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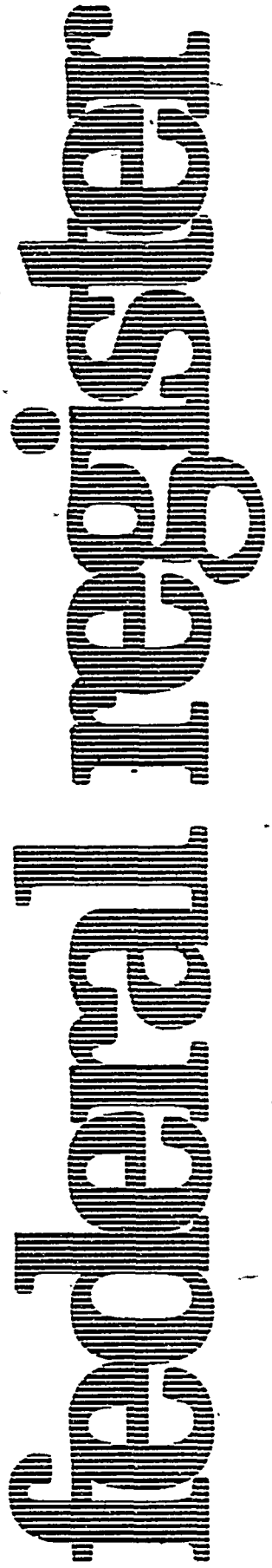

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Highlights

50041 **Death of Anwar el-Sadat** Presidential proclamation.

50270, 50277 **Food Stamps** USDA/FNS requires use of photo identification in certain project areas and modifies regulations on replacement of nondelivered, destroyed, or stolen authorizations and coupons. (Part III of this issue) (2 documents)

50048 **Federal Home Loan Banks** FHLBB issues regulations on treatment of gains and losses on sale or other disposition of mortgage assets, mortgage-related securities, and debt securities and republishes statutory reserve and net worth requirements.

50288 **Truth in Lending** FRS applies and interprets requirements of revised Regulation Z to open-end and closed-end consumer credit. (Part IV of this issue)

50084 **Credit Unions** NCUA proposes revised schedule for phase-out of dividend ceilings on share certificates.

50054 **Exports—National Security** Commerce/ITA imposes validated license controls on exports of technical data related to infrared imaging equipment to all destinations except Canada.

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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.

Highlights

50352 **Equal Access to Justice** Labor adopts procedural rules.

50080 **Agriculture** USDA/FmHA proposes New Full-Time Family Farmer and Rancher Development Project.

50348 **Homeworkers** Labor/ESA/W&H removes restrictions on employment of homeworkers in the knitted outerwear industry but retains restrictions on other industries. (Part V of this issue)

50068 **Lead** Labor/OSHA further defers effective date of occupational exposure standards.

50060 **Natural Gas** DOE/FERC exempts natural gas used as boiler fuel in manufacture of fertilizer, agricultural chemicals, animal feed, and food from incremental pricing rules.

50055 **Electric Power Projects—Recreation** DOE/FERC revises "Licensed Hydropower Development Recreation Report."

50070 **Motor Carriers** ICC modifies fuel surcharge program for motor carriers and freight forwarders.

50088 ICC withdraws proposed modifications of fuel surcharge program for owner-operator LTL and household goods carriers.

50092 **Imports** CITA announces controls on certain cotton and wool apparel products from Sri Lanka.

50212 **Minimum Wages** Labor/ESA/W&H publishes minimum wages for Federal and federally assisted construction. (Part II of this issue)

185 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Proclamation 4872 of October 7, 1981

Death of Anwar el-Sadat

By the President of the United States of America

A Proclamation

America has lost a close friend; the world has lost a great statesman and mankind has lost a champion of peace.

President Sadat was a courageous man whose vision and wisdom brought nations and people together.

In a world filled with hatred, he was a man of hope. In a world trapped in the animosities of the past, he was a man of foresight, a man who sought to improve a world tormented by malice and pettiness.

He was admired and loved by the people of America. His death yesterday—an act of infamy, cowardly infamy—fills us with horror.

As a mark of respect for the memory of Anwar Sadat I hereby order that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until his interment. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of October, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 81-29625
Filed 10-7-81; 4:50 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 196
Friday, October 9, 1981

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 327]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 11–17, 1981. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 11, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on October 6, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is slow.

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

Information collection requirements (reporting or record keeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.627 is added as follows:

§ 910.627 Lemon Regulation 327.

The quantity of lemons grown in California and Arizona which may be handled during the period October 11, 1981, through October 17, 1981, is established at 185,000 cartons.

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

Dated: October 7, 1981.

D. S. Kuryloski,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-29000 Filed 10-8-81; 11:44 am]
BILLING CODE 3410-02-M

7 CFR Part 926

[California Tokay Grape Reg. 18]

Tokay Grapes Grown in San Joaquin County, California; Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and container marking requirements for shipments of fresh California Tokay grapes. Such action is designed to promote orderly marketing of suitable quality grapes in the interest of producers and consumers.

