8414601	21794	3703321459		103		H SHAW #1 CNGD #118	PENN TOWNSHIP	107.0	
8414604	21798	3703321606		103		M WALL #1 CNGD #115	PENN TOWNSHIP	33.0	
8414602	21795	3703321616		102-2		SNYDER-SCHROT UNIT CNGD #114	FERGUSON TOWNSHIP	67.0	
8414605	21797	3703321616		103		SNYDER-SCHROT UNIT CNGD #114	FERGUSON TOWNSHIP	67.0	
-DOC-NCC SERVICE CO				RECEIVED:	01/05/84	JA: PA			
8414618	19795	3712921385		108		R E GAUT B779-2	EAST HUNTINGDON	21.8	TEXAS EASTERN TRA
-ENERGY GAS & OIL CORP				RECEIVED:	01/05/84	JA: PA			
8414579	19088	3700500000		108		CARPENTER TOWN COAL & COKE CO #625	GOHENVILLE	1.9	PEOPLES NATURAL G
8414574	19083	3700520993		108		CARPENTERTOWN #622	GOHENVILLE	8.9	PEOPLES NATURAL G
8414577	19086	3700520009		108		CARPENTERTOWN COAL & COKE #1482	GOHENVILLE	6.4	PEOPLE NATURAL GA
8414575	19084	3700521251		108		CARPENTERTOWN COAL & COKE #623	GOHENVILLE	8.9	PEOPLES NATURAL G
8414576	19085	3700521795		108		CARPENTERTOWN COAL & COKE #634	GOHENVILLE	1.8	PEOPLES NATURAL G

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414573	19082	3700500000		108		CARPENTERTOWN COAL & COKE #636	GOHENVILLE	0.9	PEOPLES NATURAL G
8414580	19089	3700500000		108		CARPENTERTOWN COAL & COKE #637	GOHENVILLE	5.1	PEOPLES NATURAL G
8414578	19087	3700521295		108		CARPENTERTOWN COAL & COKE SER #628	GOHENVILLE	1.7	PEOPLES NATURAL G
8414584	19097	3700500000		108		R L CALHOUN #1E SER #9	HOGBACK	2.3	PEOPLES NATURAL G
8414582	19094	3700500000		108		R L CALHOUN #1W SER #76	HOGBACK	1.1	PEOPLES NATURAL G
8414583	19096	3700500000		108		R L CALHOUN #1W SER NO 10	HOGBACK	2.4	PEOPLES NATURAL G
8414581	19095	3700500000		108		R L CALHOUN #2E SER #11	HOGBACK	1.1	PEOPLES NATURAL G
-GOE PRO INC				RECEIVED:	01/05/84	JA: PA			
8414617	11451	3704921022		107-TF		SILL #1	UNION	0.0	COLUMBIA GAS TRAN
-INTEGRATED ENERGY INC				RECEIVED:	01/05/84	JA: PA			
8414652	21867	3702120056		108		JAMES E WESTRICK #2	HASTINGS	3.0	ALLEGHENY LUDLUM
8414653	21868	3702120057		108		RAYMOND A WESTRICK #1	HASTINGS	4.0	ALLEGHENY LUDLUM
8414654	21869	3702120062		108		RAYMOND A WESTRICK #3	HASTINGS	2.0	ALLEGHENY LUDLUM
8414655	21870	3702120063		108		RAYMOND A WESTRICK #4	HASTINGS	2.0	ALLEGHENY LUDLUM
-JEAN O MYERS				RECEIVED:	01/05/84	JA: PA			
8414657	21906	3700520441		107-PE		HUFFMAN #1	PARKS	55.1	PEOPLES NATURAL G
8414656	21903	3700500000		107-PE		HUFFMAN #2	PARKS	55.1	PEOPLES NATURAL G
8414628	21810	3705521799		107-PE		W F HILL #4	PARKS	0.0	PEOPLES NATURAL G
-MERIDIAN EXPLORATION CORP				RECEIVED:	01/05/84	JA: PA			
8414588	21413	3703922017		102-2		EDMINSTER #709-2	ROCKDALE	30.0	COLUMBIA GAS TRAN
8414589	21414	3703922017		107-TF		EDMINSTER #709-2	ROCKDALE	30.0	COLUMBIA GAS TRAN
8414585	21361	3704922904		102-2		MCATEE #692-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
8414586	21362	3704922904		107-TF		MCATEE #692-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/05/84	JA: PA			
8414607	21804	3708520544		103		M WASCO UNIT #1 MER-20544	JAMESTOWN (MEDINA/WHI	13.7	COLUMBIA GAS TRAN
8414608	21805	3708520544		107-TF		M WASCO UNIT #1 MER-20544	JAMESTOWN (MEDINA/WHI	13.7	COLUMBIA GAS TRAN
-NORTHWEST NATURAL GAS CO				RECEIVED:	01/05/84	JA: PA			
8414646	21851	3703920708		108		BROAD #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414651	21856	3704920877		108		CATICCHIO #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414633	21826	3704921137		108		ELWINGER #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414638	21834	3703920861		108		ESCHWEILER #2	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414639	21835	3704921112		108		GLAVIC #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414643	21845	3703920816		108		GREEN/GREENFIELD/COOK #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414647	21852	3703920655		108		GUIANEN/BEVERIDGE #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414636	21832	3704920965		108		GUIANEN/BEVERIDGE #2	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414632	21825	3704921179		108		GUIANEN/BEVERIDGE #3	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414648	21853	3704920883		108		HELLYER #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414634	21830	3703920942		108		HEPAK SR #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414635	21831	3703920783		108		KAMINSKI #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414631	21824	3704921129		108		KITCEY #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414640	21838	3703920858		108		LAVOR #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414644	21848	3704921131		108		MIKOVICH #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
— 8414641	21841	3703920712		108		NAAS #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414649	21854	3704921090		108		ROBB #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414642	21842	3703920711		108		STAGL #1-2	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414650	21855	3704920887		108		STUNTZ #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414645	21850	3703920814		108		ULAN #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8414637	21833	3704921025		108		WM CHERRY #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
-PEOPLES NATURAL GAS CO				RECEIVED:	01/05/84	JA: PA			
8414623	21613	3706327503		103		SUSIE M GIBSON #2 -IND-27503	W PENNA - UPPER DEVON	52.0	PEOPLES NATURAL G
—-PHILLIPS PRODUCTION CO				RECEIVED:	01/05/84	JA: PA			
- 8414619	20661	3706326895		108		ELMER R LANEY #1	SOUTH MAHONING	9.0	COLUMBIA GAS TRAN
8414621	21537	3706327569		103		KENNETH D MUMAU #1	GRANT	25.0	
-PIONEER WESTERN ENERGY CORP				RECEIVED:	01/05/84	JA: PA			
8414590		3712922232		102-4		HARRY E BAUGHMAN	EAST HUNTINGDON	25.0	
-S T JOINT VENTURE 82-D				RECEIVED:	01/05/84	JA: PA			
8414626	21768	3703321656		103		CARDINALE #2	PIKE	25.0	CONSOLIDATED FUEL
8414625	21753	3703321545		103		COPENHAVER #1	BRADY	25.0	T W PHILLIPS GAS
8414627	21771	3703321527		103		THOMAS #3	PENN	25.0	CONSOLIDATED GAS
-S T JOINT VENTURE 82E				RECEIVED:	01/05/84	JA: PA			
8414624	21752	3703321627		103		MCCARTNEY #1	PENN	25.0	CONSOLIDATED GAS
-TER-EX INC				RECEIVED:	01/05/84	JA: PA			
8414594	21666	3712922142		103		TER-FX'S DOROTHY FOX #1	MT PLEASANT	24.0	COLUMBIA OF PENNS
-TETRA ENERGY GROUP LTD				RECEIVED:	01/05/84	JA: PA			
8414622	21611	3704923039		107-TF		GEORGE GREGOR #1	UNION CITY FIELD EMMO	2.7	COLUMBIA GAS TRAN
-VICTORY ENERGY CO				RECEIVED:	01/05/84	JA: PA			
8414595	21732	3703321594		102-2		REDSTONE #2 CLF-21594	CHEST	36.0	COLUMBIA GAS TRAN
8414596	21733	3703321595		102-2		REDSTONE #3 CLE-21595	CHEST	36.0	COLUMBIA GAS TRAN
-W J LYDIC INC				RECEIVED:	01/05/84	JA: PA			
8414620	21385	3712521461		107-DV		A JOHNSON #1	HOPEWELL	18.0	PEOPLES NATURAL G
8414587	21387	3712521460		107-DV		HAROLD WARD #1	HOPEWELL	18.0	PEOPLES NATURAL G
**********									
TEXAS RAILROAD COMMISSION									
**********									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414979	F-8A-076445	4244531115		103		CLARE "B" #2	PRENTICE NW (SAN ANDR	9.0	AMOCO PRODUCTION
8414980	F-8A-076446	4244531160		103		CLARE "B" #3	PRENTICE NW (SAN ANDR	8.0	AMOCO PRODUCTION
-AMERICAN OPERATING CO				RECEIVED:	01/03/84	JA: TX			
8414677	F-03-065870	4216730903		102-4		COL WM E LOBIT ET AL 1-A	LEAGUE CITY TOWNSITE	657.0	AMOCO GAS CO
-ANDRESS PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414680	F-02-066899	4239131581		102-4		J F WELDER HEIRS #14	DEVILS RUN 6600	0.0	TENNESSEE GAS PIP
-ARCADIA REFINING CO				RECEIVED:	01/03/84	JA: TX			
8414692	F-06-071127	4240130951		102-4		A F COOPER #10346	HENDERSON RUSK CO PET	0.0	HENDERSON CLAY PR
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/03/84	JA: TX			
8414714	F-04-072325	4221531314		102-4		FRANK E CHESTNUT #5	TABASCO (VICKSBURG 10	500.0	TENNESSEE GAS PIP
8414972	F-08-076429	4217331396		103		W M SCHROCK "24" #4	SPRABERRY TREND AREA	19.0	EL PASO NATURAL G
-ARKLA EXPLORATION COMPANY				RECEIVED:	01/03/84	JA: TX			
8414954	F-06-076356	4236531491		103	107-TF	ALEXANDER #1	CARTHAGE	500.0	ARKANSAS LOUISIAN
-ATAPCO				RECEIVED:	01/03/84	JA: TX			
8414857	F-08-075876	4230130363		107-DP		LINBERY #2A4	TAFFHY (ATOKA)	219.0	INTRATEX GAS CO
-AUSTIN RIDGE PETROLEUM CO INC				RECEIVED:	01/03/84	JA: TX			
8414720	F-03-072420	4205132483		103		F C ANDERSON-B #7 AR-003	WILLARD (NAVARRO)	29.9	FERGUSON CROSSING
8414710	F-03-072149	4205132451		103		OLEN P HOLLIMAN-B #4 AR-001	WILLARD (NAVARRO)	54.0	FERGUSON CROSSING
-B & G ENERGY CORP				RECEIVED:	01/03/84	JA: TX			
— 8414865	F-08-075942	4217331466		103		RATLIFF "43" #1	ARLIS (STRAWN)	18.0	PHILLIPS PETROLEU
-BENTLEY OIL & GAS CO				RECEIVED:	01/03/84	JA: TX			
8414895	F-7B-076193	4243331644		102-2		STOVALL #1	FLAT TOP SOUTH (STRAW	11.0	TEXAS UTILITIES F
8414894	F-7B-076191	4243331520		102-2		SWENSON #1	FLAT TOP SOUTH (STRAW	12.0	TEXAS UTILITIES F
8414896	F-7B-076194	4243331692		102-2		SWENSON #2	FLAT TOP (SOUTH) SWAS	12.0	TEXAS UTILITIES F
-BEST PETROLEUM EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414713	F-09-072288	4223735086		103		SANDERS SOUTH #1	DEARING (CADDO)	30.0	LONE STAR GAS CO
8414836	F-09-075575	4223735369		103		WOLFE #1 (OIL)	DEARING (STRAWN)	5.0	SOUTHWESTERN GAS
—-BJB EXPLORATION CO				RECEIVED:	01/03/84	JA: TX			
- 8414846	F-02-075789	4246900000		103		MARY K POTH #1	HELEN GOHLKE (1400)	75.0	REATA INDUSTRIAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BOYD C E III % STEVENSON MARK P				RECEIVED:	01/03/84	JA: TX			
8414924	F-7C-076243	4245100000		103		AILEEN TRIMBLE #1	SUSAN PEAK NORTH (CAN	6.5	ARCO OIL & GAS CO
-BRC PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414689	F-03-078237	4207100000		102-4		W L PATTILLO #2	PROPOSED TURTLE BAY (	0.0	UNITED TEXAS TRAN
-BTA OIL PRODUCERS				RECEIVED:	01/03/84	JA: TX			
8414813	F-08-075262	4217331431		102-4		JV-P GIBSON #2 8102	BLALOCK LAKE SE WOLFC	59.2	PHILLIPS PETROLEU
8414780	F-08-074893	4217331425		102-4		7613 JV-P COX -B- #12	BLALOCK LAKE S E (WOL	28.0	PHILLIPS PETROLEU
-BUFFTON OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414819	F-09-075383	4223700000		102-4		MARLEY #2	PEARL MOSLEY CONGL UP	270.0	SOUTHWESTERN GAS
-BURK ROYALTY CO				RECEIVED:	01/03/84	JA: TX			
8414844	F-06-075781	4234731019		102-4	103	AUGUSTUS C IRWIN II GAS UNIT "B" #1	GARRISON SOUTH (PETTI	0.0	UNITED GAS PIPELI
8414832	F-09-075467	4249732620		103		CARLTON-EAGLE UNIT #1	MORRIS (CONS CONGL)	0.0	
8414866	F-09-075975	4250337441		103		MAC WILLIAMS "SU" #4	YOUNG COUNTY REGULAR	0.0	KIBO COMPRESSOR C
8414882	F-09-076138	4248731659		103		SCHOPPA "A" #1	WILBARGER COUNTY REGU	0.0	KIBO COMPRESSOR C
-C F LAWRENCE & ASSOC INC				RECEIVED:	01/03/84	JA: TX			
8414784	F-08-074965	4237134429		103		MCMURTRY #17	LEHN-APCO 1600	0.0	APACHE GAS CORP
-CAMBRIDGE & NAIL				RECEIVED:	01/03/84	JA: TX			
8414697	F-10-071597	4248330977		102-4		MEADOWS #1	BRISCOE MORROW	0.0	WESTAR TRANSMISSI
-CASCADE PETROLEUM CORP				RECEIVED:	01/03/84	JA: TX			
8414791	F-09-075051	4223735169		102-4		MARLEY 8303	BRYSON (CONGL MIDDLE)	360.0	SOUTHWESTERN GAS
-CASKEY OIL PROPERTIES INC				RECEIVED:	01/03/84	JA: TX			
8414840	F-02-075682	4246931842		103		BRETT #1A	VICTORIA	100.0	REATA INDUSTRIAL
-CHAMPLIN EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414890	F-8A-076168	4207931810		103		RJR RANCH-YOUNG 4-3	BONANZA (SAN ANDRES)	6.0	WARREN PETROLEUM
8414871	F-03-076064	4228731369		102-2		SPACEK UNIT #1	GIDDINGS (AUSTIN CHAL	72.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/03/84	JA: TX			
8414835	F-02-075560	4239100000		108		OCONNOR LAWRENCE W ESTATE OF #20	MARY ELLEN OCONNOR (F	0.0	TENNESSEE GAS PIP
-CHAPTER PETROLEUM				RECEIVED:	01/03/84	JA: TX			
8414776	F-10-074532	4217900000		103		BULL #1	PANHANDLE-GRAY	0.0	CITIES SERVICE CO
-CHASE-MANN PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414869	F-7B-076028	4213300000		102-4		W PARISH #1 LEASE #	CAMERON P (MARBLE FAL	17.6	EL PASO HYDROCARB
-CHEVRON U S A INC				RECEIVED:	01/03/84	JA: TX			
8414949	F-08-076349	4200333672		103		COLUMBUS GRAY 19-25	FUHRMAN-MASCHO	136.5	PHILLIPS PETROLEU
8414948	F-08-076348	4200333671		103		COLUMBUS GRAY 22-24	FUHRMAN-MASCHO	118.2	PHILLIPS PETROLEU
8414947	F-8A-076347	4241532429		103		SACROC UNIT #112-5	KELLY - SNYDER	14.0	EL PASO NATURAL G
8414946	F-8A-076346	4241532463		103		SACROC UNIT #117-6	KELLY - SNYDER	88.0	EL PASO NATURAL G
8414945	F-8A-076345	4241532440		103		SACROC UNIT #210-5	KELLY - SNYDER	36.0	EL PASO NATURAL G
8414952	F-8A-076352	4241532418		103		SACROC UNIT #27-18	KELLY - SNYDER	53.0	EL PASO NATURAL G
8414951	F-8A-076351	4241532449		103		SACROC UNIT #28-17	KELLY - SNYDER	23.0	EL PASO NATURAL G
8414950	F-8A-076350	4241532421		103		SACROC UNIT #58-3	KELLY - SNYDER	13.0	EL PASO NATURAL G
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	01/03/84	JA: TX			
8414925	F-09-076248	4249732627		103		DAVENPORT B #3	DAVENPORT (CONGLOMERA	25.0	CITIES SERVICE OI
--CLARK EXPLORATION & PRODUCTION CO I				RECEIVED:	01/03/84	JA: TX			
8414864	F-03-075940	4205132488		102-2		T E GIBSON #1 (OIL LEASE #16935)		20.0	FERGUSON CROSSING
-CLAY A CARROLL				RECEIVED:	01/03/84	JA: TX			
8414701	F-03-071752	4208901365		103		MILTON MINARCIK #1-C	ENGLEHART 6000 FIELD	272.0	TEXAS EASTERN TRA
8414698	F-03-071671	4208931365		103		MILTON MINARCIK #1-T	ENGLEHART 6800 FIELD	307.0	TEXAS EASTERN TRA
-CLAYTON W WILLIAMS JR				RECEIVED:	01/03/84	JA: TX			
8414722	F-03-073033	4228700000		102-2		H L ONDRESEK #1	HOOKER CREEK (NAVARRO	0.0	VALERO TRANSMISSI
8414734	F-03-073823	4216900000		102-2		SAHAGIAN-KALTENBACH UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
--COASTAL OIL & GAS CORP				RECEIVED:	01/03/84	JA: TX			
8414902	F-8A-076203	4216532587		103		SO HARRIS UNIT 11-3	HARRIS	3.0	PHILLIPS PETROLEU
8414901	F-8A-076202	4216532574		103		SO HARRIS UNIT 6-18	HARRIS	14.0	PHILLIPS PETROLEU
8414897	F-8A-076195	4216500000		103		SO HARRIS UNIT 6-19	HARRIS	7.0	PHILLIPS PETROLEU
-COCKRELL CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414730	F-02-073669	4212331004		102-4		MARGARET MALINA #1	GARRETT	180.0	VALERO TRANSMISSI
-COLORADO INTERSTATE GAS CO				RECEIVED:	01/03/84	JA: TX			
8414726	F-10-073428	4234130593		103		CRAWFORD C-3	WEST PANHANDLE	0.0	COLORADO INTERSTA
-CONOCO INC				RECEIVED:	01/03/84	JA: TX			
8414728	F-04-073575	4247933113		102-4		CARLOS BENAVIDES #1	PICOSO (WILCOX 10,309	65.0	HOUSTON PIPELINE
8414939	F-08-076316	4222732646		108		H R CLAY -E #58 ID 18993	HOWARD GLASSCOCK	0.2	PHILLIPS PETROLEU
8414938	F-08-076315	4213533779		108		L E WIGHT -4 #32 ID 09869	NORTH COWDEN	0.1	AMOCO PRODUCTION
8414981	F-7B-076448	4215130362		108		ROUND TOP CANYON SAND #25 ID 19080	ROUND TOP	10.4	LONE STAR GAS CO
8414983	F-7B-076450	4215130393		108		ROUND TOP CANYON SAND #26 ID 19080	ROUNDTOP	8.0	LONE STAR GAS CO
8414982	F-7B-076449	4215130391		108		ROUND TOP CANYON SAND #39 ID 19080	ROUND TOP	6.6	LONE STAR GAS CO
8414766	F-8A-074316	4216932098		102-4	103	SOUTH HUNTLEY UNIT #44 ID 64383	HUNTLEY 3400	365.0	MID PLAINS PETROC
8414781	F-8A-074984	4216932132		102-4	103	SOUTH HUNTLEY UNIT #45 ID64383	HUNTLEY 3400	365.0	MID PLAINS PETROC
8414771	F-8A-074468	4216900000		102-4	103	SOUTH HUNTLEY UNIT #46 ID 64383	HUNTLEY 3400	365.0	MID PLAINS PETROC
8414772	F-8A-074474	4216932124		102-4	103	SOUTH HUNTLEY UNIT #50 ID 64383	HUNTLEY 3400	365.0	MID PLAINS PETROC
8414937	F-09-076314	4248535434		108		T J & J L WAGGONER #55 ID 18376	WICHITA COUNTY REGULA	0.1	EAGLE PETROLEUM
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	01/03/84	JA: TX			
8414739	F-04-073862	4200700000		102-4		STATE TRACT 691-L #1-A	BLOCK 691-L (5300')	0.0	HOUSTON PIPELINE
-COURSON OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414934	F-10-076299	4235731433		103		FIRST NATIONAL TRUST #5-571	PSHIGODA (DOUGLAS)	12.0	TRANSWESTERN PIPE
-CREDO OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414786	F-7B-075010	4213335140		102-4		L B JONES #3 (18778)	ADAMS (DUFFER LOWER)	12.5	LONE STAR GAS CO
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	01/03/84	JA: TX			
8414787	F-06-075019	4206730436		102-4		TERRY ESTATE #1-D	RODESSA	31.8	BRECKENRIDGE GASO
-CYCLONE EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414845	F-7C-075785	4243533010		103	107-TF	JOHN D FIELDS "B" 4-60	SAWYER (CANYON)	120.0	EL PASO NATURAL G
-D E BROWN				RECEIVED:	01/03/84	JA: TX			
8414669	F-09-048511	4223700000		108-ER		HOUSE RANCH #1	NEHER	0.0	SOUTHWESTERN GAS
-DIAMOND CHEMICAL CO				RECEIVED:	01/03/84	JA: TX			
8414775	F-10-074493	4229500000		103		CARRIE KLIEWER #2	MAMMOTH CREEK N	0.0	
8414773	F-10-074490	4235731399		102-4		T V ELLZEY ESTATE #2-650	ELLZEY	0.0	
8414673	F-10-063947	4234100000		108-ER		THATEN #1	PANHANDLE WEST	0.0	NORTHERN NATURAL
8414774	F-10-074492	4229531281		102-4		VALENTINE SCHOENHALS "A" #3	S LIPSCOMB	0.0	
-DIEKEMPER RAY J JR				RECEIVED:	01/03/84	JA: TX			
8414817	F-8A-075361	4216930589		102-4	103	EFFIE DUNN #2 ID #09677	P H D	3.3	MID PLAINS PETROC
-DISCOVERY OPERATING INC				RECEIVED:	01/03/84	JA: TX			
8414767	F-8A-074326	4231732753		103		MGF-SMITH "B" #1	ACKERLY (DEAN SAND)	0.0	TEXACO INC
-DORCHESTER EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414936	F-08-076309	4217331458		103		CURRIE 41-3	SPRABERRY TREND AREA	10.0	PHILLIPS PETROLEU
8414858	F-10-075884	4221131626		103		LUCILLE WRIGHT #5	CANADIAN SE	92.7	ARKANSAS LOUISIAN
--EDCO PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414862	F-7C-075900	4239932509		102-4		ELMA LEE EUBANKS #1 (09719)	WFM (GOEN LIME)	9.0	UNION TEXAS PETRO
8414861	F-7C-075899	4239932758		102-4		ELMA LEE EUBANKS #2 (09719)	WFM (GOEN LIME)	9.0	UNION TEXAS PETRO
8414860	F-7C-075898	4239932759		102-4		ELMA LEE EUBANKS #3 (09719)	WFM (GOEN LIME)	9.0	UNION TEXAS PETRO
-ENRICH OIL CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414841	F-7B-075725	4235331449		102-4		J M MCLAUGHLIN #10011 (18878)	ADAIR CREEK (COOK SAN	210.0	SUN GAS CO
8414856	F-7C-075854	4239932812		102-4		TOM POE #2 (10260)	WFM (GOEN LIME)	44.0	UNION TEXAS PETRO
8414854	F-7C-075852	4239932877		102-4		W F MINZENMAYER #1-A (09187)	WFM (GOEN LIME)	26.0	UNION TEXAS PETRO
8414855	F-7C-075853	4239932815		102-4		W F MINZENMAYER #2-A (09187)	WFM (GOEN LIME)	24.0	UNION TEXAS PETRO
--ENTERPRISE RESOURCES INC				RECEIVED:	01/03/84	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414830	F-02-075439	4246931847		102-4		DANIEL DENTLER	MEYERSVILLE E 3100 PR	200.0	TRANSCONTINENTAL
-ESTATE OIL & GAS CORP				RECEIVED:	01/03/84	JA: TX			
8414687	F-06-069344	4236531447		102-4	103	J D FURRH JR #1 ID #105723	ELYSIAN (TRAVIS PEAK	146.0	UNITED TEXAS TRAN
-EXXCEL PRODUCTION CO				RECEIVED:	01/03/84	JA: TX			
8414935	F-10-076302	4217931466		103		FELIX #8 (ID #05118	PANHANDLE GRAY	139.0	CABOT PIPELINE CO
-EXXON CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414733	F-03-073801	4215731434		103		A P GEORGE A #2	THOMPSON (MIOCENE 6A	11.0	ARMCO STEEL CORP
8414898	F-04-076198	4226130727		102-4		BAFFIN BAY ST TR 65 WELL 2 (107472)	BAFFIN BAY (13700)	1800.0	ARMCO STEEL CORP
8414893	F-06-076179	4249931178		103		HAWKINS FIELD UNIT #1103	HAWKINS	49.0	
8414957	F-04-076369	4227331785		103		KING RANCH MORGAN M-85 (05154)	BORREGOS WEST (SEG F	27.0	ARMCO STEEL CORP
8414729	F-7C-073662	4243131336		103		LOU E JOHNSON ESTATE A/C 1 #49	JAMESON (STRAWN)	24.0	
8414808	F-7C-07524	4243131335		103		LOU E JOHNSON ESTATE A/C 1 #50	JAMESON STRAWN	22.0	
8414852	F-04-075820	4242700000		108		MCGILL BROS 229-T (066445)	KELSEY SOUTH (20-H)	22.0	TRUNKLINE GAS CO
8414961	F-04-076397	4204731263		103		RJ KLEBERG JR TR ZACH PAS 13 107674	VIBORAS (8500 SAND)	110.0	ARMCO STEEL CORP
8414847	F-8A-075793	4216532640		103		ROBERTSON CLEARFORK UNIT 3801	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8414899	F-04-076199	4204730662		102-4		SANTA FE RANCH 40-D (107592)	SANTA FE (D-56)	139.0	ARMCO STEEL CORP
-FAIRCHILD PETROLEUM CORP				RECEIVED:	01/03/84	JA: TX			
8414707	F-7B-071978	4208333511		102-4		RODNEY N HAMON A #2-6-A	MENEFEE (HOME CREEK)	1216.0	EL PASO HYDROCARB
-FARGO ENERGY CORP				RECEIVED:	01/03/84	JA: TX			
8414731	F-03-073762	4214931621		102-2		H G I #1	GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
8414724	F-03-073216	4214900000		102-2		ROBERT ALVES UNIT #1	GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
-GEODYNE RESOURCES INC				RECEIVED:	01/03/84	JA: TX			
8414914	F-10-076223	4229531352		102-4		M P CHEW #4	DARDEN (MORROW UPPER)	220.1	PHILLIPS PETROLEU
-GHR ENERGY CORP				RECEIVED:	01/03/84	JA: TX			
8414688	F-04-069819	4250531587		102-4	107-TF	J C MARTIN #9	J C MARTIN S (LOBO) P	900.0	NATURAL GAS PIPEL
8414709	F-04-072123	4250531639		102-4	107-TF	MCMURREY #30	MCMURREY (LOBO)	750.0	GHR PIPELINE CORP
-GREENWOOD INDUSTRIES INC				RECEIVED:	01/03/84	JA: TX			
8414783	F-7B-074939	4241734569		102-4		GILLIAN #1 (107721)	GILLIAN (CADDO)	466.0	DELHI GAS PIPELIN
8414859	F-7B-075886	4241735246		102-4		LEDBETTER #1 (OIL)	WILDCAT (POSSIBLE FIE	73.0	WARREN PETROLEUM
-GROTHE BROTHERS				RECEIVED:	01/03/84	JA: TX			
8414770	F-7B-074444	4241735287		102-4		LES RAYMOND #3	ROYALL (ELLENBURGER)	16.0	LONE STAR GAS CO
-GULF OIL CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414962	F-08-076399	4247532970		103		HUTCHINGS STOCK ASSN #1215	WARD-ESTES NORTH	5.6	CABOT CORP
8414963	F-08-076400	4247532972		103		HUTCHINGS STOCK ASSN #1223	WARD-ESTES NORTH	2.7	CABOT CORP
8414965	F-08-076402	4247532833		103		HUTCHINGS STOCK ASSN #1231	WARD-ESTES NORTH	9.0	CABOT CORP
8414964	F-08-076401	4247532853		103		HUTCHINGS STOCK ASSN #1267	WARD-ESTES NORTH	4.3	CABOT CORP
8414674	F-09-065133	4218130792		108-ER		ROBERT TATE #1	SOUTHMAYDNE	0.0	LONE STAR GAS CO
-H W HERNDON OIL CO				RECEIVED:	01/03/84	JA: TX			
8414800	F-8A-075213	4221933625		103		TOM COBB A #1	YELLOWHOUSE	9.0	AMOCO PRODUCTION
8414804	F-8A-075217	4221933681		103		TOM COBB A #2	YELLOWHOUSE	9.0	AMOCO PRODUCTION
8414803	F-8A-075216	4221933700		103		TOM COBB A #3	YELLOWHOUSE	9.0	AMOCO PRODUCTION
8414802	F-8A-075215	4221933697		103		TOM COBB A #4	YELLOWHOUSE	9.0	AMOCO PRODUCTION
8414801	F-8A-075214	4221933701		103		TOM COBB A #5	YELLOWHOUSE	9.0	AMOCO PRODUCTION
-H-M OIL CO				RECEIVED:	01/03/84	JA: TX			
8414764	F-03-074181	4248132238		102-4	103	F E APPLING #1	HELEN (4720 FRIO)	0.0	NATURAL GAS PIPEL
-HAMMAN OIL & REFINING CO				RECEIVED:	01/03/84	JA: TX			
8414727	F-03-073531	4208931398		102-4		B D ANDERSON #1-A	STARR-LITE N	365.0	VICTORIA GAS PIPE
-HAYSEED STEPHENS OIL INC				RECEIVED:	01/03/84	JA: TX			
8414814	F-7B-075284	4236732525		102-4		WOODY #1 ID # APPLIED FOR	SHARPE ATOKA	100.0	SOUTHWESTERN GAS
-HINTON PRODUCTION COMPANY				RECEIVED:	01/03/84	JA: TX			
8414763	F-03-074047	4237330548		103		DORRANCE 2R	DAMASCUS (WOODBINE)	500.0	ST REGIS PAPER CO
8414705	F-05-071916	4234933276		102-4		SESSIONS #1	TYNES	500.0	LONE STAR GAS CO
-HMH OPERATORS				RECEIVED:	01/03/84	JA: TX			
8414792	F-7B-075083	4215131685		103		LAWLIS #1	DIXON-LAWLIS CANYON	120.0	TEXAS UTILITIES F
-HRUBETZ OIL CO				RECEIVED:	01/03/84	JA: TX			
8414967	F-7B-076410	4208333526		102-4		R C DAVIS #8	HRUBETZ (ELLEN)	51.0	UNION TEXAS PETRO
8414833	F-7B-075470	4208333478		102-4		THOMAS L SOUTH #3	HRUBETZ (ELLEN)	407.0	LONE STAR GAS CO
-HUMBLE EXPLORATION CO INC				RECEIVED:	01/03/84	JA: TX			
8414718	F-03-072407	4214900000		102-2	103	SABINA #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-J A LEONARD				RECEIVED:	01/03/84	JA: TX			
8414985	F-03-076456	4228700000		102-4		FENZLEIN #1	HOOKER CREEK (NAVARRO	0.4	PHILLIPS PETROLEU
-JAH INC				RECEIVED:	01/03/84	JA: TX			
8414879	F-04-07612	4213136304		102-4		DENMAN MOODY #1	AGUA NEGRA (YEGUA 617	126.0	
-JOHN L COX				RECEIVED:	01/03/84	JA: TX			
8414834	F-7C-075519	4238332653		103		ROCKEN B "D" #7	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8414682	F-7C-067231	4238300000		103		ROCKER B "D" #5 RRC 04537	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8414712	F-7C-072231	4238332574		103		ROCKER B "P" #22 RRC #05173	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8414829	F-7C-075432	4238332648		103		ROCKER B "P" #24	SPRABERRY TREND AREA	10.0	EL PASO NATURAL G
-KA-HUGH INTERNATIONAL INC				RECEIVED:	01/03/84	JA: TX			
8414785	F-02-074998	4246931994		102-4		WIGINGTON #1	WILDCAT PROPOSED VICT	75.0	REATA INDUSTRIAL
-KELLY-BARNETT PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414839	F-7B-075674	4213300000		103		RHODES #1 107456	KLEINER LAKE SAND	720.0	EL PASO HYDROCARB
-KETAL OIL PRODUCING CO				RECEIVED:	01/03/84	JA: TX			
8414940	F-7C-076321	4208131209		103		I A BIRD "J" NO 11	MEADOW CREEK (CANYON)	65.7	SUN EXPLORATION &
-KIMBARK OIL & GAS CO				RECEIVED:	01/03/84	JA: TX			
8414891	F-08-076161	4249531587		103		KOG A G CARTER FOUNDATION #1	KOG PENN	37.5	TRANSWESTERN PIPE
-L & B OIL CO INC				RECEIVED:	01/03/84	JA: TX			
8414868	F-08-076013	4217331418		102-4		EDITH BOOKS "A" #1	DEWEY LAKE S (STRAWN)	15.0	PHILLIPS PETROLEU
8414878	F-03-076120	4204131013		102-4		FUQUA UNIT 1 WELL #1	IOLA SOUTH (SUB-CLARK	180.0	PRODUCERS GAS CO
-LAJUANA JO OIL CO				RECEIVED:	01/03/84	JA: TX			
8414679	F-7B-066647	4225300000		103		HORTON #2 (18989)	JONES COUNTY REGULAR	0.0	CONOCO INC
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	01/03/84	JA: TX			
8414966	F-03-076404	4228731439		102-4		POLLOCK #1	HOOKER CREEK (NAVARRO	10.0	CLAJON GAS CO
-LAWLESS ENERGY INC				RECEIVED:	01/03/84	JA: TX			
8414828	F-03-075422	4204130976		102-2		G M EASTERLING #1	KURTEN	0.0	FERGUSON CROSSING
-LEWIS & ATKINS OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414737	F-7C-073844	4238332631		103		UNIVERSITY 27 "A" #1	SPRABERRY (TREND AREA	36.0	PHILLIPS PETROLEU
8414735	F-7C-073838	4238332630		103		UNIVERSITY 27 "B" #1	SPRABERRY (TREND AREA	36.0	PHILLIPS PETROLEU
8414736	F-7C-073843	4238332615		103		UNIVERSITY 27 "C" #1	SPRABERRY (TREND AREA	36.0	PHILLIPS PETROLEU
8414738	F-7C-073846	4238332629		103		UNIVERSITY 27 "D" #1	SPRABERRY (TREND AREA	36.0	PHILLIPS PETROLEU
-LINDEMANN JAMES D				RECEIVED:	01/03/84	JA: TX			
8414892	F-09-076174	4223700000		102-4		S PEAVY A #1-A	JENNIFER CADDO	50.0	SOUTHWESTERN GAS
-LIVELY ENERGY & DEVELOPMENT CORP				RECEIVED:	01/03/84	JA: TX			
8414681	F-01-066918	4243500000		107-TF		EPPS #4	HOLMAN RANCH N (PENN)	36.5	INTRATEX GAS CO
-M BRAD BENNETT INC & RKH LTD				RECEIVED:	01/03/84	JA: TX			
8414723	F-08-073052	4238931397		102-4		FIELDS #1	COLLIE (DELAWARE)	9.2	INTRATEX GAS CO
8414782	F-08-074908	4247532871		102-4		MOBIL "A" #1	COLLIE (DELAWARE)	82.1	INTRATEX GAS CO
8414777	F-08-074599	4247533052		102-4		SHELL #1-R	COLLIE (DELAWARE)	18.3	INTRATEX GAS CO
-MABEE PETROLEUM CORP				RECEIVED:	01/03/84	JA: TX			
8414884	F-8A-076142	4250132386		103		GIBSON UNIT #1011	WASSON 72	9.7	SHELL OIL CO
8414885	F-8A-076144	4250132382		103		GIBSON UNIT #605	WASSON 72	26.2	SHELL OIL CO
-MADDUX OIL & GAS				RECEIVED:	01/03/84	JA: TX			
8414790	F-7B-075048	4236732393		102-4		I M DINGLE #1	BUCKNER (STRAWN)	125.0	PARKER GAS INC
-MARATHON OIL COMPANY				RECEIVED:	01/03/84	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414816	F-7B-075359	4243331078		103		W C WEIR ESTATE "E" #3-A	FRANKIRK N FIELD	23.4	CITIES SERVICE CO
-MAYCO OIL				RECEIVED:	01/03/84	JA: TX			
8414793	F-09-075095	4207700000		103		LUMPKIN #1	LEDA CONGL	70.0	CITIES SERVICE CO
-MEWBOURNE OIL COMPANY				RECEIVED:	01/03/84	JA: TX			
8414812	F-10-075260	4235639883		103	107-TF	JUDICE #3 ID # 095048	BULER NORTH CLEVELAND	26.0	TRANSWESTERN PIPE
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414671	F-05-055846	4229330602		103		CHARLIE SHERROD #1	POKEY (TRAVIS PEAK)	0.0	TEXAS UTILITIES F
8414691	F-7C-070665	4245131033		107-TF		FREYSCHLAG 219 A #3-U	K W B (CANYON)	375.0	ESPERANZA PIPELIN
8414881	F-09-076135	4249700000		108		W C -BILL- YOUNG #1 035049	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	01/03/84	JA: TX			
8414863	F-08-075913	4222733079		103		OWEN CHALK #41	HOWARD-GLASSCOCK (GLO	0.4	PHILLIPS PETROLEU
-MONSANTO COMPANY				RECEIVED:	01/03/84	JA: TX			
8414725	F-08-073405	4238931406		103		BARSTOW STATE #1	COLLIE (DELAWARE)	18.0	
8414751	F-8A-073960	4241531776		103		JACK #19	DIAMOND M (CLEARFORK)	5.0	DIAMOND M-SHARON
8414750	F-8A-073959	4241531775		103		JACK #21	DIAMOND M (CLEARFORK)	3.0	DIAMOND M-SHARON
8414749	F-8A-073958	4241532078		103		JACK #22	DIAMOND M (CLEARFORK)	4.0	DIAMOND M-SHARON
8414740	F-8A-073941	4241532459		103		MCLAUGHLIN ACCT #1 - WELL #100	DIAMOND M (CLEARFORK)	10.0	DIAMOND M-SHARON
8414748	F-8A-073949	4241531940		103		MCLAUGHLIN ACCT #1 - WELL #77	DIAMOND M (WICHITA AL	9.0	DIAMOND M-SHARON
8414747	F-8A-073948	4241532050		103		MCLAUGHLIN ACCT #1 - WELL #78	DIAMOND M (WICHITA AL	12.0	DIAMOND M-SHARON
8414746	F-8A-073847	4241532167		103		MCLAUGHLIN ACCT #1 - WELL #82	DIAMOND M (WICHITA AL	2.0	DIAMOND M-SHARON
8414745	F-8A-073946	4241532099		103		MCLAUGHLIN ACCT #1 - WELL #86	DIAMOND M (CLEARFORK)	4.0	DIAMOND M-SHARON
8414744	F-8A-073945	4241532083		103		MCLAUGHLIN ACCT #1 - WELL #87	DIAMOND M (CLEARFORK)	4.0	DIAMOND M-SHARON
8414743	F-8A-073944	4241532171		103		MCLAUGHLIN ACCT #1 - WELL #88	DIAMOND M (WICHITA AL	11.0	DIAMOND M-SHARON
8414742	F-8A-073943	4241532446		103		MCLAUGHLIN ACCT #1 - WELL #95	DIAMOND M (SAN ANDRES	9.0	DIAMOND M-SHARON
8414741	F-8A-073942	4241532445		103		MCLAUGHLIN ACCT #1 - WELL #96	DIAMOND M (SAN ANDRES	8.0	DIAMOND M-SHARON
8414762	F-8A-073971	4241532049		103		MCLAUGHLIN ACCT #2 - WELL #79	DIAMOND M (CLEARFORK)	3.0	DIAMOND M-SHARON
8414761	F-8A-073970	4241532141		103		MCLAUGHLIN ACCT #2 - WELL #83	DIAMOND M (WICHITA AL	6.0	DIAMOND M-SHARON
8414760	F-8A-073969	4241532169		103		MCLAUGHLIN ACCT #2 - WELL #89	DIAMOND M (WICHITA AL	1.0	DIAMOND M-SHARON
8414759	F-8A-073968	4241532170		103		MCLAUGHLIN ACCT #2 - WELL #91	DIAMOND M (WICHITA AL	22.0	DIAMOND M-SHARON
8414758	F-8A-073967	4241532168		103		MCLAUGHLIN ACCT #2 - WELL #92	DIAMOND M (WICHITA AL	15.0	DIAMOND M-SHARON
8414757	F-8A-073966	4241532282		103		MCLAUGHLIN ACCT #2 - WELL #94	DIAMOND M (CLEARFORK)	2.0	DIAMOND M-SHARON
8414756	F-8A-073965	4241531764		103		MCLAUGHLIN ACCT #3 - WELL #67	DIAMOND M (CLEARFORK)	10.0	DIAMOND M-SHARON
8414755	F-8A-073964	4241531781		103		MCLAUGHLIN ACCT #3 - WELL #68	DIAMOND M (CLEARFORK)	10.0	DIAMOND M-SHARON
8414754	F-8A-073963	4241531898		103		MCLAUGHLIN ACCT #3 - WELL #69	DIAMOND M (CLEARFORK)	10.0	DIAMOND M-SHARON
8414753	F-8A-073962	4241531897		103		MCLAUGHLIN ACCT #3 - WELL #70	DIAMOND M (CLEARFORK)	5.0	DIAMOND M-SHARON
8414752	F-8A-073961	4241532437		103		MCLAUGHLIN ACCT #3-WELL #80	DIAMOND M (CLEARFORK)	12.0	DIAMOND M-SHARON
-MONTERO OPERATING INC				RECEIVED:	01/03/84	JA: TX			
8414867	F-7C-076005	4208131197		103		HIGGINS #1	JAMESON	36.5	SUN EXPLORATION &
-MOSBACHER PRODUCTION CO				RECEIVED:	01/03/84	JA: TX			
8414927	F-02-076275	4228531753		102-4	103	LOWRANCE RANCH #2	EVANS (7815)	29.0	
-OMEGA MINERALS INC				RECEIVED:	01/03/84	JA: TX			
8414959	F-7B-076380	4244100000		103		R M ALLEN #1	MCL (FRY SAND)	335.0	UNION TEXAS PETRC
-OWL PETROLEUM CO				RECEIVED:	01/03/84	JA: TX			
8414789	F-03-075032	4248132540		103		D S BABCOCK #4	MENEFEE	66.0	TRANSCONTINENTAL
-P C BURNS				RECEIVED:	01/03/84	JA: TX			
8414768	F-09-074365	4207733004		103		SCALING "A" #1 197472	W W YEARLY	0.0	FAGADAU ENERGY CO
-PALO PETROLEUM INC				RECEIVED:	01/03/84	JA: TX			
8414837	F-7C-075636	4238332622		102-5	103	UNIVERSITY 11/BLK 12 "A" #3	SPRABERRY (TREND AREA	0.0	EL PASO HYDROCARB
-PARKER & PARSLEY INC				RECEIVED:	01/03/84	JA: TX			
8414795	F-08-075113	4231700000		103		NAIL G #1	SPRAYBERRY (TREND ARE	0.0	
8414796	F-7C-075116	4238300000		103		STATE B #1	SPRAYBERRY TREND AREA	0.0	
-PENNZOIL PRODUCING COMPANY				RECEIVED:	01/03/84	JA: TX			
8414820	F-04-075407	4250531684		102-4		CATARINA GRACIA #1	ESCOBAS 10650'	577.0	
-PHILLIPS OIL CO				RECEIVED:	01/03/84	JA: TX			
8414719	F-06-072416	4242330648		103		GUY LONGLEY #1	CHAPEL HILL NE	120.0	ETEXAS PRODUCERS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/03/84	JA: TX			
8414676	F-08-065435	4210330631		108		BARNSLEY #3 (52852)	SAND HILLS (MCKNIGHT)	24.0	DELHI GAS PIPELIN
8414955	F-08-076360	4213508007		108		G S ADOBE #26-01 (16713)	GOLDSMITH (5600)	1.0	EL PASO NATURAL G
8414956	F-08-076361	4213503176		108		G S ANDECTOR UNIT H-7 (211933	GOLDSMITH (CLEARFORK)	20.0	EL PASO NATURAL G
8414678	F-10-065985	4217931223		108		JOHNSON T #3	PANHANDLE GRAY	0.0	
8414977	F-10-076443	4234100000		108		MAKEIG F S #2	PANHANDLE WEST	0.0	EL PASO NATURAL G
8414943	F-08-076334	4249530269		108		MCCABE F P #39 (21555)	HALLEY	2.0	EL PASO NATURAL G
8414978	F-10-076444	4235700000		108		NEUFELD A #4	HORIZON CLEVELAND	0.0	
8414984	F-10-076452	4223300000		108		YAKE G #14	PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
-PINEWOOD EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414706	F-06-071929	4236531583		102-4		HOLLAND #3	J G S TRAVIS PK B	150.0	NATURAL GAS PIPEL
-PONCE M A DEVELOPERS INC				RECEIVED:	01/03/84	JA: TX			
8414911	F-08-076214	4200333687		103		MUNGER-NIX "18" #1	FUHRMAN-MASCHO	36.5	PHILLIPS PETROLEU
8414910	F-08-076213	4200333684		103		MUNGER-NIX "19" #1	FUHRMAN-MASCHO	63.9	PHILLIPS PETROLEU
8414909	F-08-076212	4200332820		103		MUNGER-NIX "19" #2	FUHRMAN-MASCHO	40.1	PHILLIPS PETROLEU
8414908	F-08-076211	4200333686		103		THORNBERRY "4" WB #3	FUHRMAN-MASCHO	54.8	PHILLIPS PETROLEU
8414907	F-08-076210	4200333683		103		THORNBERRY "5" E #1	FUHRMAN-MASCHO	63.9	PHILLIPS PETROLEU
8414906	F-08-076209	4200333694		103		UNIVERSITY "13" W #1	FUHRMAN-MASCHO	9.1	PHILLIPS PETROLEU
8414942	F-08-076329	4200333693		103		UNIVERSITY "13" W #2	FUHRMAN-MASCHO	32.9	PHILLIPS PETROLEU
8414905	F-08-076208	4200333692		103		UNIVERSITY "18" W #1	FUHRMAN-MASCHO	21.9	PHILLIPS PETROLEU
8414904	F-08-076207	4200333691		103		UNIVERSITY "19" W #1	FUHRMAN-MASCHO	58.4	PHILLIPS PETROLEU
-QUESTA OIL & GAS CO				RECEIVED:	01/03/84	JA: TX			
8414926	F-7C-076271	4210534566		103	107-TF	PIERCE-STATE 106-1	OZONA (CANYON SAND)	0.0	VALERO TRANSMISSI
-RAINBOW RESOURCES INC				RECEIVED:	01/03/84	JA: TX			
8414702	F-06-071785	4240100000		102-4	103	J C WASHBURN WELL #1-P	EFDEE RODESSA YOUNG	365.0	UNION CARBIDE COR
8414704	F-06-071810	4240100000		102-4	103	PATSY CHRISTIAN MCCRORY #1-P	KILGORE SOUTH	365.0	UNION CARBIDE COR
-RANKIN OIL CO				RECEIVED:	01/03/84	JA: TX			
8414941	F-08-076327	4208332589		103		SAVAGE STATE #5	SHAFTER LAKE	1.0	PHILLIPS PETROLEU
-RAY H EUBANK				RECEIVED:	01/03/84	JA: TX			
8414899	F-06-071719	4220330643		103		HUFFMAN ESTATE #1	LANSING N PETTIT LO	146.0	TEXAS GAS CORP
-REYNOLDS DRILLING & FRANKS PETRO				RECEIVED:	01/03/84	JA: TX			
8414848	F-06-075795	4236531545		103	107-TF	RICHARDSON "A" #1	CARTHAGE (COTTON VALL	200.0	UNITED GAS PIPE L
-RIDGE OIL CO				RECEIVED:	01/03/84	JA: TX			
8414944	F-7B-076344	4213335272		102-4	103	HAGAMAN (SOUTH) #7	RANGER NW (MARBLE FAL	27.5	COMPRESSOR RENTAL
-ROSELAND OIL & GAS INC				RECEIVED:	01/03/84	JA: TX			
8414690	F-06-070484	4242300000		103		CITY OF TYLER #1 PERMIT #183835	ANN MCKNIGHT (PALUXY)	0.0	
-ROYAL OIL & GAS CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414693	F-01-071139	4251131778		102-4	103	BRACKEN RANCH #1	A W P DUMOS FIELD	36.0	HOUSTON PIPE LINE
8414715	F-01-072370	4231131868		102-4	103	BRACKEN RANCH #4	A W P (DUMOS) FIELD	73.0	HOUSTON PIPE LINE
8414694	F-01-071140	4231131830		102-4	103	BRACKEN RANCH WELL #2	A W P DUMOS	91.0	HOUSTON PIPE LINE
8414716	F-01-072372	4231131866		102-4	103	BRACKEN RANCH WELL #3	A W P (DUMOS)	73.0	HOUSTON PIPE LINE
8414703	F-01-071805	4231131711		102-4	103	DAN FOSTER #2	A W P DUMOS FIELD	85.0	HOUSTON PIPE LINE
8414717	F-01-072373	4231131867		102-4	103	R P HORTON #4	A W P (DUMOS) FIELD	0.0	HOUSTON PIPE LINE
8414675	F-01-065371	4231100000		102-4	103	R P HORTON WELL #2	A W P (DUMOS)	365.0	HOUSTON PIPE LINE
-SAN PATRICIO CORP				RECEIVED:	01/03/84	JA: TX			
8414827	F-02-075420	4246932022		102-4	103	O M LANDER #1	HEYSER EAST 8060'	0.0	HOUSTON PIPELINE
8414825	F-02-075418	4246932074		102-4	103	O M LANDER #2-L	HEYSER EAST 8350'	0.0	HOUSTON PIPELINE
8414826	F-02-075419	4246932074		102-4	103	O M LANDER #2-U	HEYSER EAST 7400'	0.0	HOUSTON PIPELINE
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	01/03/84	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414686	F-03-069339	4228700000		103		URBAN #2	GIDDINGS	109.0	PERRY PIPELINE CO
-SCANDRILL INC				RECEIVED:	01/03/84	JA: TX			
8414842	F-09-075726	4250337379		103		SCAN-KING "G" #2	STOVALL (MCLESTER)	24.8	J H TAYLOR GAS CO
8414788	F-09-075028	4250337294		103		SLAUGHTER "A" #2	LOU-KEN (CONGLOMERATE	13.5	
-SHELL OIL CO				RECEIVED:	01/03/84	JA: TX			
8414769	F-04-074426	4221530890		102-4		BOSTON-TEXAS LAND TRUST #12	MCCOOK EAST (VICKSBUR	300.0	NATURAL GAS PIPEL
8414670	F-03-050364	4270430181		102-4		S T 77323 #3	BRAZOS BLOCK 446-L SW	1460.0	SHELL OIL CO
-SHILLELAGH CORP				RECEIVED:	01/03/84	JA: TX			
8414850	F-7B-075808	4242933576		103		H & M WILSON "F" #1 19426	STEPHENS COUNTY REGUL	60.0	WARREN PETROLEUM
8414851	F-7B-075809	4242933655		103		H & M WILSON "F" #3 19426	STEPHENS COUNTY REGUL	180.0	WARREN PETROLEUM
-SMITH PETROLEUM CO				RECEIVED:	01/03/84	JA: TX			
8414849	F-03-075796	4218530344		102-4		SELECTED LANDS 18 UNIT 6 #1	IOLA SOUTH (SUBCLARKS	0.0	WELLHEAD VENTURES
-SNOW OIL CO				RECEIVED:	01/03/84	JA: TX			
8414922	F-7B-076235	4213335407		102-4		CASTLEBERRY-WEST #2 (19154)	REB (MARBLE FALLS)	73.0	LONE STAR GAS CO
-SOHIO PETROLEUM CO				RECEIVED:	01/03/84	JA: TX			
8414960	F-7C-076387	4232931160		103		DAVID BRADEN #3	CALVIN DEAN	35.0	UNION TEXAS PETRO
8414912	F-08-076216	4217331433		103		SPRABERRY DRIVER UNIT #883	SPRABERRY (TREND AREA	11.0	EL PASO NATURAL G
-SPG EXPLORATION CORP				RECEIVED:	01/03/84	JA: TX			
8414880	F-01-076125	4216300000		108		DR WEBSTER OQUINN GAS UNIT #1	WEST BIG FOOT/GAS	24.8	TRANSCONTINENTAL
8414883	F-01-076139	4216300000		108		GORDON E TATE #2	WEST BIG FOOT/GAS	23.7	TRANSCONTINENTAL
-STEVE STAMPER				RECEIVED:	01/03/84	JA: TX			
8414778	F-09-074792	4223700000		103		B SIMPSON #1	BRYSON EAST	68.0	LONE STAR GAS CO
-STRINGER OIL & GAS				RECEIVED:	01/03/84	JA: TX			
8414900	F-7C-076201	4238332538		103		UNIVERSITY 10-5 #1	SPRABERRY (TREND AREA	900.0	PHILLIPS PETROLEU
-SUBSURFACE ENERGY CORP				RECEIVED:	01/03/84	JA: TX			
8414921	F-7B-076233	4239932830		102-4		BRIGHT #1 (20215)	BARCO (ELLENBURGER)	19.0	UNION TEXAS PETRO
-SUGARBERRY OIL & GAS CORP				RECEIVED:	01/03/84	JA: TX			
8414799	F-7C-075212	4241330739		102-4		LUX #1	VELREX WOLFCAMP	0.0	FARMLAND INDUSTRI
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/03/84	JA: TX			
8414974	F-04-076433	4242700000		108		A GUERRA -A- #1	SUN N	15.0	TRANSCONTINENTAL
8414923	F-08-076237	4246100000		108		DAMRON 192 #1	MCELROY SE (DEVONIAN)	3.0	PHILLIPS PETROLEU
8414973	F-08-076432	4213534114		103		FOSTER-JOHNSON UNIT #1704	FOSTER	5.0	EL PASO HYDROCARB
8414809	F-03-075253	4219931795		103		H G PETTY HEIRS LOT 8 #1	SARATOGA	9.0	
8414975	F-08-076434	4200300000		108		O B HOLT GRBG #1-8	COWDEN NORTH	0.7	WESTAR TRANSMISSI
8414684	F-03-067772	4229131566		103		SUN FEE LOT 50 #1	SOUTH LIBERTY	82.0	UNITED TEXAS TRAN
8414843	F-08-075730	4200300000		108		UNIVERSITY -9- #14	FULLERTON	2.0	AMOCO PRODUCTION
-TEXACO INC				RECEIVED:	01/03/84	JA: TX			
8414794	F-8A-075107	4216532546		103		WHARTON UNIT #124	HARRIS	0.0	PHILLIPS PETROLEU
-TEXCOLADA OIL CO				RECEIVED:	01/03/84	JA: TX			
8414874	F-7B-076076	4213332516		102-4		HENSLEE "A" #1	TIN CUP	35.0	NORTHERN GAS PROD
8414875	F-7B-076077	4213331892		102-4		J H TIDWELL #1	TIN CUP	30.0	NORTHERN GAS PROD
8414873	F-7B-076074	4213331152		102-4		U V HOGG #2	TIN CUP	20.0	NORTHERN GAS PROD
— 8414872	F-7B-076073	4213331446		102-4		U V HOGG #3	TIN CUP	20.0	NORTHERN GAS PROD
-TEXSTAR EXPLORATION INC				RECEIVED:	01/03/84	JA: TX			
8414806	F-10-075232	4217900000		108		CARROLL #1	PANHANDLE GRAY COUNTY	0.0	PHILLIPS PETROLEU
8414807	F-10-075233	4217900000		108		CARROLL #2	PANHANDLE GRAY COUNTY	2.0	PHILLIPS PETROLEU
-THOMAS Y KIDD INC				RECEIVED:	01/03/84	JA: TX			
8414708	F-7B-071994	4213331832		103		RAY BURNS LEASE	KIRK	10.0	LONE STAR GAS CO
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	01/03/84	JA: TX			
8414732	F-7C-073793	4210534504		103		AR 7 #1	MPI (ELLENBURGER)	600.0	
— 8414876	F-7C-076099	4210534584		103	107-TF	P L CHILDRESS "F" #2	OZONA (CANYON SAND)	190.0	
- 8414810	F-7C-075255	4210534608		102-4		UNIVERSITY 29-16 #1	UNIVERSITY 29 STRAWN	180.0	
8414811	F-7C-075256	4210534554		102-4		UNIVERSITY 29-21 #1	UNIVERSITY 29 STRAWN	120.0	
-TOM L INGRAM				RECEIVED:	01/03/84	JA: TX			
8414953	F-08-076353	4200333617		103		SUN #3	FUHRMAN-MASCHO	20.0	PHILLIPS PETROLEU
-TRAVELERS OIL CO				RECEIVED:	01/03/84	JA: TX			
8414971	F-10-076426	4206500000		108		WARE #15	PANHANDLE CARSON COUN	0.0	GETTY OIL CO
8414970	F-10-076425	4206500000		108		WARE #16	PANHANDLE CARSON COUN	0.0	GETTY OIL CO
8414969	F-10-076424	4206500000		108		WARE #17	PANHANDLE CARSON COUN	0.0	GETTY OIL CO
8414968	F-10-076423	4206500000		108		WARE #18	PANHANDLE CARSON COUN	0.0	GETTY OIL CO
-TRICENTROL RESOURCES INC				RECEIVED:	01/03/84	JA: TX			
8414696	F-03-071443	4235130375		102-4		ARCO DONAHO #1	ADA CALL E Y-12	195.0	ARCO OIL & GAS CO
-TRIPLE J INVESTMENTS INC				RECEIVED:	01/03/84	JA: TX			
8414877	F-06-076108	4240131783		103		WILTON FAIR #3-A	TALIAFERRO (PETTIT UP	35.0	PARADE CO
-TUCKER DRILLING COMPANY INC				RECEIVED:	01/03/84	JA: TX			
8414831	F-7C-075457	4245131169		102-2	103	BROWN "D" #4	K W B STRAWN	31.0	LONE STAR GAS CO
-TXO PRODUCTION CORP				RECEIVED:	01/03/84	JA: TX			
8414823	F-05-075413	4216130645		102-4		AYCOCK #1	MIMMS CREEK BOSSIER	0.0	UNITED TEXAS TRAN
8414700	F-05-071720	4216130806		103	107-TF	AYCOCK 1-2	MIMMS CREEK BOSSIER	0.0	UNITED TEXAS TRAN
8414798	F-7B-075172	4236732564		102-4		DAVES "A" #1	CLAYTON CONGL FIELD	100.0	SOUTHWESTERN GAS
8414685	F-02-068888	4212331290		102-4		KIRK B-1	KOENIG	0.0	DELHI GAS PIPELIN
8414683	F-04-067736	4235532120		103		KOCUREK #1	AQUA DULCE (8300')	0.0	DELHI GAS PIPELIN
8414672	F-10-060378	4239330837		103		MORRISON "A" #1	MORRISON RANCH (MORRO	0.0	DIAMOND CHEMICALS
8414805	F-05-075222	4216130799		102-4		OWENS "D"	INGRAM TRINITY RODESS	0.0	DELHI GAS PIPELIN
8414711	F-02-072153	4223931334		102-4		SCHAEFER B-1	MCDANIEL	0.0	TEXAS EASTERN TRA
8414821	F-05-075409	4216130723		102-4		TEAGUE G U #1-3	TEAGUE S COTTON VALLE	0.0	UNITED GAS PIPELI
8414822	F-05-075410	4216130750		102-4		TEAGUE GAS UNIT 2-2	TEAGUE S COTTON VALLE	0.0	UNITED GAS PIPELI
8414815	F-05-075319	4216130690		102-4		TERRY "C"	RED LAKE BOSSIER SD	0.0	
8414824		4216130751		102-4		UTLEY "C" 1-X	MIMMS CREEK BOSSIER	0.0	UNITED TEXAS TRAN
-UNION OIL COMPANY OF CALIF				RECEIVED:	01/03/84	JA: TX			
8414929	F-7C-076285	4210500000		108		UNIVERSITY "JJ" #1	FARMER (SAN ANDRES)	1.0	J L DAVIS
8414930	F-7C-076286	4210500000		108		UNIVERSITY "JJ" #2	FARMER (SAN ANDRES)	0.7	J L DAVIS
8414933	F-7C-076296	4210531109		108		UNIVERSITY "JJ" #4	FARMER (SAN ANDRES)	0.7	J L DAVIS
8414928	F-7C-076284	4210531783		108		UNIVERSITY "JJ" #5	FARMER (SAN ANDRES)	1.8	J L DAVIS
8414797	F-01-075123	4246530429		102-2		WAYNE WEST RANCH "B" #5	MASSIE STRAWN	365.0	INTRATEX GAS CO
-UNITED CO				RECEIVED:	01/03/84	JA: TX			
8414976	F-8A-076442	4207931409		103		REED WRIGHT B #5 107334	LEVELLAND (SAN ANDRES	544.0	EL PASO NATURAL G
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	01/03/84	JA: TX			
8414695	F-05-071236	4234900000		103	107-TF	WHITFIELD #1	CHENEYBORO COTTON VAL	0.0	BEANE ENERGY CORP
-USEMCO INC				RECEIVED:	01/03/84	JA: TX			
8414721	F-7B-072558	4236732472		103		WHITE 2-A	BETHESDA (CADDO)	70.0	LONE STAR GAS CO
-V F NEUHAUS				RECEIVED:	01/03/84	JA: TX			
8414765	F-04-074212	4242700000		102-4		SALAZAR #1	NEUHAUS-SHERRIN (PROP	58.4	BALCONES PIPELINE
-VAN OIL CORP				RECEIVED:	01/03/84	JA: TX			
— 8414886	F-7B-076145	4213332392		102-4		H DEMPSEY (TAYLOR) #1 (16499)	MANGUM WEST (3100)	109.0	EL PASO HYDROCARB
8414889	F-7B-076148	4213332609		102-4		H DEMPSEY (TAYLOR) #2 (16499)	MANGUM WEST (3100)	71.0	EL PASO HYDROCARB
8414888	F-7B-076147	4213333911		102-4		MCCRACKEN TRUSTEE #3 (18649)	VAN (MARBLE FALLS)	58.0	EL PASO HYDROCARB
8414887	F-7B-076146	4213333953		102-4		MCCRACKEN TRUSTEE #4 (18649)	VAN (MARBLE FALLS)	51.0	EL PASO HYDROCARB
8414913	F-7B-076217	4213332152		102-4		RBTF-FEE #1 (16013)	MANGUM WEST (3100)	5.4	EL PASO HYDROCARB
-W R EDWARDS JR				RECEIVED:	01/03/84	JA: TX			
8414838	F-10-075662	4223300000		103		BARNHILL #491	PANHANDLE HUTCHINSON	0.0	TRANS-PAN PIPELIN
-WAGNER & BROWN				RECEIVED:	01/03/84	JA: TX			
— 8414958	F-08-076377	4243131349		103		GLASS #6-24	CONGER (PENN)	247.1	TEXAS UTILITIES F
- 8414931	F-08-076287	4243131348		103		GLASS #7-24	CONGER (PENN)	117.1	TEXAS UTILITIES F