DATES: Effective on or after October 16, 1981.

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

SUPPLEMENTARY INFORMATION: This 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 determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

An interim rule was published in the Federal Register (46 FR 40206) on August 7, 1981, which specified grade and container requirements applicable to shipments of Tokay grapes grown in San Joaquin County, California through October 15, 1981. That rule provided an opportunity to file comments through September 8, 1981. No comments were received. This final rule contains the same requirements as specified in the interim rule. This rule is effective on and after October 16, 1981.

This regulation is issued under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of fresh

Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Industry Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The minimum grade and container marking requirements for grapes are necessary to maintain orderly marketing conditions by preventing the shipment of immature, poor quality, and excessively small fruit in fresh commercial marketing outlets. Shipment of such low quality fruit would disrupt orderly marketing and tend to depress prices of all grapes since low quality fruit undermines consumer confidence in the quality of all fruit sold in the market and discourages repeat purchases. The specified grade requirements are designed to provide ample supplies of good quality fruit in the interest of producers and consumers consistent with the declared policy of the act. Fruit not meeting these requirements could be sold within San Joaquin County, or utilized in processing outlets such as crushing.

Under the terms of the regulation the grade and container marking requirements would be effective on or after October 16, 1981. Although the regulation would be effective for an indefinite period, the committee would continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of California Tokay grapes would tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that (1) an interim rule was published in the Federal Register (46 FR 40206) and no comments were received during the period provided; (2) the requirements in this final rule are the same as those currently in effect; and (3) the requirements will not require any additional preparation by handlers which cannot be completed by the effective date hereof.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Therefore, a new § 926.319 is added under a new subpart heading *Grape and Size Regulation* to read as follows:

Subpart—Grade and Size Regulation

§ 926.319 California Tokay grape regulation 18.

(a) On or after October 16, 1981, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table grade, and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definitions.* "U.S. No. 1 Table grade" and "characteristic color" shall mean the same as in the United States Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 2851.880—2851.912).

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

Dated: October 5, 1981 to become effective October 16, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-29382 Filed 10-8-81; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 958

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Onion Handling and Import Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of onions grown in certain designated counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum quality and size requirements. The regulation is designed to promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: October 16, 1981.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615. The final impact analysis relating to this rule is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant" and not a major rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

An interim rule was published in the Federal Register (46 FR 38341) on July 27, 1981, which specified grade, size, pack, maturity and inspection requirements applicable to shipments of Idaho-Eastern Oregon onions during the period August 1 through October 15, 1981. That rule provided an opportunity to file comments through August 11, 1981. No comments were received. This final rule contains the same requirements as specified in the interim rule and is effective October 16, 1981.

Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958), regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. The

program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Idaho-Eastern Oregon Onion Committee, established under the order. It is hereby found that this action will tend to effectuate the declared policy of the act.

The grade, size, pack, maturity and inspection requirements specified herein are necessary to prevent onions of low quality or less desirable sizes from being distributed in fresh market channels. They should also provide consumers with good quality onions consistent with the overall quality of the crop, and maximize returns to producers for the preferred quality and sizes.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to the grade, size, maturity, pack and inspection requirements, provided that safeguards are met to prevent such onions from reaching unauthorized outlets.

Special purpose shipments are allowed for planting, livestock feed, charity, dehydration, extraction and pickling since such shipments do not normally enter the commercial fresh market channels and no useful purpose would be served by regulating such shipments. Onions for canning and freezing are exempt under the legislative authority for this part.

It is further found that it is impracticable and contrary to the public interest to postpone the effective date of this regulation until 30 days after publication in the Federal Register (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that (1) an interim rule was published in the Federal Register (46 FR 38341) and no comments were received during the period provided; (2) the requirements contained in this final rule are the same as those currently in effect; and (3) the requirements will not require any additional preparation by handlers which cannot be completed by the effective date hereof.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

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

Therefore, a new § 958.327 is added as follows:

§ 958.327 Handling regulation.

During the period October 16, 1981, through April 30, 1982, no person may handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c) and (d) or (e) of this section.

(a) *Grade and size requirements.* (1) *White varieties.* Shall be either:

(i) U.S. No. 2, 1 inch minimum to 2 inches maximum diameter; or

(ii) U.S. No. 2, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, and at least 1½ inches minimum diameter; or

(iii) U.S. No. 1, at least 1½ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(2) *Red varieties.* U.S. No. 2 or better grade, at least 1½ inches minimum diameter.

(3) *All other varieties.* Shall be either:

(i) U.S. No. 2 grade, at least 3 inches minimum diameter, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality; or

(ii) U.S. No. 1, 1½ inches minimum to 2¼ inches maximum diameter; or

(iii) U.S. No. 1, at least 2¼ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(b) *Inspection.* No handler may handle any onions regulated hereunder unless such onions are inspected by the Federal-State Inspection Service and are covered by a valid applicable inspection certificate, except when relieved of such requirement pursuant to paragraphs (c) or (e) of this section.