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8414932	F-08-076288	4243131347		103		GLASS #8-24	CONGER (PENN)	98.0	TEXAS UTILITIES F
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	01/03/84	JA: TX			
8414818	F-08-075368	4210333196		103		W N WADDELL ETAL (TR A) #1284	SAND HILLS TUBB	64.5	EL PASO NATURAL G
-WAYNE HARPER				RECEIVED:	01/03/84	JA: TX			
8414870	F-09-076046	4209732081		103		WM HOWELL "B" WELL #10	SIVELLS BEND FIELD	25.0	SIVELLS GAS LTD
-WINN EXPLORATION/DULCE CO				RECEIVED:	01/03/84	JA: TX			
8414779	F-01-074825	4250731760		102-4		PRYOR RANCH #105	WINN-DULCE	0.0	NORTHERN NATURAL
-WOLSEY OIL INC				RECEIVED:	01/03/84	JA: TX			
8414903	F-09-076205	4223700000		107-PE		C J CLARK "C" #045166	PLEMONS CONGL	24.0	LONE STAR GAS CO
-WOODLEY PETROLEUM				RECEIVED:	01/03/84	JA: TX			
8414853	F-09-075826	4249732608		103		R G RIEGER #1	ALVORD SOUTH (ATOKA)	70.0	TEXAS UTILITIES F
-3 W OIL INC				RECEIVED:	01/03/84	JA: TX			
8414920	F-10-076231	4217931308		103		ARKIE-BILL "B" (05308) #5	PANHANDLE GRAY COUNTY	2.0	CABOT PIPELINE CO
8414919	F-10-076230	4217931384		103		ARKIE-BILL "B" (05308) #6	PANHANDLE GRAY COUNTY	30.0	CABOT PIPELINE CO
8414918	F-10-076229	4217931382		103		ARKIE-BILL "B" (05308) #7	PANHANDLE GRAY COUNTY	5.0	CABOT PIPELINE CO
8414917	F-10-076228	4217931180		103		TIEMAN ESTATE (04933) #3	PANHANDLE GRAY COUNTY	5.0	CABOT PIPELINE CO
8414916	F-10-076227	4217931179		103		TIEMAN ESTATE (04933) #4	PANHANDLE GRAY COUNTY	5.0	CABOT PIPELINE CO
8414915	F-10-076225	4217931296		103		WEBSTER (05135) #5	PANHANDLE CARSON COUN	115.0	GETTY OIL CO
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UTAH DIVISION OF OIL,GAS, & MINING									
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-AMOCO PRODUCTION CO				RECEIVED:	01/03/84	JA: UT			
8414616	K-121-20	4304330219		102-2		ANSCHUTZ RANCH E/W NUGGET #W29-06A	ANSHUTZ RANCH EAST -	5144.7	MOUNTAIN FUEL SUP
8414610	K-121-19	4304330161		102-2		ISLAND RANCHING "D" #1	ANSCHUTZ RANCH-NUGGET	1.2	COLORADO INTERSTA
-AMOCO PRODUCTION CO				RECEIVED:	01/04/84	JA: UT			
8414665	K-121-21	4304330215		102-2		ANSCHUTZ RANCH EAST/W NUGGET #W30-1	ANSCHUTZ RANCH EAST	1770.6	MOUNTAIN FUEL SUP
-BELCO DEVELOPMENT CORP				RECEIVED:	01/03/84	JA: UT			
8414614	K-111-20	4304731305		103	107-TF	CWU 225-2	CHAPITA WELLS UNIT	0.0	MOUNTAIN FUEL SUP
-BELCO DEVELOPMENT CORP				RECEIVED:	01/04/84	JA: UT			
8414668	K-111-20	4304731305		103	107-TF	CWU 225-2	CHAPITA WELLS UNIT	0.0	MOUNTAIN FUEL SUP
-BOW VALLEY PETROLEUM INC				RECEIVED:	01/04/84	JA: UT			
8414666	K-116-3	4304731295		103		LORRAINE BOLTON 1-12A1	BLUEBELL WASATCH	54.8	DARENCO INC
-COASTAL OIL & GAS CORP				RECEIVED:	01/03/84	JA: UT			
8414613	K-136-16	4304731232		107-TF		NATURAL BUTTES UNIT 81V (35-9-21)	NATURAL BUTTES	82.0	COLORADO INTERSTA
8414612	K-136-14	4304731282		103		NBU 217-2	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
-COASTAL OIL & GAS CORP				RECEIVED:	01/04/84	JA: UT			
8414667	K-136-15	4304731232		107-TF		NATURAL BUTTES UNIT 81V (35-9-21)	NATURAL BUTTES	82.0	COLORADO INTERSTA
-COASTAL OIL & GAS CORP				RECEIVED:	01/05/84	JA: UT			
8414658	K-136-17	4304731327		103	107-TF	NATURAL BUTTES UNIT 98V (34-9-21)	NATURAL BUTTES	219.0	COLORADO INTERSTA
-DEL-RIO RESOURCES				RECEIVED:	01/03/84	JA: UT			
8414615	K-159-1	4304731273		102-2		AGENCY DRAW 23-1A	WILDCAT	300.0	ARCO OIL & GAS CO
-LOMAX EXPLORATION COMPANY				RECEIVED:	01/03/84	JA: UT			
— 8414611	K-152-4	4301330748		102-2		GILSONITE STATE #6-32	MONUMENT BUTTE	0.0	MOUNTAIN FUEL SUP