(c) *Special Purpose shipments.* The minimum grade, size, maturity and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes:

(1) planting; (2) livestock feed; (3) charity; (4) dehydration; (5) canning; (6) freezing; (7) extraction; and (8) pickling.

(d) *Safeguards.* Each handler making shipments of onions for dehydration, canning, freezing, extraction or pickling pursuant to paragraph (c) of this section shall:

(1) First apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section;

(3) Bill or consign each shipment directly to the applicable processor; and

(4) Forward one copy of such report to the committee office and two copies to the processor for signing and returning one copy to the committee office. Failure of the handler or processor to report such shipments by promptly signing and returning the applicable report to the committee office may be cause for cancellation of such handler's Certificate of Privilege and/or the processor's eligibility to receive further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideration.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed, one ton of onions each day without regard to the inspection and assessment requirements of this part, if such onions meet minimum grade, size and maturity requirements of this section. This exception shall not apply to any portion of a shipment that exceeds one ton of onions.

(f) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 2851.2830–2851.2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195–2851.3209), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "braided red onions" means onions of red varieties with tops braided (interlaced). The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.117 *"Import regulations; onions"* (43 FR 5499); onions imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in the introductory paragraph and paragraph (a) of this section.

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

Dated: October 5, 1981 to become effective October 16, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-29381 Filed 10-8-81; 8:45 am]

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Agricultural Marking Service

7 CFR Part 966

Tomatoes Grown in Florida; Minimum Grade, Size, Pack, Container and Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule and opportunity to file comments on proposed final regulation.

SUMMARY: This interim regulation requires fresh market shipments of tomatoes grown in certain counties in Florida to be inspected and meet minimum grade, size, pack, container and marking requirements. This will promote orderly marketing of such tomatoes and keep less desirable sizes and qualities from being shipped to consumers.

DATES: Interim rule effective October 11, 1981; comments which are received by November 9, 1981, will be considered prior to issuance of a final regulation.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V; AMS, USDA, Washington, D.C. 20250, (202) 447-2615. The final impact analysis relating to this rule is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant" and not a major rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

This action is based upon unanimous recommendations made by the committee at its public meeting at Marco Island, Florida, on September 11, 1981. The recommendations of the committee reflect its appraisal of the composition of the 1981-82 crop of Florida tomatoes and the marketing prospects for this season and are consistent with the marketing policy it adopted. It is hereby found that this action will tend to effectuate the declared policy of the act.

The grade and size requirements specified herein are necessary to prevent tomatoes of lower quality and undesirable size from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. This will provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. The requirements, including those for containers, container net weights, and size classifications, are intended to standardize shipments in the interest of orderly marketing and to improve returns to growers.

At a meeting held October 5, 1981, the committee further recommended a change in the establishment of container net weights to be effective January 1, 1982. Tomatoes would be required to be packed in containers of 20, 25 or 40 pounds, instead of in containers of 20, 30 or 40 pounds as specified in the interim rule. This adjustment is expected to result in handlers delivering better quality tomatoes and in increased returns to growers. It is proposed that this change be incorporated in the final regulation to be issued after a 30-day comment period in order to permit handlers to use inventories of 30-pound containers and prepare for the use of 25-pound containers instead.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments may be allowed to certain special purpose outlets without regard to minimum grade, size, container or inspection requirements provided that safeguards are used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are exempt under the legislative authority for this part. Since no purpose would be served by regulating tomatoes used for relief, experimental or charity purposes such shipments are also exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments are exempt.

The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes, cerasiform type tomatoes commonly referred to as cherry tomatoes, hydroponic tomatoes and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Only tomatoes shipped outside the regulated area are being regulated because of an increase in the U-pick type of harvest in Florida production areas close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption permits persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This reduces the problem of enforcement on small shipments of essentially noncommercial nature. The requirements concerning special pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

Occasionally individual fruit of several new varieties, including Flora-Dade, may be elongated in shape. This characteristic may be exaggerated by adverse growing conditions. It is anticipated that handlers packing these varities usually will be able to comply with all provisions of the regulation. However, if situations arise in which the incidence of tomatoes not of the normal globular shape makes sizing in accordance with present grade standards infeasible, the affected varieties may be exempted from the size requirements of the regulation.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the Federal Register (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that (1) shipments of the 1981-82 crop tomatoes grown in the production area are expected to begin on or about the effective date herein and this regulation should be applicable to all shipments during the season; (2) the regulation was recommended by the committee following discussion at an

open meeting; (3) information regarding these requirements and the effective date has been disseminated among growers and handlers of tomatoes in the production area; (4) the requirements are essentially the same as those in effect during past seasons; and (5) compliance with this section will not require any special preparation on the part of handlers subject thereto which cannot be completed by the effective date.

This interim regulation is effective during the period October 11 through December 31, 1981. It is hereby proposed that a final regulation, with requirements the same as those specified herein, except for the proposed change in container net weights, be effective from January 1 through June 12, 1982. Interested persons may comment on this proposal through November 9, 1981. All comments received will be considered prior to issuance of a final regulation.