[FR Doc. 84-2991 Filed 2-2-84; 8:45 am]

BILLING CODE 6717-01-C

Federal Register

Friday
February 3, 1984

Part V

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Servicing of Single Piece and Multi-Piece Rim Wheels; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-010]

Servicing of Single Piece and Multi-Piece Rim Wheels

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: By this action the Occupational Safety and Health Administration (OSHA) amends the safety standard for the servicing of multi-piece rim wheels, 29 CFR 1910.177, to include requirements for the safe servicing of single piece rim wheels used on trucks, trailers, buses and other large vehicles. A single piece wheel is a unit used to retain the side walls of a tire, to form part of the chamber which contains the pressurized air (if a tubeless tire is utilized), and to provide the means of attachment of the assembly (the rim wheel) to the axle of a vehicle.

Single piece rim wheel accidents occur when the contained, pressurized air is almost instantaneously released by the tire bead either breaking or slipping over the rim flange. This incident is commonly referred to as "the sudden release of the pressurized air." The principal hazards are that the pressurized air, once released, can either pick up and hurl an employee across the workplace, if the employee is in close proximity to the rim wheel and within the trajectory, or the rim wheel can be propelled across the workplace and into an employee. This amended standard, which regulates the servicing of both single piece and multi-piece rim wheels, includes requirements for training of all tire servicing employees; for utilization of industry-accepted procedures which minimize the potential for employee injury; for the use of restraint devices during inflation to retain the components; and for the use of compatible components.

The standard also contains several minor amendments to the provisions of the multi-piece rim wheel servicing standard.

EFFECTIVE DATE: This standard will become effective March 5, 1984.

FOR FURTHER INFORMATION CONTACT: James Foster, Occupational Safety and Health Administration, Room N-3637, U.S. Department of Labor , Washington, D.C. 20210. Telephone: (202) 523-8151.

ADDRESS: For additional copies of this standard contact: OSHA Office of Publications, U.S. Department of Labor, Room N4101, Washington, D.C. 20210. Telephone: (202) 523-9667.

SUPPLEMENTARY INFORMATION:

1. Background

A. Standard on Multi-Piece Rim Wheels

On January 29, 1980, OSHA issued a final standard on servicing multi-piece rim wheels (45 FR 6706) after informal rulemaking under section 6(b) of the Occupational Safety and Health Act (OSH Act). Multi-piece wheels consist of two or more detachable components, one of which is a side or locking ring designed to hold the tire on the wheel when the tire is inflated. Multi-piece wheels are used most frequently with tube type tires on trucks, tractors, trailers, buses, campers and off-highway vehicles. The major hazard in servicing multi-piece rim wheels is the possibility of an employee being struck by a wheel component which has been thrown from a rim wheel during an unintended explosive separation. Further discussion of multi-piece rim wheels can be found in the preamble to the § 1910.177 final rule document (45 FR 6706, January 29, 1980).

The standard as originally promulgated in 1980 contains requirements for training employees who service multi-piece rim wheels; for the use of proper servicing equipment; for the use of compatible components only; and for the use of accepted, safe procedures. During the formulation of that standard, the scope of the regulation was restricted to the servicing of multi-piece rim wheels since the preponderance of the accidents being reported at that time were occurring during the servicing of that type of rim wheel.

B. Single Piece Rim Wheels

Single piece rim wheels are used on virtually all types of motor vehicles, including automobiles, trucks, trailers, buses and off-highway vehicles. Such vehicles rely heavily on the use of tubeless tires because such tires offer superior vehicle mileage due to less rolling resistance and are less likely to overheat. Tubeless tires are most commonly used on single piece wheels. Although some multi-piece wheels may be used with tubeless tires, such use requires an airtight seal between wheel components since the wheel forms part of the chamber containing the pressurized air, and most multi-piece wheels are not designed to be airtight (Exs. 3-11 and 3-20).

Single piece wheels are designed with one side of the wheel narrower than the other side to facilitate the installation of the tire on the wheel. At present, between 15% and 20% of large vehicles such as trucks, trailers and buses are equipped with radial ply tires and single piece wheels. This percentage is expected to increase to 50% of all large rim wheels by 1990 (Ex. 4).

Although radial ply technology for vehicle tires was first introduced in the mid-1920's, radial ply tubeless tires and single piece wheels for large vehicles were not utilized to any great extent until the early 1970's. This was due to the many problems which are inherent in the design of radial ply tires. The radial ply tire offers less sidewall support and less load carrying capability under severe service conditions than does the bias-ply tire, and is more prone to failure from sidewall scuffing or unusual side forces such as hitting a curb. The initial cost of radial ply tires is higher; however, radial ply tires offer less rolling resistance, thereby increasing the vehicle mileage per gallon of fuel. As the cost of fuel has increased, it has become more cost effective to use radial ply tires, and more and more of the large vehicle users have begun to switch to the use of radial ply tubeless tires. This has resulted in a corresponding increase in the use of single piece wheels.

Because they exhibit limitations under conditions of severe use, single piece rim wheels are favored on long distance, over-the-road vehicles where the loads imposed upon the rim wheels are termed moderate and the primary concern is good mileage. Vehicles which operate on rough terrain, at remote locations, or under heavy loading conditions, have continued to use the tube-type tire and multi-piece rim wheels since vehicle reliability and serviceability under extreme conditions is essential.

C. History of the Amendment for Servicing Single Piece Rim Wheels.

During the development of the standard for the servicing of multi-piece rim wheels (29 CFR 1910.177), the regulation of single piece rim wheel servicing was not considered since the largest number of accidents being reported were occurring when multi-piece rim wheels were being serviced. Additionally, the accidents which were occurring during the servicing of single piece rim wheels were, for the most part, not being reported or were not properly reported. Limited testimony on single piece rim wheel accidents was presented at the 1979 public meeting on the multi-piece rim proposal (Docket S-005, Ex. 5, Pages 23 and 27). Mr. Freivoyel, representing Firestone Tire & Rubber Company, indicated there were

safety implications with the use of single piece rims and tubeless tires. Mr. Besuner of Failure Analysis Associates, a firm hired by the National Wheel and Rim Association (NWRA) to determine the risks of servicing multi-piece rim wheels, stated that their preliminary findings (Ex. 2–3) indicated the on-road accident picture for single piece rim wheels looked as serious as that for multi-piece rim wheel servicing. However, their data were limited to one manufacturer's experiences and could not be presumed to be conclusive. Further, the Failure Analysis Associates' preliminary report did not examine accident data in tire servicing facilities and workplaces. For those reasons, and because of the limited period of industry usage of single piece rim wheels, the hazards of servicing single piece rim wheels were not recognized, and thus were not regulated during the multi-piece rim wheel rulemaking.

Subsequent to OSHA's promulgation of the standard for servicing multi-piece rim wheels, NWRA and Firestone Tire & Rubber Company petitioned OSHA, requesting an amendment to the standard for servicing multi-piece rim wheels, 29 CFR 1910.177, by adding requirements for the safe servicing of single piece rim wheels.

Examination of the industry studies (Ex. 2–3) by OSHA, in response to the petition, indicated an increasing number of accidents occurring during the servicing of single piece rim wheels. Based upon the available data, including that from four of the manufacturers of single piece wheels, OSHA determined that the likelihood of accidents and injuries when servicing single piece rim wheel is comparable to that which existed for the servicing of multi-piece rim wheels before promulgation of the OSHA multi-piece rim wheel servicing standard. A Notice of Proposed Rulemaking (NPRM) for servicing single piece rim wheels was published in the Federal Register (47 FR 51159, November 12, 1982). The public comment period of 45 days was extended to January 26, 1983 (47 FR 57739, December 28, 1982). Twenty-nine comments were received in response to the above notices, with most commenters favoring the adoption of the proposed revision to the standard. A number of comments contained recommendations for minor modification of certain provisions of the proposal. There were no requests for a hearing.

A Regulatory Impact Assessment was prepared in accordance with Executive Oder 12291 (46 FR 13193, February 17, 1981) and was made available to the public. OSHA determined that the proposal was not a "major" action which would necessitate further economic impact evaluation and the preparation of a Regulatory Impact Analysis. Opportunity was given for interested persons to comment on the subject matter and contents of the assessment.

Additionally, in accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat 1164 (5 U.S.C. 601 et seq.)), OSHA assessed the potential economic impact of the proposal on small entities and examined some of the alternatives to it. Based upon that assessment, OSHA certified that the proposal would not have a significant economic effect on a substantial number of small entities. Opportunity was given for interested persons to comment on the subject matter and content of the report.

This final standard on servicing of multi-piece and single piece rim wheels is based on a full consideration of the entire record of the rulemaking proceeding, including the materials relied on in the proposal and all written comments and exhibits received. All materials in the record are available for public review and copying at the OSHA Docket Office, Room S–6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523–7894.

D. The Hazards of Servicing Single Piece Rim Wheels

OSHA has determined that the servicing of single piece rim wheels is hazardous based upon a review of the available accident and injury data. These data include selected product liability litigation records (Ex. 2–7) from cases involving injuries received during the servicing of single piece rim wheels. These records buttress the determination that employees who service single piece rim wheels are exposed to a significant risk of serious injury.

The principal hazard present during the servicing of single piece rim wheels is that the pressurized air contained in the tire may suddenly be released, either by the bead breaking or by the bead slipping over the rim flange. These incidents are caused by mismatching of the wheel and tire, by using damaged components, by failing to restrain the components, by welding on the wheel and/or by improperly mounting the tire on the wheel. The resulting air blast is strong enough to hurl an employee who is in close proximity to the rim wheel, and positioned within the trajectory, violently across the workplace. When the pressurized air is released on the side of the rim wheel against a solid surface, the flexure of the tire can also propel the rim wheel itself across the workplace and into an employee in its path. The force exerted on the rim flange of a single piece wheel by a pressurized tire is comparable to that of a tire mounted on a multi-piece wheel (e.g., a 10.00 x 20 tire, when inflated to 105 psi creates a force in excess of 40,000 pounds against the rim flange).

As noted above, the force of the pressurized air released from a single piece rim wheel is comparable to that force from a multi-piece rim wheel. The principal differences between accidents involving single piece rim wheels and those involving multi-piece rim wheels center around the reaction to the release of the pressurized air in the tire. In multi-piece rim wheel accidents, the wheel components separate and are released from the rim wheel with violent force. The primary agent of employee injury in multi-piece rim wheel separations is any of the individual components of the wheel, such as the lock ring, which can be propelled toward an employee with explosive force as the wheel components separate. In the single piece rim wheel accident, the air blast itself is another primary agent of injury. The severity of the hazard is related not only to the air pressure but also to the air volume. Employees have been seriously or fatally injured when they were thrown against walls, ceilings, gas pumps or other hard and unyielding objects.

In addition, if the air blast is not released directly toward an employee but against a floor or wall, the unrestrained rim wheel can be hurled across the workplace. Therefore, if the release of air occurs on the side of the wheel that is lying against a solid surface, and the rim wheel is unrestrained, the entire assembly may become a projectile. Such movement is cause primarily by the flexure of the tire as the air escapes. An employee who is standing in the trajectory can be hit by the rim wheel when the air is released. In a test conducted by NWRA (Ex. 2–6) a single piece rim wheel with a weakened bead was pressurized to 110 psi, and the tire was made to fail on the side of the tire resting on the ground. The rim wheel, whose weight was approximately 200 pounds, was thrown approximately 30 feet into the air.

E. Accident Data

Data collection regarding single piece rim wheel accidents presents similar problems to those OSHA experienced in documenting multi-piece rim wheel accidents. Accidents to employees engaged in the servicing of single piece

rim wheels are often either not reported at all, or are categorized under broad classifications such as "falls" or "struck by object." Therefore, the data available to OSHA likely represent only a portion of the total injuries and fatalities.

As noted earlier, NWRA, in support of its petition, submitted a report on single piece rim wheels which was prepared by Failure Analysis Associates (Ex. 2–3). The report contained accident data which was gathered from several sources including National Highway Traffic Safety Administration (NHTSA) reports, manufacturers' files, the California State OSHA program (Cal/OSHA), and consumer litigation against rim manufacturers. In this report, Failure Analysis Associates stated that between 1970 and 1980 there were 112 accidents identified involving single piece rim wheels. Of that number, 91 occurred during single piece rim wheel servicing, and 15 of these accidents resulted in fatalities. Several accidents contained in the Failure Analysis Associates statistics were attributed to on-the-road tire failures such as blowouts (21 accidents) rather than servicing (91 accidents).

These statistics are incomplete as they do not include single piece rim wheel accidents whose causation is the subject of on-going litigation. Further, NWRA suggests that there are several factors which may have limited the number of single piece rim wheel servicing accidents in the past, but which may not have the same effect in the future. Included among these factors is the fact that the principal users of single piece rim wheels have been the larger trucking companies, with better trained and supervised personnel, better equipment, and more careful adherence to established procedures for servicing single piece rim wheels. Additionally, NWRA reports that because there have been some single piece rim wheel failures in more demanding applications (e.g., large loads, and/or heavy service), many of these companies have thus far limited their use of single piece rim wheels to moderate loads and on-highway applications. Finally, as large vehicle single piece rim wheels have only recently come into widespread use, those accidents which would occur due to wheel deterioration have yet to occur. (See Ex. 2–3.)

In NWRA's view, these elements will become less dominant as the use of single piece rim wheels increases, and the accident and injury rates can be expected to increase significantly if OSHA does not regulate the servicing of single piece rim wheels.

In addition to the report submitted by NWRA, OSHA has examined the records of 25 product liability personal injury suits involving single piece rim wheels which occurred between 1971 and 1981. The sample of 25 case files contained information concerning:

1. The severity of typical injuries resulting from single piece rim wheel servicing accidents;
2. The average age of the victim;
3. The training received by the victim; and
4. The level of experience of the victim.

These records do not provide a complete or exhaustive survey of single piece rim wheel servicing injuries. They do, however, provide a valuable source of information on those injuries, and on the training and tire service experience of the injured persons.

Examination of the reports indicates that the sample contains reports of five deaths, five total disabilities, four permanent disabilities, 10 temporary disabilities, and one injury of unknown severity. Five workers were between the ages of 16 and 20 (two deaths and three total disabilities); nine were between the ages of 21 and 31 (including one death and two total disabilities); two were between the ages of 32 and 40; six were between the ages of 41 and 54 (including two deaths); and the ages of three persons were not reported.

Similarly, the relationships of experience and training of the victims were examined. Five of the victims were reported to have received some training in servicing single piece rim wheels; 13 victims were reported as having received no such training; and there was no report on whether the remaining seven had received training. Examining these reports as to worker experience, six workers had no prior experience; nine had less than one year of experience; eight had more than one year of experience, and two did not state a level of experience.

OSHA has determined, based on the available accident data, that a serious risk of injury exists for the worker who services single piece rim wheels, and that lack of training and experience in proper servicing procedures appears to be a significant factor in many single piece rim wheel servicing accidents.

F. Significant Risk

In Industrial Union Department, AFl–CIO vs. *American Petroleum Institute,* 448 U.S. 607 (1980), the Supreme Court ruled that in promulgating standards under section 6(b) of the OSH Act, OSHA must determine that the hazard being addressed poses a significant risk to employees, and that the standard will significantly reduce or eliminate that risk.

The nature of the job and the workplace exposes many individuals to the hazards of servicing single piece rim wheels. Because the work does not require skilled labor, a long period of service is not characteristic of the workforce. There is high employment turnover, and hence, a large number of workers will be exposed to the risk.

OSHA estimates that slightly over 300,000 employees are potentially engaged in servicing single piece rim wheels. Many of those workers service single piece rim wheels infrequently and/or have not received any training on how to perform the servicing safely. As a result, they may not be fully aware of the inherent hazards of servicing these rim wheels. Because of the workers' relative inexperience, single piece rim wheels present hazards which may not be generally recognized by the persons who service them. Further, many of these employees incorrectly assume that specific hazards are found only with multi-piece rim wheels, and that single piece rim wheels are safe to service.

With respect to the frequency of injury-producing accidents, the NWRA data indicate that there have been 91 servicing injuries between 1970 and 1980 (Ex. 2–3). On a per rim wheel servicing basis, this is about one injury-producing accident per million single piece rim wheel servicings. This rate is about the same as the rate which existed for the servicing of multi-piece rim wheels before the promulgation of the multi-piece rim wheel servicing standard (Ex. 2–3).

NWRA has projected that the injury rate may be expected to increase as the use of single piece rim wheels becomes more prevalent. More single piece rim wheels will be serviced by persons who have never handled, or infrequently handle, such rim wheels and/or who have never been trained in the proper procedures. Further as single piece rim wheels are used over a longer period of time, the average single piece wheel will be older than those currently being used. As these wheels age they will deteriorate and can be expected to be involved in more accidents and injuries. Therefore, OSHA believes that these factors are likely to result in higher injury rates in the future if a standard is not promulgated.

As discussed above, a large percentage of users of tubeless tires utilize single piece wheels. One of the benefits of the use of radial tubeless tires is greater fuel efficiency, and thus interstate truck and bus lines have been switching to these tires. The data available to OSHA indicate that the

percentage of all large vehicles which use single piece rim wheels will increase from almost 20 percent in 1991 to about 50 percent in 1980. Therefore it is anticipated that the number of single piece rim wheel servicing will increase proportionately. This translates to about 280 to 350 million single piece rim wheel servicings over that period of time (1981–1990). Using this data, and assuming that the rate of injury-producing single piece rim wheel accidents does not change, OSHA estimates that if no standard is promulgated, there will be approximately 280 to 350 fatalities and injuries as a result of single piece rim wheel servicing accidents during the 10-year period of 1981 to 1990. For purposes of this determination, OSHA has assumed no increase in the accident rate in projecting the benefits to be derived by adoption of this proposal. If, instead of remaining constant, the accident rate were to increase for the reasons cited by NWRA, the number of expected fatalities and injuries would increase correspondingly.

As previously mentioned, Failure Analysis Associates reported that 112 single piece rim wheel accidents occurred between 1970 and 1979. These 112 accidents were categorized as having occurred either during maintenance operations (91) or during use (21). Of the 91 maintenance accidents, 15 (16.5%) resulted in a fatality, while the remaining 76 (83.5%) resulted in an employee injury. Using the above percentages, the 280–350 accidents projected to occur between 1981 and 1990 will result in 45 to 56 fatalities and 235 to 294 injuries.

Examination of the 25 litigation records made available to OSHA produced the following findings: there were five fatalities (20%); five accidents resulted in total disability (20%); four resulted in permanent partial disability (16%); 10 resulted in temporary disability (40%); and one was of unknown severity (4%). Of the 10 who were only temporarily disabled, the average time out of work was six months. The single piece rim wheel servicing injuries reported in these litigation records were more severe than the average general industry occupational injuries, which involve an average of about 16 lost workdays (Ex. 2–14).

OSHA recognizes that there are serious limitations on the use of the litigation data to develop projections of the severity of injuries in the industry. It is clear, for example, that accident data which have been developed from litigation records of manufacturers of single piece wheels are likely to be skewed towards the more serious injuries and fatalities, as they are the most likely to lead to products liability litigation. Notwithstanding the limitations of such data, OSHA believes the injuries are a good indicator of the hazards of servicing single piece rim wheels.

Additionally, OSHA has noted that the percentage of fatalities reported in the litigation data (20%) closely parallels the percentage reported in the NWRA data (16.5%). Althought there is not sufficient information to allow a detailed comparison of their respective data, OSHA has assumed that the injury mix is similar for each of the data bases. For that reason, then, OSHA has assumed that the range of percentages of fatalities, total disabilities, and permanent disabilities found in the litigation data is between 15% and 20% for each category. OSHA has projected these percentages onto an extrapolation of the NWRA data to determine the expected number of fatalities and the different types of injuries. This projection also assumes that the number of accidents reported by NWRA for the period from 1970 to 1980 is an accurate figure, and that the percentage of single piece rim wheels will increase from 20 percent in 1981 to 50 percent in 1990. Based upon these assumptions, OSHA has determined that if no standard is promulgated, 50–67 fatalities, 50–67 total disabilities, 50–67 permanent disabilities, and 137–188 temporary disabilities will occur during the 10-year period.

OSHA's analysis of the causes of the 91 injury-producing servicing accidents reported by NWRA indicates that approximately 90 percent of these accidents occurred while the tire was being inflated, and nearly 5 percent occurred while the rim was being welded. The other 5 percent are divided between those accidents which occurred when an employee was performing other servicing activities such as wheeling a rim wheel around the workplace or installing the rim wheel. This final standard contains the following provisions which, if followed, will prevent nearly all of these types of accidents in the future:

1. The worker must inflate the tire while the rim wheel is restrained, or bolted on the vehicle, and must stay out of the trajectory of the potential explosion;

2. The worker must inspect both the tire and the wheel in order to avoid mismatching them; and

3. The worker must never apply heat to a wheel.

The final standard also requires employers to train employees to ensure that they learn the industry-accepted servicing procedures. OSHA firmly believes that proper training will increase worker understanding of the seriousness of the hazards, and with that understanding will follow the likelihood that workers will comply with these procedures.

Several additional factors were considered by OSHA in developing the final standard. A review of the injury-producing accidents investigated by OSHA since promulgating the multi-piece rim wheel servicing standard indicates that there has been a 70 to 80 percent reduction in multi-piece rim wheel servicing injuries. Secondly, OSHA has been informed that after the promulgation of the Cal/OSHA standard in 1970, which covers the servicing of both multi-piece and single piece rim wheels, the number of single piece rim wheel servicing injuries fell from one per year between 1970 and 1975 to a total of one between 1976 and 1980, a reduction of approximately 80% (Ex. 2–3, pg. 26). Thus, OSHA concludes that the standard being published today will prevent injuries when it is followed, and that compliance by employer and employee is predictable. For purposes of its regulatory analysis, OSHA predicts that this standard would reduce injuries by approximately 75 percent.

Based on the available data, OSHA concludes that workers face a significant risk of serious injury or death when servicing large vehicle single piece rim wheels, and that promulgation of this standard will significantly reduce that risk.

2. Summary and Explanation of the Amended Standard

The following section discusses the individual requirements of the standard for servicing multi-piece and single piece rim wheels, including an analysis of the record evidence and the major issues raised during the rulemaking proceeding.

This amended standard sets requirements for training all employees who service large vehicle rim wheels; for the use of accepted safe practices and procedures; for the use of restraining devices, barriers or other safeguards; and for the use of other essential equipment. These and other portions of the standard, including those on the criteria for interchangeability of rim wheel components, have been revised and clarified from the proposal as described in detail below.

The language of the standard essentially follows that of the proposal except for revisions based on OSHA's

review of the entire rulemaking record, including the written comments and data submitted during the comment period.

Virtually all persons who participated in the rulemaking by submitting comments agreed with OSHA's determination that the principal causes of accidents which occur during the servicing of single piece and multi-piece rim wheels could be eliminated by proper training of employees; availability and utilization of restraints, necessary tools and equipment; and adherence to accepted safe procedures.

However, two commenters questioned the need for the standard based upon the accident rate (the number of accidents per million tire changes). One of those commenters (Ex. 3–2) stated ". . . in over 163 years of total experience of our management staff working with the single piece rim wheel, there has never been an injury." The other commenter (Ex. 3–13) objected to the issuance of a standard on the basis of statistics from a specialized industry, and supported by what he considered speculation that the risks will increase as more small firms enter the marketplace.

Although an employer may not have experienced an accident in his workplace, this could be attributed to any one or a combination of factors. For example, employees may have the requisite knowledge and experience, the employer may enforce the use of those procedures which minimize the potential for an accident, or the lack of accidents may just be good fortune. As discussed above, single piece rim wheel servicing accidents occurred when unsafe procedures were utilized usually by inexperienced and untrained personnel. Adherence to the provisions of this standard, which stress safe procedures and training, will decrease the potential for a rim wheel separation and the resulting fatality or injury.

OSHA recognizes that tire and wheel servicing may be considered a specialized operation. However, the servicing of single piece rim wheels is not a specialized industry because the servicing of such wheels occurs across industry lines. Considering the number of large vehicles utilized for movement of persons and goods by motor vehicle throughout almost all industry, and the correspondingly high number of individual rim wheel servicings, OSHA concludes that it is necessary to regulate the servicing of single piece rim wheels.

1. Scope—paragraph (a). The multi-piece rim wheel standard is amended so that the servicing of single piece rim wheels and multi-piece rim wheels are incorporated into one standard. This incorporation allows the employer and employee to find those requirements for compliance in one text. This standard is intended to provide protection to employees engaged in the servicing of all rim wheels used on trucks, tractors, trailers, buses and other large vehicles. It applies to the servicing of these large vehicle rim wheels, whether they are serviced at the employer's place of business or at a remote location.

The proposal provided coverage of servicing operations in general industry and maritime employment. At the time of the proposal, OSHA did not believe that significant risk had been demonstrated for single piece rim wheel servicing in either construction or agriculture. The record of this rulemaking has provided no additional information on this point. Should additional data become available in the future on construction or agricultural injuries from servicing of single piece rim wheels, OSHA will consider whether further rulemaking activities are warranted.

Subsequent to the proposal, OSHA has issued a Final Rule on Marine Terminals (48 FR 30886) which does not address single piece rim wheels. It is planned to include coverage of single piece rim wheels for maritime employment by further rulemaking.

The proposed standard would have covered the servicing of multi-piece and single piece rim wheels used on trucks, trailers, buses and off-road machinery. The scope paragraph of the proposal excluded rim wheels on automobiles and light duty trucks or vans using automobile tires. However, single piece rim wheels were defined according to size in the definition paragraph. One commenter (Ex. 3–17) pointed out that approximately 15% of all new automobiles utilize a spare tire with a 16-inch bead which would be covered by the proposed standard if adopted. This commenter further pointed out that some 1984 cars have been designed to utilize 16-inch wheels.

One commenter (Ex. 3–18) contended that the proposed exclusion of automobile tire servicing was not justified because the hazard of the sudden release of the pressurized air is greater than indicated in the preamble of the proposal. It was suggested by two commenters that OSHA amend the scope to cover all single piece rim wheels (Ex. 3–16 amd 3–18). Other commenters suggested that the meaning of automobile tires (Ex. 3–10), light truck vs. truck, off-road machines, etc., be clarified (Exs. 3–7 and 3–11).

Upon its review of the rulemaking record, OSHA has determined that there is insufficient evidence of a significant hazard during the servicing of automobile type rim wheels. For this reason, the servicing of automobile rim wheels will not be included in the final standard. Similarly, since the hazard of low pressure, light duty truck tires is essentially the same as for automobile type tires, their servicing is also excluded. OSHA has decided to use the commonly accepted term pick-up or van rather than the more general term light duty truck to define that class of vehicles. The action taken at this time does not preclude the initiation of further rulemaking at a later date if sufficient additional data becomes available to justify the need for the regulation of automobile and light duty truck tire servicing.

This final standard applies to the servicing of all rim wheels used on large vehicles such as trucks, tractors, trailers, buses and off-road machines, except those utilizing automobile or truck tires designated "LT".

2. Definitions—paragraph (b). The definitions adopted in this final standard are generally those which are commonly used in the tire and wheel industries; however, some of the definitions have been modified to accommodate the regulatory nature of this standard and to minimize the potential for misunderstanding as indicated below. It was suggested that the definition of single piece wheels not be based on rim size (Exs. 3–18, 3–20 and 3–29). A single piece wheel was defined in the proposal as "a vehicle wheel or rim . . . with a diameter of 14.5 inches or more and a bead seat angle of 15°, or a diameter greater that 15 inches and a bead seat angle of 5°."

Several commenters noted that the scope paragraph of the standard and the definition of single piece rim wheels were inconsistent (Exs. 3–7, 3–10, 3–16, 3–17, 3–18 and 3–19), as the scope excluded automobile tires while the definition included some automobile tires by designating wheel size limits. Others recommended expanding the definition to include inflation pressures because such pressures were more related to hazards of servicing than the rim size (Exs. 3–10 and 3–27). OSHA has concluded after reviewing the suggested language that the definition of single piece wheels should not be based on rim size. Likewise it is difficult to define a single piece rim wheel according to the inflation pressure because the severity of the hazard is dependent upon the volume of the contained air as well as its pressure. Therefore OSHA has revised the definition of a single piece rim wheel to be any rim wheel utilizing a one-piece wheel.

The proposal required the use of a barrier or restraining device during the inflation of single piece rim wheels, and a restraining device during inflation of multi-piece rim wheels. The final rule maintains the current requirement for the use of restraining devices in the servicing of multi-piece rim wheels. However, the proposed modification of this provision, to allow the use of devices or equipment which were not specifically designed for use as restraining devices, has also been adopted. As was noted in the proposal, OSHA believes that it is not necessary to specify that a particular type of device be used to protect servicing employees from multi-piece rim wheel explosions. The comments received in response to the proposal were strongly in favor of providing additional flexibility for the employer in this regard. However, as the record of the previous rulemaking proceeding on multi-piece rim wheels made perfectly clear, there is a recognized need for some piece of equipment or device to be used to restrain multi-piece rim components.