PART 966—TOMATOES GROWN IN FLORIDA

Section 966.319 (45 FR 67298, October 10, 1980) is removed and a new § 966.320 is added as follows:

§ 966.320 Handling regulation.

During the period October 11, 1981, through December 31, 1981, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) of this section or are exempted by paragraphs (b) or (d) of this section.

(a) *Grade, size, container and inspection requirements*—(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2, or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No.1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2$\frac{6}{32}$ inches in diameter and be sized in one or more of the following ranges of diameters. Measurement of diameters shall be in accordance with the methods prescribed in § 2851.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

Size classification	Inches	
	Minimum diameter	Maximum diameter
7 x 7	2$\frac{6}{32}$	2$\frac{9}{32}$
6 x 7	2$\frac{13}{32}$	2$\frac{15}{32}$
6 x 6	2$\frac{13}{32}$	2$\frac{15}{32}$
5 x 6 and larger	2$\frac{13}{32}$	

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2$\frac{15}{32}$ inches in diameter and each container shall be marked to indicate the designated size.

(iii) Only numerical terms may be used to indicate the above listed size designations on containers of tomatoes, except when tomatoes are commingled the containers can be marked 6 x 6 & Lgr. or 5 x 6 & Lgr.

(iv) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, experimental purposes, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, experimental purposes, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.*—(1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes which met the inspection requirements of paragraph (a)(4) of this section which are resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from (i) the tomato grade classifications of paragraph (a)(1) of this section, (ii) the size classifications of paragraph (a)(2) of this section except that the tomatoes shall be at least 2$\frac{6}{32}$ inches in diameter and (iii) the container weight requirements of paragraph (a)(3) of this section.

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by

the Secretary from the provisions of paragraph (a)(2) *Size* of this section.

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855–2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under Section 8e of the act and § 980.212 "Import regulations" (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2$\frac{3}{32}$ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

(g) *Forms.* Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

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

Dated: October 7, 1981, to become effective October 11, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-29552 Filed 10-8-81; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561, 563 and 563c

[No. 81-581]

Treatment of Gains and Losses on the Sale or Other Disposition of Mortgage Assets, Mortgage-Related Securities, and Debt Securities; Republication of Reserve Requirements

September 30, 1981.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board amends its regulations governing accounting requirements for institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions") to permit such institutions to defer and amortize gains and losses on the sale or other disposition of mortgage loans, mortgage-related securities, and debt securities not qualifying as liquid assets over a period not to exceed the weighted average of the remaining terms to maturity of the mortgages and securities sold or otherwise disposed. The Board also amends its net worth and statutory reserve requirements by permitting losses from the sale or other disposition of any type of mortgage loan to qualify for the limited exemption from the requirements, and by permitting losses on the sale or other disposition of mortgage-related securities and debt securities not qualifying as liquid assets to count toward the exemption. Finally, the board is taking this opportunity to republish its statutory reserve and net worth requirements in their entirety, with minor corrective amendments.

The purpose of these amendments is to enable insured institutions to improve their profitability and reduce their interest-rate risk through the disposition of mortgages and qualifying securities and subsequent reinvestment or other use of the proceeds.

EFFECTIVE DATE: September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Michael S. Joseph, Office of Examinations and Supervision (202–377–6574), or David J. Bristol (202–377–6461) or Kenneth F. Hall (202–377–6466), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On August 13, 1981, the Board proposed regulations that would permit savings and loan associations and mutual savings banks insured by the Federal Savings and Loan Insurance Corporation to defer and amortize gains and losses on the sale of mortgage loans and mortgage-related securities (46 FR 42275 (August 20, 1981)). The proposal also would have amended the Board's net worth regulation (12 CFR 563.13) by expanding the types of mortgage loans the sale of which permits a limited exemption from the net worth and statutory reserve requirements. The Board accepted public comments on the proposal through September 14, 1981.

Overview of Comments

The Board received 296 comments on the proposed rule, including 238 from state- and Federally-chartered savings and loan associations, six from trade associations, five from mutual savings banks, five from consumers, six from accountants or accounting organizations, two from lawyers, two from securities dealers, and seven from commercial banks. Other commenters included real estate companies, a cooperative bank, a government agency, and the Federal Home Loan Banks. Of the total number of comments received, 246 strongly favored the proposal, asserting that it would provide savings and loans with the ability to restructure their mortgage portfolios and increase the portfolios' average yields. Commenters from each of the groups favored the proposal, which was supported by most of the savings and loans that submitted comments.

Fifteen commenters opposed the proposal because it would permit associations to depart from generally accepted accounting principles ("GAAP"). These commenters believed that departures from GAAP would result in financial statements that would incorrectly reflect associations' true financial condition. They asserted such statements could mislead investors and could have a generally adverse impact on the public image of the savings and loan industry.

Deferral and Amortization of Gains and Losses

The Board has determined, for purposes of the Board's reporting requirements, to permit thrift institutions insured by the Federal Savings and Loan Insurance Corporation (FSLIC) to defer and amortize gains and losses on the disposition of mortgage loans, mortgage-related securities (as defined in 12 CFR 563.17–4(a)(4)), and debt securities that do not qualify as liquid assets under 12 CFR 523.10(g). This authority will assist institutions that wish to sell or otherwise dispose of mortgages and qualifying securities so that they can balance the maturities of their assets and liabilities and improve the yields of their mortgage and securities portfolios. The Board is of the view that the deferral and amortization of gains and losses reflects more accurately the actual financial impact on an institution of the sale or other disposition of mortgages and securities and the subsequent use of the proceeds of such sales or dispositions.

The accounting treatment authorized by this regulation will assist thrift institutions caught in an earnings squeeze due to the fact that the yield on a substantial portion of their mortgage portfolios derives from long-term, fixed-rate loans during a time that the interest

costs on savings and other liabilities have increased dramatically.

Institutions in this situation may be able to improve their earnings and reduce future interest-rate risk through a well-planned mortgage disposition program. In order to sell a mortgage with a coupon below prevailing market rates, the price must be discounted by an amount sufficient to yield the purchaser a market rate of return. In an economic environment where investors have a preference for discount securities, and taking into account the existence of certain income-tax benefits, an institution may be able to improve its economic position through disposition and reinvestment or other appropriate use.

One such source of improvement is the ability of an institution to reinvest the proceeds of disposition at a higher yield than was required to dispose of the loan ("arbitrage" profits) or by acquiring an asset with less risk to the institution. In addition, if the institution originates new mortgages with the sales proceeds, it obtains origination income and the potential earnings from the "float" associated with maintaining tax and insurance escrows. The institution may also reduce its effective maturity imbalance and future interest-rate risk by reinvesting in instruments such as adjustable mortgage loans that more closely match the interest sensitivity of liabilities.

An additional source of improvement is the opportunity for recovering income taxes previously paid or for precluding their future payment. Because the difference between the book value of the loan and the price realized from its sale is considered a deductible loss for tax purposes, it can reduce current tax liability or be carried back (or carried forward) to reduce tax liability in prior (or future) years, thus possibly producing a significant increase in future earnings and in the intrinsic value of the institution. The institution can invest the combination of the proceeds from the sale and from the taxes recovered and increase its earnings even if reinvestment is at the same market rate at which the sold loan was discounted.

Despite the potential advantages of a mortgage disposition program, institutions have been inhibited from undertaking such programs by generally accepted accounting principles ("GAAP") and regulatory accounting principles ("RAP"). GAAP requires an institution to recognize the full amount of the loss from a sale in the period of the sale. Further, § 563.23–3 of the Board's Insurance Regulations (12 CFR 563.23–3) requires use of GAAP except where other accounting practices are specifically authorized. Thus, should an institution have desired to sell a significant portion of its low-yielding mortgages, it would have been required to report immediately the resulting loss of income and erosion of its net worth resulting from the difference between the sales price (market value) and the book value of the assets sold.

The accounting requirement that institutions recognize immediately the entire loss or gain on a sale of assets is predicated on the concept that such a sale is a completed transaction, representing a termination of the value of the asset to the institution. It is the Board's view that this accounting rule disregards management intent to use the proceeds so as to increase future profitability and reduce future interest-rate risk. By not considering this use of the proceeds, the present rules fail to account for the on-going nature of the institution's business and the fact that releasing funds currently invested in mortgages, mortgage-related securities and debt securities permits improvement of a stream of future earnings and cash flows.

To reflect its view that amortization of gains and losses from the sale of mortgages, mortgage-related securities, and debt securities is an acceptable method of accounting for such gains or losses, the Board is promulgating the regulatory authority for such amortization substantially as proposed, with such changes as are discussed below.

Accounting Treatment

The major assertion of those opposing the proposal was that departures from GAAP would result in financial statements that incorrectly reflected associations' true financial condition. This assertion was based on the opinion that the sale of mortgages is in itself a completed transaction and should be reflected in an institution's net worth. These commenters also stated that inclusion of the deferred amount as an adjustment to the carrying value of the mortgage loan portfolio would preclude the comparison of institutions' financial statements, which would be prepared on different bases.

The Board has determined to change the proposed regulatory reporting requirement to make clear that unamortized gains and losses must appear on an institution's balance sheet separately from any other accounts of the institution so they will be readily identifiable. In this manner, it will be possible to determine how an institution's balance sheet would have reflected the institution's financial position if gains and losses had not been deferred.

Long-Term Securities

The proposal would have permitted the amortization of gains and losses only for the disposition of mortgage loans and mortgage-related securities (*e.g.*, FHLMC and GNMA mortgage-backed securities). A number of commenters asserted that the rationale for permitting amortization applies equally to sales of debt securities, such as municipal and corporate bonds and government agency bonds.

The Board agrees, and therefore has determined to permit deferral and amortization of gains and losses resulting from the sale of certain debt securities. The Board believes institutions should be authorized to defer losses on the sale of qualifying debt securities for the same reasons such deferral is permitted for the disposition of low-yielding mortgages and mortgage-related securities. Since the thrust of the regulation is to assist associations to dispose of assets that are illiquid, the final regulation provides that only debt securities not qualifying as liquid assets under the Board's liquidity regulation (12 CFR 523.10(g)) are eligible.