Several commenters (Ex. 3–5, 3–6A, 3–18, 3–20, and 3–23) contended that because the strength requirements of barriers and restraining devices were the same, either of these two methods of protection should be permitted for multi-piece rims as well as single-piece rims. However, OSHA declines to extend the use of barriers to multi-piece rims. The testing and accident data on single-piece rim accidents, relied upon in the proposal, led the Agency to determine that a barrier would provide sufficient protection to employees engaged in single-piece rim wheel servicing, provided that they also stayed outside the trajectory. No such supportive data was submitted to the record to support an extension of this method to multi-piece rim wheels. To the contrary, OSHA, concluded, based on its full and complete rulemaking record on servicing of multi-piece rim wheels in 1980, that a cage, arrangement of bars, or comparable mechanism was needed to provide adequate protection for multi-piece rim wheel servicing. No new information has been developed since that time to convince the Agency to change its previous conclusions at this point. The parallel strength requirements provided for restraining devices and barriers in the present rulemaking are intended only to provide a comparable margin of safety for employees in all servicing operations. It should be noted, in this regard, that restraining devices used for multi-piece rim wheels are considered to be an acceptable means of restraint for single-piece rim wheels, as well.

The differences between a restraining device and a barrier also occur in the definitions. A restraining device is a commonly used term for a generic device utilizing bars, pipes, and/or other metallic components to form a restraint which is also referred to as a "safety cage." (See the charts or rim manuals for a picture of a typical restraining device in use.)

In the proposed amendment, OSHA defined a barrier as a fence, wall or other structure which is used to contain the rim wheel components in the event that there is a sudden release of the pressurized air of a single piece rim wheel.

Although OSHA recognizes that a barrier could serve a dual purpose (contain rim wheel components and deflect the pressurized air) it was not OSHA's intent to require that a barrier would have to deflect the blast of air from a single piece rim wheel separation. Since the path of travel of the shock wave of the pressurized air is essentially perpendicular to the plane of the wheel, OSHA determined that requiring the employee stay outside the trajectory during inflation provides sufficient protection.

Three commenters (Exs. 3–5, 3–14, and 3–23) recommended including in the definition of a barrier that its purpose is to deflect the pressurized air as it is released from a single piece rim wheel. One of these commenters (Ex. 3–5) pointed out that air is not a solid and requires different means to manage it. In a test conducted by NWRA (Ex. 2–6), the shock wave of the compressed air was found to move generally perpendicular to the plane of the rim wheel with negligible effect outside the trajectory. As employees are required to remain outside the trajectory during tire inflation, to require that the barrier deflect the shock wave outside the trajectory might result in deflecting it towards the employee and, thus, would not necessarily increase employee safety.

3. Training—paragraph (c). This standard requires every employee who services large vehicle rim wheels to be trained by the employer in the proper techniques and practices applicable to the type of wheel being serviced. Training is required because many rim wheel servicing mechanics do not understand the potential dangers of servicing these rim wheels. A large number of the new employees service large vehicle rim wheels with no prior experience and/or training due to the large turnover of employees. Likewise the need for training is substantiated by a review of the accident cases in which the accident was caused by non-adherence to the industry-accepted procedures which are incorporated in this standard (see Item F, Significant Risk, above). OSHA considers that training, in conjunction with the use of a restraining device or barrier and the proper air line accessories, can contribute significantly to a reduction of accidents.

This standard does not specify the details of the training program, but simply requires the development and maintenance of employee proficiency in given elements of servicing. A mechanic's level of proficiency must be established by demonstration of his or her familiarity with and ability to use the information contained in the charts, rim manuals and this standard.

The training provisions of the standard are stated in performance language, allowing the employer flexibility in complying with the requirement for training. The responsibility of providing adequate training and evaluating the employee's proficiency rests with the employer.

OSHA has considered the fact that some employees may need relatively little training and practical experience to grasp the proper methods, techniques and practices, and would need little or no periodic refresher training. Others may require additional initial training and periodic refresher training to develop and retain their knowledge of safe methods and procedures.

In the final standard, the training requirement has been written to assure that an employee receives appropriate training to enable safe performance of the tasks which are involved in servicing both single piece and multi-piece rim wheels. In addition to the initial training required, this final standard places a continuing obligation on the employer to evaluate the capability of each employee and assure that the employee maintains competence at servicing rim wheels. This not only insures that the initial training is effective, but also provides a means of determining the need for remedial or refresher training.

4. Tire Servicing Equipment-paragraph (d). A majority of the rim wheel servicing accidents occur while the tire is being inflated. The unintended separation of a multi-piece rim wheel, or the sudden release of the pressurized air contained in a single piece rim wheel, is the primary cause of the occupational accidents involving these rim wheels. Accordingly, a significant reduction of injuries can be attained through use of a

restraint, such as a restraining device or barrier, to contain the rim wheel components and protect employees from lethal airborne rim wheel components.

In the standard on servicing multi-piece rim wheels, OSHA required that restraining devices must be specifically designed to restrain rim wheel components. This provision was intended to ensure that employees would not use devices or components of equipment which were inadequate to perform that function. In the proposed amendment to the standard, OSHA proposed deletion of the "specifically designed" requirement. OSHA reasoned that any device or piece of equipment which was not originally designed or intended to be used as a restraint, could be used as a restraining device if it was capable of protecting the employee as prescribed in the proposal.

The final rule is written to ensure that restraining devices and barriers meet minimum strength requirements. Several commenters (Ex. 3–3, 3–16, and 3–19) suggested that some pieces of equipment might erroneously be considered as restraining devices and stressed that OSHA should clarify such instances. This would preclude an employee from utilizing a makeshift restraint from some inefficient material; for example, an employee using an old rusty chain to restrain a rim wheel by wrapping the chain around the rim wheel. The standard specifically defines what constitutes a barrier and a restraining device, and sets forth performance criteria which must be met.

Due to the magnitude of the forces associated with a rim wheel separation, it is necessary to specify strength requirements for restraining devices and barriers. Since the forces associated with an unintended separation of a multi-piece rim wheel and the sudden release of the contained air in a single piece rim wheel are of the same magnitude, the design factor (the ratio of the working load limit to the ultimate strength of the device) for restraints used for servicing both type rim wheels should be the same. OSHA proposed that the generally accepted minimum design factor of 1.5 for machinery, which was adopted for restraining devices, should also be applied to barriers since the restraining device and barrier serve the same purpose and their use is interchangeable for single piece rim wheels.

The proposal required that when servicing single piece rim wheels, the employer shall provide a restraining device or barrier, except when a single piece rim wheel is bolted to the vehicle during inflation. One commenter (Ex. 3–11), addressing the use of restraining devices, noted that there is a design difference between a vehicle for use on highways and off-road machines. Because of the unique characteristics of off-road machines, the commenter suggested that separate paragraphs be used to address these differences. This commenter pointed out that some off-road machines have wheels which are an integral part of the machine's axle and cannot be removed, making the use of a restraint impractical. This commenter suggested that a barrier could be used, provided a barrier is defined as the machine itself and/or the service vehicle, and the employee stays out of the trajectory during inflation of the tire.

Since a barrier is defined in this final standard as an object or structure placed in the potential trajectory of a rim wheel to contain the rim wheel components in the event of the sudden release of the contained air of a single piece rim wheel, the use of the service vehicle or the machine itself is permissible provided the strength requirements of this standard are met. The above commenter also suggested that multi-piece rim wheels which are not an integral part of the vehicle axle could be inflated safely while bolted onto the vehicle with the lug nuts. OSHA disagrees. Unlike the single piece wheel, which is only one piece, the components of a multi-piece wheel (e.g., the locking rings and the side rings) cannot be restrained simply by bolting the multi-piece rim wheel to the axle. Therefore, in the event of an explosive separation the rim wheel components could still ricochet around the workplace even if the wheel were bolted to the axle. Requiring the employee to stand out of the trajectory without restraining a multi-piece rim wheel does not offer adequate protection to the employee.

Accordingly, the final rule does not allow bolting to the axle as an exception to the use of a restraining device for inflation of a multi-piece rim wheel. However, paragraph (d)(2) does allow an employer to bolt a single piece rim wheel to an axle as a means of complying with the restraint requirements of the standard, because that practice would effectively restrain that type of wheel.

Paragraph (d)(3)(i) proposed the same strength requirements for barriers as for restraining devices. The multi-piece rim wheel servicing standard required that a restraining device be capable of withstanding the maximum force occurring at 150% of the maximum tire specification pressure. A few comments contained arguments that the requirement of 150% of recommended tire pressure does not ensure a restraining device of adequate strength to protect employees from rim wheel separation. It was stated that a tire with a 32 psi maximum inflated pressure would only require a restraining device capable of restraining the rim wheel components if the separation occurred at 48 psi (Ex. 3–16). This commenter contended that typical tire servicing businesses have air compressors in the range of 140 to 175 psi and therefore a tire could easily be inflated above the 48 psi capability of the restraint. Likewise another commenter (Ex. 3–18) noted that "A 750–16 8-ply rated tire, for example, would not be adequately restrained above 97.5 psi, yet this tire could be inadvertently inflated to 150 psi and above with the compressor inflation delivery systems commonly available." This same commenter suggested the final requirement be phrased to require that each restraining device or barrier be capable of withstanding the maximum force of a rim wheel separation or sudden release of the air occurring at a tire pressure equal to the pressure limit of the available inflation delivery system (air supply).

Even though overinflation has been a contributory factor in some accidents, OSHA does not accept the above contentions. The Agency has determined that the strength requirements of this standard are correct for two reasons. First, although any rim wheel can be rapidly overinflated to the maximum pressure of the air delivery system, the operating procedures required in this final standard prohibit inflating a tire to a pressure exceeding the manufacturer's recommendation. In addition, requiring the utilization of a restraint which would meet the strength requirements necessary to contain a rim wheel with the tire inflated to the pressure of the air system is not feasible, as such design requirements would make these restraints exraordinarily large, unwieldy, and expensive.

In paragraph (d)(3)(iii), OSHA proposed to preclude a barrier or restraining device from having a flat, solid surface (such as the bed of a tire changing machine) against which a rim wheel could lie or lean during inflation. This rule was proposed because a series of tests conducted by NWRA (Ex. 2–6) showed that when a single piece rim wheel lay unrestrained on the ground it was propelled over 30 feet into the air, after the air was suddenly released on the side closest to the ground. Contrary to the opinion of one commenter (Ex. 3–16), the rim wheel movement was not caused by the jet effect of the escaping

air, but was due primarily to the flexure of the sidewalls of the tire. In reviewing this proposed provision, OSHA has become aware that the protection provided by proposed paragraph (d)(3)(iii) was also provided in paragraph (g)(7), which prohibits tires from being inflated when a flat solid surface is in the trajectory and within one foot of the tire's sidewall. OSHA realizes that this resulted in unnecessary duplication. In addition, in referring to the bed of a tire changing machine in proposed paragraph (d)(3)(iii), OSHA did not intend to imply that a tire changing machine is a restraint. Although the wheel could be attached to a tire changing machine, a manufacturer of tire changing machines indicated that a tire changing machine is not a restraining device as it does not meet the necessary strength requirements, and should not be used as such (Ex. 3–16). Further, paragraph (g)(4) limits the amount a tire may be inflated while on a tire restraining machine. Therefore, OSHA has deleted the proposed (d)(3)(iii) in the final standard to reflect these concerns. Paragraph (g)(7) accomplishes OSHA's intent as it assures that employees do not lay a rim wheel against a barrier or any other solid flat surface during inflation.

In the proposed amendment of paragraph (d)(3)(v), OSHA required the employer to obtain certification by the manufacturer or a registered professional engineer to service. Seven commenter (Exs. 3–5, 3–6, 3–9, 3–13, 3–14, 3–18, and 3–23) questioned the necessity of a registered professional engineer to certify that a restraining device or barrier, which has been removed from service, can be returned to service. These commenters contended that since the determination of whether or not a restraining device or barrier is damaged is left to the employer, the decision as to the device's capability of meeting strength requirements should be left to qualified service people. One commenter (Ex. 3–18) noted that the employer is ultimately responsible for employee safety under the Occupational Safety and Health Act; therefore, such a decision should be made by the employer. Finally, one commenter suggested that where the employer is also the manufacturer, particularly when a barrier is in use, the employer is competent to assess the capabilities of the device.

When a barrier or restraining device becomes unserviceable, the problems such as cracks at welds or excessive corrosion can usually be detected by visual inspection. For these reasons, paragraphs (d)(3)(iii) and (iv) provide that the employer must assure that a restraining device or barrier would meet the strength requirements if the restraint has been removed from service; but a restraint must still be certified by a manufacturer or professional engineer following structural repair such as component replacement or rewelding.

OSHA proposed that a hose assembly with a clip-on chuck; a sufficient length of hose to allow the employee to remain outside the trajectory during tire inflation; and an inline pressure gauge or a presettable regulator, be used when inflating rim wheels. Several commenters (Exs. 3–5, 3–6, 3–18 and 3–23) disagreed with the terminology of this proposal, preferring to call the tire filling apparatus an "air line assembly." One commenter (Ex. 3–18) suggested the inclusion of a requirement for both an inline valve and presettable regulator, a nomenclature change from hose assembly to air line, and a clarification of what constitutes a sufficient length of hose when a presettable regulator is utilized. Concern was also expressed that readers would assume OSHA required the regulator to be a part of the hose. OSHA does not agree that a requirement for an inline valve plus a presettable regulator is necessary, and has adopted the proposed language to allow the employer flexibility in choosing the type of air line assembly to be used for inflation of tires. The recommended change in terminology to "an air line assembly" has been adopted in the final rule.

5. Wheel component acceptability-paragraph (e). The current standard for servicing multi-piece rim wheels requires that rim wheel components be compatible and serviceable. Mating surfaces of tires and wheels are required to be free of foreign material when assembled. It was proposed to add a specific provision for both multi-piece and single piece rim wheels, to require the checking of the wheel and tire for compatibility. Tire and wheel mismatching was identified as a major cause of the accidents which have occurred during the servicing of both multi-piece rim wheels and single piece rim wheels. Several accidents have been reported as the result of an employee attempting to mount a tire on a wheel whose bead diameter is too large for the tire, such as a 16-inch tire being installed on a 16½-inch wheel. The opposite situation is equally hazardous, e.g., when a tire of larger diameter is installed on a wheel of smaller diameter, as the tire bead will not firmly seat into the rim gutter and can slip over the rim flange, particularly when the tire is being inflated. The final rule requires that the wheel and tire be checked to assure that they are compatible.

In the proposed amendment to the standard on servicing multi-piece rim wheels, OSHA raised the issue as to whether the present charts which cover multi-piece rim wheels should be revised to include the servicing of single piece rim wheels. Because the majority of servicing accidents were linked to improper procedure and/or mismatching components, the requirement for charts was to assure that a handy, easily accessible means to confirm the correct procedure and/or components for servicing rim wheels was available to the employee. The response of commenters varied from suggesting deletion of all chart references to incorporating additional charts for single piece rim wheels (Exs. 3–4, 3–5, 3–6, 3–10, 3–13, 3–14, 3–18, 3–20, and 3–23).

In the final standard, charts are defined as the U.S. Department of Transportation posters or any other publication containing, at a minimum, the same instructions, precautions and other information. A review of the rim manuals available to OSHA (Docket S–005, Ex. 2–5) indicates that the rim manuals contain, at least, the same instructions, precautions and other information as the charts. OSHA believes, therefore, that it is not necessary to revise the charts because the information is available in the rim manuals. Since the goal of the regulation requiring charts was to make the necessary information available to the employee providing the rim wheel servicing, OSHA has decided not to publish a separate chart for servicing single piece rim wheels, but, has changed the definition of charts to permit the use of rim manuals to comply with the provision requiring charts in a service area.

OSHA considers the availability of the information contined on the charts and the rim manuals to be essential in the workplace, not only to assist the employee in performing the job safely but also to aid the employer in training and supervision. Therefore, OSHA continues to require that charts or rim manuals be available at the workplace when servicing rim wheels.

Five commenters (Exs. 3–6, 3–10, 3–20 and 3–21) made suggestions regarding the requirements of paragraph (e)(2). This paragraph set requirements for inspection prior to assembly and required that unserviceable wheels be rendered unusable and discarded. Four commenters (Exs. 3–6, 3–10, 3–20 and 3–21) suggested the inclusion of the words "or wheel components" in the criteria

for rejection of wheels. One commenter (Ex. 3–21) suggested that it was inadvisable to render unusable and discard an unserviceable wheel or its components, particularly when that wheel or component could have been in use when a rim wheel incident occurred, and may be required as evidence in litigation.

Additionally one of these commenters pointed out that the requirement in paragraph (e)(4) for a matching bead diameter was incomplete, as a wheel and tire with different widths were equally unsafe (Ex. 3–8). It was recommended that the wording of (e)(4) be changed to read "matching size" instead of "matching bead diameter."

OSHA has considered the comments regarding the proposed requirement to render unserviceable wheels or wheel components unusable. The intent of this regulation was to assure that an employee would not attempt to reuse an unserviceable part. Rendering the part unusable is certainly one method to guard against reuse of those parts. However, OSHA does not believe that such action is necessary to prevent reuse of unserviceable wheel components in all cases.

In an effort to maintain the intent of the requirement and yet allow the employer more flexibility, the final standard will continue to prohibit the use of an unserviceable part, but will not require that the part be rendered unusable. Instead, the employer must assure that the unserviceable part is not used and is designated as unserviceable and placed or stored away from serviceable parts.

Based on the above comments, OSHA has modified paragraph (e)(2) to include the terminology "or rim component", and paragraph (e)(4) to specify the need to match both wheel bead diameter and width with the allowable values for the tire.

6. Safe operating procedures—multi-piece rim wheels—paragraph (f). In the standard for servicing multi-piece wheels, OSHA requires the utilization of certain procedures which are generally recognized in the tire servicing industry as those procedures which are essential to ensure that the servicing is done safely. These procedures include deflating the tire before demounting or removing the rim wheel when there is known or suspected damage to the wheel. The standard requires the use of rubber lubricant, the use of a restraining device during inflation, and inspection of the rim wheel following inflation and before removal from the restraining device. Certain work practices are prohibited, including hammering, striking or forcing the components to get them seated properly, and the reworking of damaged wheel components. Additionally, employees are required to remain outside the trajectory during tire inflation. Although there are several minor changes in this paragraph, this final rule does not change the above mentioned elements of the standard in any major way.

In the proposed amendment, OSHA proposed to allow the heating of lug nuts to facilitate their removal from the vechicle's axle studs after the tire was completely deflated. Four commenters (Exs. 3–6A, 3–18, 3–20 and 3–23) objected to the application of heat to any metallic wheel component, including the lug nuts. These parties objected to any application of heat to a wheel, as it would have a detrimental effect on the strength, yield modulus and other properties of the metal. OSHA agrees that the application of heat may adversely affect the design and function of wheel components. There are alternative methods of releasing frozen lug nuts that are in general use in the industry, such as the use of penetrating oil or graphite solution. Therefore, the final standard has been revised to prohibit the use of heat on any wheel component.

Comments were also received regarding the use of rubber lubricant as required in paragraph (f)(3). One commenter (Ex. 3–11) recommended that the use of rubber lubricant on off-road machine rim wheels be required only "as needed." This commenter, an off-road machine manufacturer, stated,

> Excessive rubber lubricant can cause tire slippage on the wheel and corrosion with the tire. Since the requirement really has nothing to do with safe assembly procedures, but is only a matter of convenience, it's (sic) use should not be mandatory and probably should not be in the rule.

Contrary to the claims of this commenter, available literature, such as the Goodyear Off-Highway Rim Manual (Docket S–005, Ex. 2–25, Attachment 5), indicated the need to use rubber lubricant to allow the tire bead to be slipped over the rim flange during assembly of the rim wheel with a minimum of potential for the tire bead to be cut or otherwise damaged. Damaging the tire bead during rim wheel assembly can cause premature failure of the tire at a pressure far below the maximum operating pressure of the tire. This failure could cause the type of injuries of OSHA intends to prevent. If there is some reason not to use rubber lubricant on a particular type rim wheel, either the tire or wheel manufacturer will recommend that it not be used. For the above reasons, OSHA will continue to require the use of rubber lubricant unless the tire and/or wheel manufacturer recommends it not be used.