Discounted Prepayments by Borrowers

Many institutions commented that one means they would like to use for disposing of mortgages is to permit borrowers to prepay their mortgages at a discount. Since this method produces similar results to the sale of mortgages on the secondary market, the Board believes institutions should be permitted to defer and amortize losses incurred as a result of accepting discounted prepayments from borrowers. Thus, the Board retains the proposed regulatory language that includes such prepayments in the definition of "disposition."

Amortization Periods

The proposal would have permitted deferral of gains and losses over the estimated remaining life of the disposed mortgage loans. Many commenters requested clarification as to the meaning of "estimated remaining life". Some suggested that, to avoid confusion as to the meaning of this term, the Board should establish a fixed or minimum amortization period, such as 10, 15, or 20 years. One commenter suggested that, since the purpose of permitting amortization is to aid institutions to improve the yields of their mortgage portfolios, the amortization period

should be the remaining life of an institution's entire mortgage portfolio.

The final regulation states that the maximum amortization period is the weighted average of the remaining terms to maturity of the disposed assets. Thus, institutions need refer only to the remaining terms as set out in the loan and securities contracts, rather than factoring in average rates of default and prepayment. The Board believes this method is perferable to establishing a fixed or minimum amortization period, which may not provide institutions with sufficient flexibility as regards the amortization of gains and losses. In addition, the Board believes that the length of the amortization period should be tied to the remaining terms to maturity of the disposed mortgage loans and qualifying securities, with the yield adjusted to reflect the length of the amortization period (see discussion below), rather than to some unrelated arbitrary period of time. The Board notes that the regulation establishes only a maximum; institutions are free to establish a shorter amortization period.

Methods of Amortization

The proposed regulation would have required institutions to amortize gains and losses using the level-yield method. A number of commenters suggested that institutions should be given the option to use the other methods of amortization set out in 12 CFR 563.23–1(g)(10), specifically, the straight-line method of amortization and the sum-of-the-years digits method.

The Board has determined to permit institutions to use either the level-yield or straight-line method of amortization. The Board is of the view that the level-yield method will reflect most accurately the effects on an institution's financial condition of a sale or other disposition of low-yielding assets and subsequent use of the proceeds in a more profitable manner. Application of the level-yield method will result in an annual amortization that represents the difference between the interest that would have been earned from the assets disposed of and that which would be earned if the proceeds were reinvested in new assets with the same remaining contractual life and repayment requirements as the disposed assets. The assumed rate of earnings on the asset acquired by reinvestment of the proceeds should be the rate of return provided the purchaser of the disposed assets. The regulation requires that the yield to the purchaser must be calculated assuming the same remaining life as is being used to amortize the loss. When income tax benefits or deferred acquisition credits reduce the amount amortized, each period's amortization should be ratably adjusted for such amounts.

The table below illustrates the straight-line and level-yield amortization methods. The example assumes that an association sells $100,000 (principal amount) of 25-year mortgages carrying interest rates of nine percent, priced to yield 16 percent to the purchaser until the scheduled maturity of the loans. The sales price of $61,755.12 indicates a loss of $38,244.88, which results in income tax benefits, assuming the institutions's effective tax rate is approximately 30 percent, of $11,474.30. In the example, there are no deferred acquisition credits related to the loans sold. Accordingly, the net amount amortized is $26,770.58 ($38,244.88 minus $11,474.30).

AMORTIZATION SCHEDULE FOR LOSS FROM SALE OF 9 PERCENT COUPON, $100,000 PAR, 25-YEAR MORTGAGE TO YIELD 16 PERCENT-PLUS TAX VALUE

[Yields quoted and prices computed on a yield-to-maturity basis]

Year	Scheduled interest income on 9 percent loans (1)	Scheduled interest income from reinvestment of sales proceeds ($61,755.12) at 16 percent (2)	Level yield amortization disregarding tax benefit (col. 2–col. 1) (3)	Level yield amortization adjusted for tax benefit (col. 3 times 70 percent) (4)	Straight-line amortization of deferred amount (5)
1	$8,954.73	$9,866.49	$911.76	$4,639.21	$1,070.62
2	8,850.07	9,831.36	981.29	686.88	1,070.62
3	8,735.60	9,790.18	1,054.58	738.18	1,070.62
4	8,610.39	9,741.91	1,131.52	792.04	1,070.62
5	8,473.44	9,685.32	1,211.88	848.29	1,070.62
6	8,323.63	9,618.98	1,295.35	906.72	1,070.62
7	8,159.78	9,541.21	1,381.43	966.97	1,070.62
8	7,980.55	9,450.05	1,469.50	1,028.65	1,070.62
9	7,784.51	9,343.18	1,558.67	1,091.07	1,070.62
10	7,570.09	9,217.90	1,647.81	1,153.47	1,070.62
11	7,335.54	9,071.04	1,735.50	1,214.85	1,070.62
12	7,079.00	8,898.89	1,819.89	1,273.92	1,070.62
13	6,798.39	8,697.07	1,898.68	1,329.08	1,070.62
14	6,491.46	8,460.48	1,969.02	1,378.31	1,070.62
15	6,155.73	8,183.14	2,027.41	1,419.19	1,070.62
16	5,788.51	7,858.03	2,069.52	1,448.66	1,070.62
17	5,386.85	7,476.90	2,090.05	1,463.04	1,070.62
18	4,947.50	7,030.11	2,082.61	1,457.83	1,070.62
19	4,466.94	6,506.36	2,039.42	1,427.59	1,070.62
20	3,941.30	5,892.38	1,951.08	1,365.76	1,070.62
21	3,366.35	5,172.63	1,806.28	1,264.40	1,070.62
22	2,737.47	4,328.89	1,591.42	1,113.99	1,070.62
23	2,049.60	3,339.80	1,290.20	903.14	1,070.62
24	1,297.19	2,180.32	883.13	618.19	1,070.62
25	474.21	821.09	346.88	242.82	1,070.90
Total	151,758.83	190,003.71	38,244.88	26,770.58	26,770.58

Changing Accounting Methods

A number of commenters requested clarification as to when and how institutions should change their method of accounting back to GAAP after having deferred and amortized gains and losses. In addition, several commenters suggested that institutions be permitted, on a year-to-year basis, to determine whether to use GAAP or to defer gains and losses from all dispositions in a particular year.

The Board is of the view that switching back and forth between GAAP and the deferral of gains and losses is a matter that is best left to an institution and its accountants. The final regulation requires institutions to use a single accounting method for all dispositions of mortgages or qualifying securities occurring in a particular fiscal year. The regulation provides that an institution, by resolution of its board of directors at the board's first meeting of the fiscal year, may elect either to defer and amortize gains and losses or to use GAAP, regardless of the accounting treatment previously used. In addition, an institution, by a similar resolution of its board, may elect to return to GAAP for *all* mortgages and debt securities on which the institution is amortizing gains and losses at the time of election. Finally, an institution may elect to use GAAP prospectively, yet continue to amortize gains and losses on mortgages and qualifying securities disposed of in previous fiscal years. However, an institution may not elect to defer and amortize gains and losses on mortgages and qualifying securities the disposition of which originally was accounted for under GAAP.

Effective Date

The final regulation provides that institutions may amortize gains and losses on any disposition of mortgages or qualifying securities occurring in a fiscal year ending on or after the

effective date of the regulation (September 30, 1981). The Board determined not to make the regulation effective for fiscal years ending prior to September 30, 1981, to avoid the possibility that books closed prior to the regulation's effective date would be re-opened. In addition, institutions who have a fiscal year that ends prior to December 31, 1982, must make the election to use deferral accounting prior to January 1, 1982. Institutions having a fiscal year that ends after December 30, 1982, must comply with the requirement that the election be made at the board of directors' first meeting of the fiscal year.

Net Worth and Statutory Reserve Requirements

In connection with its action authorizing the amortization of gains and losses from the disposition of mortgages or qualifying securities, the Board is expanding the similar net worth and statutory reserve exemption (12 CFR 563.13(d)) to include losses due to the sale or other disposition of all mortgages, mortgage-related securities (as defined by 12 CFR 563.17–4(a)(4)) and debt securities not qualifying as liquid assets under 12 CFR 523.10(g). Previously, the exemption had been limited to losses on the sale of mortgages carrying interest rates of seven and one-half percent or less.

As was proposed, the final regulation also eliminates the current ten-percent-of-portfolio limit on mortgages sold, the maximum amount of such loans that may be sold in any one year, the five-year maximum-remaining-maturity requirement for such mortgages, the "sunset" clause withdrawing the exemption with respect to mortgage sales after December 31, 1982, and the five-year period after the sale during which the exemption is effective. The Board believes all of these provisions may unnecessarily hamper institution management in arranging financially-advantageous sales or other dispositions of mortgage assets and debt securities. In addition, the Board is eliminating the requirement that an institution maintain a plan setting forth the benefits the institution expects to obtain through use of the exemption. The Board views the requirement as unnecessary and duplicative of records institutions must maintain pursuant to subparagraph (d)(5) of the regulation.

Some commenters pointed out that, if an institution elects to defer and amortize gains and losses, it has little need for the net worth and statutory reserve exemption provided by § 563.13(d). However, there are a number of institutions that will elect not to defer and amortize gains and losses because such an election would require adjustments to accounting records they prepare under GAAP. For those institutions, the exemption provided by paragraph (d) can be particularly helpful in their efforts to improve the yields of their mortgage and securities portfolios.