One commenter (Ex. 3–11) recommended that vehicle tires on multi-piece wheels be allowed to be reinflated while remaining on the vehicle if the tire contained more than 80% of the recommended pressure or was less than 20 psi below the rated tire pressure. This commenter contended that low pressure tires (those with 20 to 40 psi maximum inflating pressures) could be run with very low pressures without damaging the wheel or tire. Adoption of the 20 psi parameter could allow the low pressure tires to be run from zero to 50% of their rated capacity and still be reinflated while the rim wheel remained on the vehicle. OSHA has no evidence that any tire could be run while this severely underinflated without causing damage to the tire. OSHA requires that tires must be inflated while protected by a restraining device; therefore, requiring removal of the rim wheel is necessary to reinflate the tire because a multi-piece rim wheel cannot be restrained while on the vehicle.

7. Safe operating practices—single piece rim wheels—paragraph (g). In paragraph (g), OSHA proposed the utilization of safety procedures which have been used in those segments of the tire servicing industry which have the lowest accident rate (Ex. 2–3 and Docket S-005, Ex. 2–1). OSHA has determined that adherence to these procedures reduces the hazards of servicing single piece rim wheels. Many procedures are necessary for servicing both multi-piece and single piece rim wheels. When the servicing procedures differ, such as the requirement for mounting and demounting the tire only on the narrow ledge side of the single piece wheel, or the requirements relating to the use of the tire changing machine, these procedures have been specified as applying to one or the other type of wheel.

In paragraph (g)(1), OSHA proposed to require that the tire be completely deflated by removal of the valve core before demounting. One commenter (Ex. 3–18) recommended that the valve core be fully inserted before inflating the tire. This commenter did not specify whether the valve core was to be in place prior to the employee inflating the tire enough to force the tire bead up onto the bead seat or before final inflation. The usual procedure used in the servicing of tubeless tires is to attach the air chuck to the valve without the valve core being in place following assembly, but before

the cone of the tire changing machine is loosened. The employee then tries to manipulate both tire beads onto the bead seats by using a bead expander or by manually manipulating the tire while blowing air into the tire. As soon as the tire bead slips onto the bead seat, the chuck is removed, the air escapes, the valve core is inserted and the center spindle of the changing machine is loosened. The tire is then inflated to the correct pressure. The presence or absence of the valve core does not significantly affect pressure build-up or bead hang-up; therefore, the change suggested by the commenter is not necessary and is not included in the final rule.

Paragraph (g)(2) proposed that mounting and demounting of the tire be done only from the narrow ledge side of the wheel; that care be taken to avoid damage to tire beads while mounting tires on wheels; and that tires be mounted only on compatible wheels of matching bead diameter. As noted earlier, one commenter (Ex. 3–18) pointed out that the tire and wheel width must also be compatible. Since a mismatch of a wheel and tire can occur either with the bead diameters or the tire and wheel widths, OSHA has amended the final standard to require that tire and wheel bead diameter and width be compatible.

OSHA proposed to require the use of rubber lubricant when assembling a single piece rim wheel (paragraph (g)(3)). As discussed above in the discussion of paragraph (f)(3), OSHA will require the use of rubber lubricant unless the wheel or tire manufacturer advises against its use. One commenter (Ex. 3–6) recommended that rubber lubricant used during the assembly of single piece rim wheels not contain any flammable substances. Since the point at which a substance will spontaneously ignite is decreased as the partial pressure of oxygen in the air increases (as the air is compressed), this is a necessary addition to the standard, particularly for the servicing of tubeless tires. Therefore, the final rule will require that rubber lubricants used on single piece rim wheels not be flammable.

In paragraph (g)(4), OSHA proposed to allow the use of a tire changing machine during inflation only to seat the tire bead, and only during inflation of the tire to no more than 10 psi. Seven commenters (Exs. 3–5, 3–6, 3–16, 3–18, 3–19, 3–21 and 3–24) responded to this proposed servicing requirement. Five commenters recommended increasing the maximum pressure to 40 psi, while one commenter suggested deleting the requirement as being design restrictive. In the standard on servicing multi-piece rim wheels (44 FR 6706, January 29, 1980), OSHA required that the minimum amount of air (3 psig) be used to force the tire bead onto the bead seat rather than to fully seat the bead. Because several informal reports after the promulgation of the multi-piece rim wheel standard indicated that the pressure of 3 psig was difficult to determine, OSHA proposed an increase in pressure up to 10 psi. This increase accomplished OSHA's intent without significantly increasing the hazards of inflation. However, one commenter (Ex. 3–6) pointed out, and OSHA agrees, that it is not necessary to seat the bead fully before the rim wheel is handled. It is only necessary to use enough pressure to force the tire bead onto the bead seat and provide an airtight seal to allow placement of the rim wheel into or behind a restraint or onto a vehicle. Therefore, the standard will only allow the use of the minimum amount of air to force the tire bead onto the seat before placing the rim wheel in a restraining device or behind a barrier.

Paragraph (g)(5) was proposed to allow the use of a bead expander only to seat the beads of a tire. Five commenters (Exs. 3–6, 3–13, 3–14, 3–18 and 3–21) addressed the proposed requirement. Four of the commenters recommended maximum tire inflation pressures from 3 to 40 psi before removal of tire expander. One commenter (Ex. 3–6) recommended that a bead expander be removed as soon as the air seal is obtained. Based upon the same rationale as discussed for the adoption of paragraph (g)(4) above, OSHA believes that a bead expander should be removed as soon as the air seal is obtained (the tire bead is forced onto the rim ledge).

In paragraph (g)(6), OSHA proposed to allow tires on single piece wheels to be inflated above 10 psi only while contained in a restraining device, positioned behind a barrier, or bolted on a vehicle with the lug nuts fully tightened. Although the provision has been changed, the intent remains the same. The words "shall only be fully inflated" have been substituted for the words "may be inflated above 10 psi only." This change is consistent with the changes made in the rest of the paragraph. This restriction would also preclude the use of a tire changing machine as a restraining device as paragraph (g)(4) limits the amount a tire may be inflated while on a tire changing machine.

Paragraph (g)(7) was proposed to prohibit the placement of a rim wheel during inflation so that a flat, solid surface is in the trajectory and within one foot of the sidewall. Seven commenters (Exs. 3–5, 3–6, 3–8, 3–14, 3–18, 3–19 and 3–22) advised changing the requirement. Most felt that the requirement was impractical. One objection was that the prohibition precluded storage of tires. OSHA intended this requirement to apply only when the tire on a single piece wheel was being inflated. Even though a restraining device or barrier is being used, a rim wheel or its components which become airborne in the event of the sudden release of the air could be propelled about the workplace if the part ricocheted off a surface. Prohibiting the placement of a rim wheel within a foot of a flat, solid surface during inflation will ensure that the rim wheel will not become airborne. The requirement has been amended to reflect OSHA's intent.

OSHA proposed paragraph (g)(8) to require that tires not be inflated above their recommended tire pressure. Seven comments (Exs. 3–5, 3–6, 3–11, 3–14, 3–18, 3–20 and 3–21) were submitted seeking clarification of the requirement. A majority of the commenters pointed out that there are a variety of recommended operating pressures for various rim wheel applications. The U.S. Department of Transportation regulation, FMVSS 119 (49 CFR 571), requires a stamping on each tire indicating a maximum load at a recommended tire pressure. OSHA believes that overinflation can enhance the potential for accidents. Recognizing that some manufacturers' accompanying literature recommended inflating tires above the pressure stamped on the tire sidewalls in certain circumstances, the final rule restricts the inflation of tires during servicing to the tire pressure stamped on the sidewall unless the tire manufacturer recommends a higher pressure.

As OSHA discussed in the preamble to the proposal, employees must remain outside of the trajectory during tire inflation. In the final standard, the requirement remains as proposed; requiring an employee to remain outside the trajectory during inflation in conjunction with the other safe servicing procedures will prevent an employee from being struck by an airborne rim wheel component.

Paragraph (g)(10) proposed to require that if the tire beads do not fully seat by the time the tire is inflated to its recommended pressure, the rim wheel must be disassembled and the cause determined. Although five commenters (Exs. 3–6, 3–16, 3–18, 3–19, and 3–20)

recommended a maximum inflation to no more than 40 psi to seat the bead (force the tire bead against the rim flange), one commenter (Ex. 3–11) pointed out that some tires used in specialized applications require different bead seating pressures. OSHA recognizes such situations and, therefore, the final rule requires inflation to no more than the tire or wheel manufacturer's recommendation for seating the bead of the rim wheel being serviced.

In paragraph (g)(11), OSHA proposed to prohibit the use of heat except to free bound lug nuts. As noted in the discussion of paragraph (f)(11) above, OSHA is prohibiting the use of heat on a rim wheel for any purpose.

The proposed paragraph (g)(12) prohibited the use of heat to repair unserviceable wheels and referred to heating of lug nuts. Based on the rationale used to support the decision on paragraphs (f)(11) and (g)(11) above, OSHA maintains its prohibition on the use of heat on all wheels.

Two commenters (Ex. 3–6 and 3–23) recommended the inclusion of a new appendix giving examples of acceptable restraining devices and barriers. The choice of the type of restraint, the materials from which it is constructed and how it will be used are based upon factors such as: the type of rim wheels to be serviced (the size and type of components); the frequency of use of the restraint; and the environmental conditions under which the restraint will be used and stored. Based upon the number of variables which must be considered in designing and making a restraining device or barrier, OSHA has decided that an Appendix containing specifications, diagrams or descriptions of restraining devices might appear to give an endorsement to particular types or designs of devices. In addition, such an Appendix might appear to restrict innovation in development of future designs. It should be noted, however, that pictures of various restraining devices in use are shown on the charts and in the rim manuals, either of which is required to be available at the worksite.

3. Regulatory Impact Assessment

In accordance with Executive Order No. 12291 (46 FR 13193, February 17, 1981), OSHA has assessed the potential economic impact of this standard. Based on the Executive Order criteria, OSHA has determined that this amendment is not a "major" action and OSHA has prepared a Regulatory Impact Assessment of the amendment.

OSHA's determination that the amendment will not have a major impact is based primarily upon three studies. The first study is a June 1973 report by Centaur Management Consultants, Inc., for OSHA entitled "Economic Impact Statement/ Assessment for Multi-piece Rim Assemblies" (Docket S–005, Ex. 2–33). The second study is a March 1981 report by Dr. Roger L. McCarthy and Mr. James R. Finnegan of Failure Analysis Associates for the National Wheel and Rim Association (NWRA) entitled, "Large Vehicle Wheel Servicing: Reduction of Risk Through Implementation of an OSHA Standard Governing Multi-Piece and Single Piece Rims" (Docket S–010, Ex. 3). The third study is a March 1981 report by Dr. Thomas Gale Moore of the Hoover Institute for the NWRA entitled "An Economic Evaluation of Proposed OSHA Single Piece Rim Standard" (Docket S–010, Ex. 4).

Most, if not all facilities which will service single piece rim wheels currently service multi-piece rim wheels. As a result, OSHA concludes that the promulgation of a single piece rim wheel servicing standard will result in no additional capital costs because the equipment which must currently be provided for compliance with the multi-piece rim wheel servicing standard will also meet the equipment requirements for single piece rim wheel servicing.

OSHA estimates that the total number of large vehicle rim wheels to be serviced will generally be constant over the next ten years. OSHA expects that the number of single piece rim wheels serviced will increase as the number of multi-piece rim wheels serviced decreases. As a result, equipment currently used to service multi-piece rim wheels will be shifted to servicing single piece rim wheels and no additional equipment will need to be purchased in order to comply with the single piece rim wheel servicing standard.

However, there will be initial and continuing training costs imposed by the employee training requirements of the standard. These costs, in 1981 dollars, are estimated to be, at most, $2.515 million in the first year and about $0.908 million (growing at a yearly rate of 1.6%) in each succeeding year. This maximum cost is calculated under the assumption that all employees (including supervisors) will require training at overtime wages during the first year that the standard is effective. The estimate also assumes a 50 percent turnover rate for nonsupervisory employees, and a 33 percent turnover rate for supervisors in subsequent years. As a result, it is assumed that employers will be required to train a new nonsupervisory employee every year and a supervisor every two years. Assuming 15 minutes of additional training, the present value (discounted to 1981 by 10%) of this training cost is estimated at $8.3 million over the 1981 to 1990 period. As noted above, OSHA believes that this is an upper bound estimate of the training cost involved.

In addition, the standard will have some negative effects on productivity because it will require that tires on single piece wheels be inflated at a distance from the employee. This cost is estimated to be, at most, $750,000 in 1981 dollars increasing to $2.05 million in 1990. The productivity impacts are estimated on the high cost assumptions that no employees currently follow this safe servicing procedure, and that there are no positive productivity offsets, such as fewer days lost from work. Over the 10-year period 1981 to 1990, the present value (discounted to 1981 by 10%) of this "worst case" cost estimate is $8.35 million in 1981 dollars.

This makes the present value of the total costs, assuming the 10% discount rate over the 10-year period 1981–1990, approximately $16.47 million in 1981 dollars. This amounts to approximately $16 per facility per year.

OSHA has also examined the likely effects which the amendment will have on the prices charged for servicing large vehicle tires, employment, critical materials, and market structure. The rate at which employers change from multi-piece rims and tube-type tires to the more fuel-efficient single piece rims and radial truck tires will not be affected. No significant impacts on any of those areas are expected to result from compliance with the standard.

The population at risk is approximately 322,000 persons who are employed in 102,000 workplaces in ten industry sectors. As discussed earlier in the section entitled "Significant Risk", these workers will benefit from a safer workplace as a result of the standard.

The major benefit of compliance with this standard is a significant reduction in the number of fatalities and total and permanent disabilities, which are the result of accidents which occur during the servicing of single piece rim wheels. As previously noted, at least 91 injury-causing accidents involving the servicing of single piece rim wheels occurred between 1970 and 1980. The current injury rate in single piece rim wheel servicing of one in every million tire changes is about the same as the injury rate which existed in multi-piece rim wheel servicing before the promulgation of the OSHA standard governing the servicing of multi-piece rim wheels.

The percentage of vehicles which utilize single piece rim wheels is expected to increase from 20 percent in 1980 to about 50 percent in 1990. This increase is largely due to greater fuel efficiency of radial tires which require, for the most part, the use of single piece wheels. Assuming this increased use, if the current accident rate does not change and if no standard is promulgated, OSHA estimates that there will be approximately 280 to 350 accidents; 50 to 67 fatalities; 50 to 67 total disabilities; 50 to 67 permanent disabilities; and 137 to 188 temporary disabilities over the 10-year period of 1981 to 1990.

OSHA's analysis of the available accident data indicates that the provisions of this standard, if followed, would have prevented nearly all of the reported accidents. In addition, OSHA has concluded that compliance with this standard will involve minimal costs to employers and that the promulgation of the standard will result in high levels of compliance. Accordingly, a corresponding large reduction in the number of deaths and injuries should follow. For purposes of the analysis, OSHA has assumed a 75 percent reduction.

It should be noted that OSHA does not endorse any particular estimate of the value of employee lives, and has not used such an estimate in determining the content and application of the final rule. However, the following discussion and calculations of the economic costs of rim wheel accidents may be illustrative of the potential benefits of OSHA's standard.

One measure of the potential benefits of the standard is the dollar amount that society would be "willing to pay" to prevent these accidents. Depending upon the methodology used, OSHA estimated that this willingness-to-pay estimate would be between $40.70 million and $72.05 million.

As another method of estimating the potential benefits of the amendment, OSHA examined the estimated lifetime earnings loss due to death or injury, the costs of long-term care for the totally disabled, and the medical costs of treating the injuries. Using the available injury data, OSHA estimated the present value in 1981 of the preventable economic losses to workers for the 10-year period 1981 to 1990 to be between $21.71 and $31.72 million. These are low cost values because the estimate of forgone wages was based upon the assumption that the injured workers would have remained repairmen and would not have advanced to higher income jobs. The estimated monetary benefits of the standard also do not include followup treatment for permanent or temporary disabilities. They also do not include intangible benefits like the social value of the worker's life, or the value of the prevented pain and suffering. In addition, they do not include any potential secondary benefits from the reduction of on-the-road truck accidents caused by rim wheel failures due to improper servicing of single piece rim wheels.

On this basis, OSHA concludes that this standard will reduce the number of worker deaths and disabilities, will provide net benefits to society, and will not adversely affect any sector of the economy.

4. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat. 1164 (5 U.S.C. 601 et seq.)), OSHA has assessed the potential economic impact of this standard on small entities and has examined some of the alternatives to it. Based on this assessment, OSHA hereby certifies that the standard will not have a significant economic effect on a substantial number of small entities. For purposes of the Regulatory Flexibility Certification, OSHA defines a small tire servicing entity as one which employs fewer than 20 people.

The Centaur study (Docket S–005, Ex. 2) indicates that nearly all of the garages and service stations which service large vehicle tires for the general public are included in this definition of small business, and that this proposal may affect as many as 100,000 small firms. However, even using the "worst case" basis for estimating the cost of compliance, the promulgation of this standard will cost the typical small garage (one supervisor and two employees) about $32.50 the first year and between $13 and $16 per year each succeeding year. The sources of these costs are the required employee training and the increase in tire servicing time. There are some very small economies of scale in training. However, the fact that firms must train new employees as they are hired largely precludes training many employees at the same time. This is especially true in this industry which is characterized by high labor turnover. Consequently, large employers will not garner any significant economies of scale in training and these costs will be largely proportional to the number of employees trained. Similarly, the increased time needed to service each rim wheel is independent of the number of rim wheels serviced. As the smaller firm would service fewer rim wheels, OSHA believes that the minimal cost of compliance will not significantly affect small entities and will not create any competitive disadvantages for small entities. Copies of the Regulatory Impact Assessment and Regulatory Flexibility Analysis are available for inspection and copying at the OSHA Docket Office, Docket No. S–010, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210. (202) 523–7894.

5. State Plan Applicability

The 24 States with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of this publication date. These States are: Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Until such time as a State standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these States.

6. Effective Date

Based on the information in the Regulatory Impact Assessment, and in the Regulatory Flexibility Certificate, it is anticipated that the affected employers will have difficulty in complying with the provisions of this standard. There is no need for an extended delay for employers to implement the provisions of the standard. Therefore, the effective date of this standard is March 5, 1984.

The standard currently found in § 1910.177 will remain in effect until the standard contained in this document is effective.

List of Subjects in 29 CFR Part 1910

Protective equipment, Safety, Signs and Symbols.

Authority: This Document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR Part 1911, § 1910.177 of 29 CFR is amended as set forth below.

Signed at Washington, D.C., this 30th day of January 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1910—[AMENDED]

Section 1910.177 is amended by revising the title to read, "Servicing multi-piece and single piece rim wheels," by revising paragraphs (a), (b), (c)(1), (c)(1)(i), (c)(1)(ii), (c)(2), (c)(2)(ii), (c)(2)(iii), (c)(2)(iv), (c)(2)(v), (c)(2)(vii), (c)(3), (d)(2), (d)(3), (d)(4), (d)(5), (e), introductory text of (f), (f)(2), (f)(3), and (f)(4), and by adding new paragraphs (c)(2)(iii), (d)(6), (f)(11) and (g). As amended, §1910.177 reads as follows:

§ 1910.177 Servicing multi-piece and single piece rim wheels.

(a) *Scope.* (1) This section applies to the servicing of multi-piece and single piece rim wheels used on large vehicles such as trucks, tractors, trailers, buses and off-road machines. It does not apply to the servicing of rim wheels used on automobiles, or on pickup trucks and vans utilizing automobile tires or truck tires designated "LT".

(2) This section does not apply to employers and places of employment regulated under the Construction Safety Standards, 29 CFR Part 1926; the Agriculture Standards, 29 CFR Part 1928; or the Maritime Standards, 29 CFR 1915–1918.

(3) All provisions of this section apply to the servicing of both single piece rim wheels and multi-piece rim wheels unless designated otherwise.

(b) *Definitions.* "Barrier" means a fence, wall or other structure or object placed between a single piece rim wheel and an employee during tire inflation, to contain the rim wheel components in the event of the sudden release of the contained air of the single piece rim wheel.

"Charts" means the United States Department of Transportation, National Highway Traffic Safety Administration (NHTSA) publications entitled "Safety Precautions for Mounting and Demounting Tube-Type Truck/Bus Tires" and "Multi-Piece Rim Wheel Matching Chart," or any other publications such as rim manuals containing, at a minimum, the same instructions, safety precautions and other information contained on those charts that are applicable to the types of rim wheels being serviced.

"Installing a rim wheel" means the transfer and attachment of an assembled rim wheel onto a vehicle axle hub. "Removing" means the opposite of installing.

"Mounting a tire" means the assembly or putting together of the wheel and tire components to form a rim wheel, including inflation. "Demounting" means the opposite of mounting.

"Multi-piece rim wheel" means the assemblage of a multi-piece wheel with the tire tube and other components.

"Multi-piece wheel" means a vehicle wheel consisting of two or more parts, one of which is a side or locking ring designed to hold the tire on the wheel by interlocking components when the tire is inflated.

"Restraining device" means an apparatus such as a cage, rack, assemblage of bars and other components that will constrain all rim wheel components during an explosive separation of a multi-piece rim wheel, or during the sudden release of the contained air of a single piece rim wheel.

"Rim manual" means a publication containing instructions from the manufacturer or other qualified organization for correct mounting, demounting, maintenance, and safety precautions peculiar to the type of wheel being serviced.

"Rim wheel" means an assemblage of tire, tube and liner (where appropriate), and wheel components.

"Service" or "servicing" means the mounting and demounting of rim wheels, and related activities such as inflating, deflating, installing, removing, and handling.

"Service area" means that part of an employer's premises used for the servicing of rim wheels, or any other place where an employee services rim wheels.

"Single piece rim wheel" means the assemblage of single piece rim wheel with the tire and other components.

"Single piece wheel" means a vehicle wheel consisting of one part, designed to hold the tire on the wheel when the tire is inflated.

"Trajectory" means any potential path or route that a rim wheel component may travel during an explosive separation, or the sudden release of the pressurized air, or an area at which an airblast from a single piece rim wheel may be released. The trajectory may deviate from paths which are perpendicular to the assembled position of the rim wheel at the time of separation or explosion. (See Appendix A for examples of trajectories.)

"Wheel" means that portion of a rim wheel which provides the method of attachment of the assembly to the axle of a vehicle and also provides the means to contain the inflated portion of the assembly (i.e., the tire and/or tube).

(c) *Employee training.* (1) The employer shall provide a program to train all employees who service rim wheels in the hazards involved in servicing those rim wheels and the safety procedures to be followed.

(i) The employer shall assure that no employee services any rim wheel unless the employee has been trained and instructed in correct procedures of servicing the type of wheel being serviced, and in the safe operating procedures described in paragraphs (f) and (g) of this section.

(ii) Information to be used in the training program shall include, at a minimum, the applicable data contained in the charts (rim manuals) and the contents of this standard.

(iii) Where an employer knows or has reason to believe that any of his employees is unable to read and understand the charts or rim manual, the employer shall assure that the employee is instructed concerning the contents of the charts and rim manual in a manner which the employee is able to understand.

(2) The employer shall assure that each employee demonstrates and maintains the ability to service rim wheels safely, including performance of the following tasks:

(i) Demounting of tires (including deflation);

(ii) Inspection and identification of the rim wheel components;

(iii) Mounting of tires (including inflation with a restraining device or other safeguard required by this section);

(iv) Use of the restraining device or barrier, and other equipment required by this section;

(v) Handling of rim wheels;

(vi) Inflation of the tire when a single piece rim wheel is mounted on a vehicle;

(vii) An understanding of the necessity of standing outside the trajectory both during inflation of the tire and during inspection of the rim wheel following inflation; and

(viii) Installation and removal of rim wheels.

(3) The employer shall evaluate each employee's ability to perform these tasks and to service rim wheels safely, and shall provide additional training as necessary to assure that each employee maintains his or her proficiency.

(d) *Tire servicing equipment.* (1) The employer shall furnish a restraining device for inflating tires on multi-piece wheels.

(2) The employer shall provide a restraining device or barrier for inflating tires on single piece wheels unless the rim wheel will be bolted onto a vehicle during inflation.

(3) Restraining devices and barriers shall comply with the following requirements:

(i) Each restraining device or barrier shall have the capacity to withstand the maximum force that would be transferred to it during a rim wheel separation occurring at 150 percent of the maximum tire specification pressure for the type of rim wheel being serviced.

(ii) Restraining devices and barriers shall be capable of preventing the rim wheel components from being thrown outside or beyond the device or barrier for any rim wheel positioned within or behind the device;

(iii) Restraining devices and barriers shall be visually inspected prior to each day's use and after any separation of the rim wheel components or sudden release of contained air. Any restraining device or barrier exhibiting damage such as the following defects shall be immediately removed from service:

(A) Cracks at welds;

(B) Cracked or broken components;

(C) Bent or sprung components caused by mishandling, abuse, tire explosion or rim wheel separation;

(D) Pitting of components due to corrosion; or

(E) Other structural damage which would decrease its effectiveness.

(iv) Restraining devices or barriers removed from service shall not be returned to service until they are repaired and reinspected. Restraining devices or barriers requiring structural repair such as component replacement or rewelding shall not be returned to service until they are certified by either the manufacturer or a Registered Professional Engineer as meeting the strength requirements of paragraph (d)(3)(i) of this section.

(4) The employer shall furnish and assure that an air line assembly consisting of the following components be used for inflating tires:

(i) A clip-on chuck;

(ii) An in-line valve with a pressure gauge or a presettable regulator; and

(iii) A sufficient length of hose between the clip-on chuck and the in-line valve (if one is used) to allow the employee to stand outside the trajectory.

(5) Current charts (rim manuals) containing instructions for the types of wheels being serviced shall be available in the service area.

(6) The employer shall furnish and assure that only tools recommended in the rim manual for the type of wheel being serviced are used to service rim wheels.

(e) *Wheel component acceptability.* (1) Multi-piece wheel components shall not be interchanged except as provided in the charts or in the applicable rim manual.

(2) Multi-piece wheel components and single piece wheels shall be inspected prior to assembly. Any wheel or wheel component which is bent out of shape, pitted from corrosion, broken, or cracked shall not be used and shall be marked or tagged unserviceable and removed from the service area. Damaged or leaky valves shall be replaced.

(3) Rim flanges, rim gutters, rings, bead seating surfaces and the bead areas of tires shall be free of any dirt, surface rust, scale or loose or flaked rubber build-up prior to mounting and inflation.

(4) The size (bead diameter and tire/wheel widths) and type of both the tire and the wheel shall be checked for compatibility prior to assembly of the rim wheel.

(f) *Safe operating procedure—multi-piece rim wheels.* The employer shall establish a safe operating procedure for servicing multi-piece rim wheels and shall assure that employees are instructed in and follow that procedure. The procedure shall include at least the following elements:

(1) Tires shall be completely deflated before demounting by removal of the valve core.

(2) Tires shall be completely deflated by removing the valve core before a rim wheel is removed from the axle in either of the following situations:

(i) When the tire has been driven underinflated at 80% or less of its recommended pressure, or

(ii) When there is obvious or suspected damage to the tire or wheel components.

(3) Rubber lubricant shall be applied to bead and rim mating surfaces during assembly of the wheel and inflation of the tire, unless the tire or wheel manufacturer recommends against it.

(4) If a tire on a vehicle is underinflated but has more than 80% of the recommended pressure, the tire may be inflated while the rim wheel is on the vehicle provided remote control inflation equipment is used, and no employees remain in the trajectory during inflation.

(5) Tires shall be inflated outside a restraining device only to a pressure sufficient to force the tire bead onto the rim ledge and create an airtight seal with the tire and bead.

(6) Whenever a rim wheel is in a restraining device the employee shall not rest or lean any part of his body or equipment on or against the restraining device.

(7) After tire inflation, the tire and wheel components shall be inspected while still within the restraining device to make sure that they are properly seated and locked. If further adjustment to the tire or wheel components is necessary, the tire shall be deflated by removal of the valve core before the adjustment is made.

(8) No attempt shall be made to correct the seating of side and lock rings by hammering, striking or forcing the components while the tire is pressurized.

(9) Cracked, broken, bent or otherwise damaged rim components shall not be reworked, welded, brazed, or otherwise heated.

(10) Whenever multi-piece rim wheels are being handled, employees shall stay out of the trajectory unless the employer can demonstrate that performance of the servicing makes the employee's presence in the trajectory necessary.

(11) No heat shall be applied to a multi-piece wheel or wheel component.

(g) *Safe operating procedure—single piece rim wheels.* The employer shall establish a safe operating procedure for servicing single piece rim wheels and shall assure that employees are instructed in and follow that procedure. The procedure shall include at least the following elements:

(1) Tires shall be completely deflated by removal of the valve core before demounting.

(2) Mounting and demounting of the tire shall be done only from the narrow ledge side of the wheel. Care shall be taken to avoid damaging the tire beads while mounting tires on wheels. Tires shall be mounted only on compatible wheels of matching bead diameter and width.

(3) Nonflammable rubber lubricant shall be applied to bead and wheel mating surfaces before assembly of the rim wheel, unless the tire or wheel manufacturer recommends against the use of any rubber lubricant.

(4) If a tire changing machine is used, the tire shall be inflated only to the minimum pressure necessary to force the tire bead onto the rim ledge while on the tire changing machine.

(5) If a bead expander is used, it shall be removed before the valve core is installed and as soon as the rim wheel becomes airtight (the tire bead slips onto the bead seat).

(6) Tires may be inflated only when contained within a restraining device, positioned behind a barrier or bolted on the vehicle with the lug nuts fully tightened.

(7) Tires shall not be inflated when any flat, solid surface is in the trajectory and within one foot of the sidewall.

(8) Employees shall stay out of the trajectory when inflating a tire.

(9) Tires shall not be inflated to more than the inflation pressure stamped in the sidewall unless a higher pressure is recommended by the manufacturer.

(10) Tires shall not be inflated above the maximum pressure recommended by the manufacturer to seat the tire bead firmly against the rim flange.

(11) No heat shall be applied to a single piece wheel.

(12) Cracked, broken, bent, or otherwise damaged wheels shall not be reworked, welded, brazed, or otherwise heated.

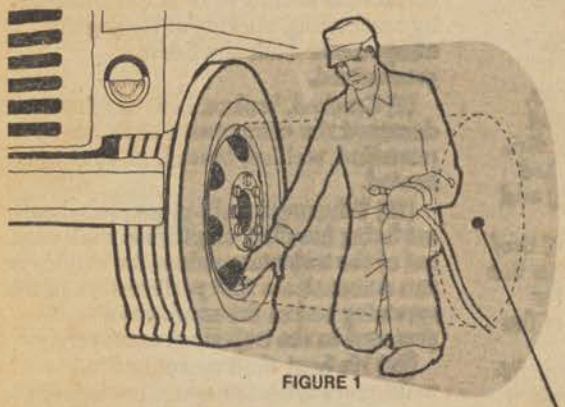


FIGURE 1

APPENDIX A
TRAJECTORY

WARNING

STAY OUT OF THE TRAJECTORY AS INDICATED BY SHADED AREA

Note: Under some circumstances, the trajectory may deviate from its expected path



FIGURE 2

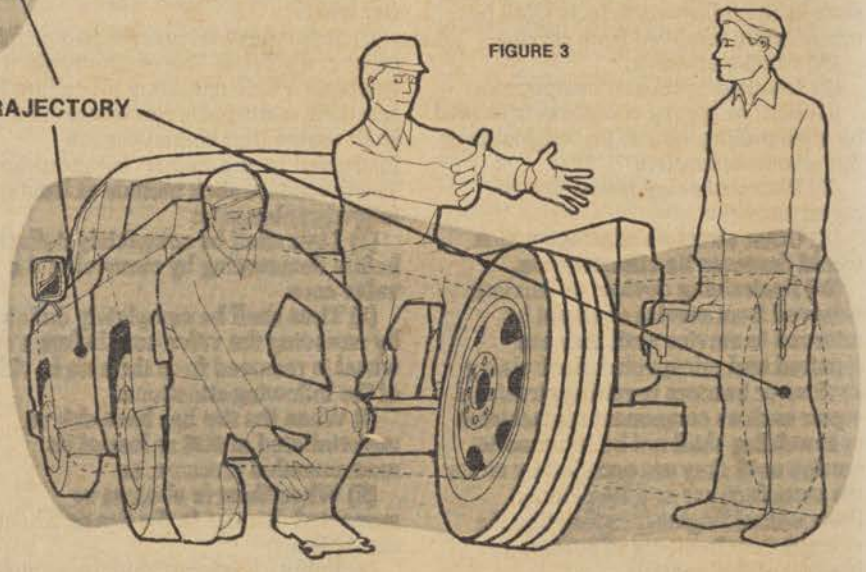


FIGURE 3

Appendix B—Ordering Information for NHTSA Charts

OHSA has reprinted the NHTSA Charts as part of a continuing campaign to alert rim wheel servicing personnel of the industry accepted procedures for servicing multi-piece rim wheels.

Reprints of the charts are available through the Occupational Safety and Health Administration (OSHA) Area Offices. The address and telephone number of the nearest OSHA Area Office can be obtained by looking in the local telephone directory under U.S. Government, U.S. Department of Labor, Occupational Safety and Health Administration. Single copies are available without charge.

Individuals, establishments and other organizations desiring multiple copies of these charts may order them from the Publications Office, U.S. Department of Labor, Room N4101, Washington, D.C. 20210. Telephone: (202) 523–9667.

[FR Doc. 84–2884 Filed 2–2–84; 8:45 am]

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federal register

Friday
February 3, 1984

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 11, 121, 127, 135, and 145
Development of Major Repair Data; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 121, 127, 135, and 145

[Docket No. 17551; Amdt. No. 11-24, SFAR No. 36-3]

Development of Major Repair Data

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment extends the effectivity of Special Federal Aviation Regulation (SFAR) No. 36, which provides that repair stations, air carriers, air taxis, and commercial operators of large aircraft may accomplish major repairs using self-developed repair data which have not been specifically approved by the FAA. In addition, the regulation will continue to provide relief for persons from the burden of obtaining FAA approval of repair data on a case-by-case basis and allow time for the FAA to incorporate the SFAR provisions into the regulations.

DATES: Effective Date—January 31, 1984. Comments must be received on or before April 3, 1984.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 17551, 800 Independence Avenue, SW., Washington, D.C. 20591, or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Angelo R. Mastrullo, General Aviation and Commercial Branch, AWS-340, Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426-8203.

SUPPLEMENTARY INFORMATION:

Background

SFAR 36, which became effective on January 23, 1978, was issued to relieve qualifying certificated air carriers, air taxis, commercial operators, and repair stations of the burden of obtaining FAA approval of data developed by them for major repairs on a case-by-case basis. The certificate holders eligible for authorization under the SFAR are those employing adequately trained personnel and complying with specified procedural requirements.

SFAR 36 was adopted as an interim rulemaking action to obtain information upon which to base a permanent rule change. However, most of the affected certificate holders did not utilize the provisions of SFAR 36 until it was well into its second year and near its expiration date of January 23, 1980. Since the FAA did not have sufficient data upon which to base a permanent rule change, the termination date for SFAR 36 was extended an additional 2 years, to January 23, 1982.

The FAA initiated rulemaking to consolidate certain authorizations along with those issued under SFAR 36 and make them a permanent part of the Federal Aviation Regulations. However, this rulemaking action was not completed and the termination date for SFAR 36 was extended for an additional 2 years, to January 23, 1984. Each authorization issued under this SFAR was made effective from the date of issuance until January 23, 1984. There are presently more than 20 certificated air carriers and repair stations holding SFAR 36 authorizations. For reasons unrelated to the subject matter of SFAR 36, the rulemaking project that had been continuing was canceled, and no new project is presently being developed. Consequently, to provide continuity and avoid hardship to those relying on SFAR 36 as it presently exists, the FAA finds it necessary to extend the effectivity of SFAR 36 for an additional 5 years, to January 23, 1989.

Paperwork Reduction Act

Information collection requirements in this regulation (SFAR 36) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0507.

Good Cause Justification for Immediate Adoption

The termination date for SFAR 36 and the authorizations issued under SFAR 36 is January 23, 1984. The reasons which justified the adoption of SFAR 36 still exist; and to avoid hardship to those relying on the provisions of SFAR 36, it is in the public interest to extend the termination date of SFAR 36 from January 23, 1984, to January 23, 1989. So that previously authorized certificate holders will not be subjected to the unnecessary burden of requalifying upon expiration of the initial 2-year period, the amendment provides that each authorization issued under this SFAR has an effective period from the date of issuance until January 23, 1989. This rule extension should provide ample time for provisions to be incorporated into a permanent rule change.

Since this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedures hereon are unnecessary, and the amendment may be made effective in less than 30 days. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before April 3, 1984, will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

List of Subjects

14 CFR Part 11

Air carriers, Air taxis, Air transportation, Aircraft, Airmen, Aviation safety, Safety.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Airmen, Airplanes, Airworthiness directives and standards.

14 CFR Part 127

Aircraft, Air carriers, Airworthiness, Airmen, Helicopters.

14 CFR Part 135

Air carriers, Aviation safety, Safety, Air transportation, Air taxi, Airworthiness, Airmen, Aircraft, Helicopters, Airplanes.

14 CFR Part 145

Air carriers, Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

In consideration of the following, the Federal Aviation Regulations are amended as follows, effective January 31, 1984:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By amending Part 121, Special Federal Aviation Regulation No. 36 by changing the termination date from

"January 23, 1984" to "January 23, 1989" and by revising paragraph 5 to read as follows:

SFAR—36

* * * * *

5. *Duration of Authorization.* Each authorization issued under this Special Federal Aviation Regulation is effective from the date of issuance until January 23, 1989, unless it is surrendered or the Administrator suspends, revokes, or otherwise terminates it at an earlier date.

* * * * *

PART 11—GENERAL RULEMAKING PROCEDURES

2. By amending § 11.101 by adding a new OMB Control Number to the table in paragraph (b), as follows:

§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

SFAR 36	2120–0507

(Secs. 313(a), 604 and 607, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, 1424, and 1427); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983))

Note.—The FAA has determined that this document involves a rule change which imposes no additional burden on any person. Accordingly, it has been determined that: the rule change does not involve a major action under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and its anticipated impact is so minimal that an evaluation is not required.

Issued in Washington, D.C., on January 6, 1984.

Michael J. Fenello,

Acting Administrator.

[FR Doc. 84–2947 Filed 1–31–84; 3:00 pm]

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Federal Register

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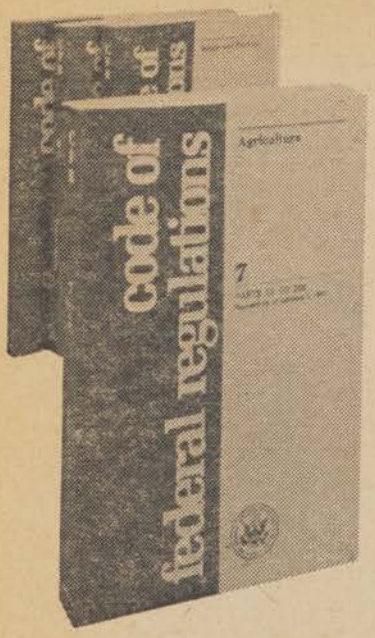
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