The final regulation provides that only those institutions that recognize gains and losses on the disposition of mortgages and qualifying securities pursuant to GAAP may use the exemption provided by paragraph (d) of § 563.13. Thus, institutions that follow GAAP in reporting to the Board may use the exemption, but institutions that, for purposes of reporting to the Board, use the deferral treatment authorized by § 563c.14 may not use the exemption. The Board notes that an institution *may* use the deferral treatment authorized by § 563c.14 for purposes of reporting to the Board, and GAAP for purposes of reporting to the general public. Such an institution may *not* use the exemption provided by paragraph (d) in reporting to the Board. The Board notes that § 563c.14 does not in any way affect any obligations an institution may have to report to the public or others under GAAP.

Republication and Corrective Amendments

On July 24, 1980 (FHLBB Res. No. 80–444; 45 FR 50797 (7/31/80)), November 6, 1980 (FHLBB Res. No. 80–694; 45 FR 76111 (11/18/80)), November 21, 1980 (FHLBB Res. No. 80–729; 45 FR 82154 (12/15/80)), and September 4, 1981 (FHLBB Res. No. 81–516; 46 FR 45593 (9/12/81)), the Board amended various portions of its regulations establishing reserve requirements (12 CFR 561.13, 563.13, 563.14). In none of these actions were §§ 561.13 and 563.13 published in their entirety. To eliminate the potential for confusion the Board has determined to republish the regulations in full.

The Board also is making four corrective amendments to the regulations. First, the word "all" is inserted in subparagraphs (a)(2) and (a)(8) of § 563.13 to make clear that the base to be used for calculation of the statutory reserve requirement is "all insured accounts," as defined in 12 CFR 561.6. This amendment conforms those two subparagraphs to subparagraph (a)(5), which identifies the statutory reserve base correctly. Second, the first sentence of subparagraph (a)(5)(i) of § 563.13 is amended to clarify that the exception from the 20-year requirement applies to institutions that have been insured from 18 to 26 years as of July 31, 1980, the effective date of the applicable regulatory provision. Third, the Board is amending subparagraph (b)(1) to make clear that the net worth requirement should be calculated as of the opening of business of the first day of the year rather than the close of business of the first day. Finally, the Board has determined to delete current paragraph (c), which authorizes the use of mutual capital certificates to meet an institution's reserve requirements, because mutual capital certificates are included in the definition of net worth (12 CFR 561.13).

Final Regulatory Flexibility Analysis

The Board's objective in adopting these amendments is to enable FSLIC-insured institutions to upgrade their mortgage and securities portfolios through the disposition of mortgages and qualifying securities and subsequent reinvestment of the proceeds. The amendments are needed to accomplish this objective because, under existing accounting principles, institutions must recognize gains and losses from the disposition of mortgages and qualifying securities immediately, and thus are inhibited from disposing of low-yielding assets because of the erosion of their financial condition such disposition will appear to cause. The Board believes existing accounting principles fail to reflect the value to an institution of the reinvestment of proceeds from the disposition of assets into higher-yielding or more rate-sensitive assets, and thus authorizes the use of a method of accounting that would not involve such inaccuracy.

The issues raised by public comments on the Board's proposal are summarized elsewhere in this document, as are changes to the proposal due to such comments.

The only significant alternative to its action considered by the Board was easing of the Board's reserve requirements. The Board rejected this alternative because it did not go to the heart of the matter—the ability of institutions to dispose of mortgage assets and qualifying securities, reinvest the proceeds, and accurately reflect the true financial impact of such actions on the institutions' financial statements. In addition, the Board notes that § 403(b) of the National Housing Act (12 U.S.C. 1726(b)) imposes a reserve requirement of at least three percent of all insured accounts. Instead, the Board has provided institutions with an optional method of accounting, and has authorized an exemption from the reserve requirements that is related specifically to losses incurred in the sale of mortgages and qualifying securities.

Copies of this document may be obtained through the Board's Public

Information Officer, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

The Board finds that delay of the effective date of this regulatory action for 30 days after publication pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because (1) it relieves restriction, and (2) it is in the public interest that the regulation be effective immediately so that institutions can elect the optional accounting treatment for mortgages and qualifying securities disposed of in 1981.

Accordingly, the Board hereby amends Parts 563 and 563c, and republishes in their entirety §§ 561.13 and 563.13, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations,* as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 561—DEFINITIONS

1. Republish § 561.13 to reflect changes published after Jan. 1, 1981 up to and including Sept. 12, 1981, as follows:

§ 561.13 Net worth.

The term "net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, permanent stock, mutual capital certificates (issued pursuant to § 563.7–4 of this Subchapter), securities which constitute permanent equity capital in accordance with generally accepted accounting principles (if approved by the Corporation), and any other nonwithdrawable accounts of an insured institution, except that (a) capital stock may be included as net worth if it would otherwise qualify as permanent stock but for either a provision permitting redemption in the event of a merger, consolidation or reorganization approved by the Corporation where the issuing institution is not the survivor, or a provision permitting redemption where the funds for redemption are raised by the issuance of permanent stock, and (b) the aggregate amount of all outstanding and proposed mutual capital certificates which include a redemption provision permitted under § 563.7–4(l)(2)(v)(*a*) shall not exceed 20 percent of the issuing institution's net worth. For purposes of satisfying the annual closing net worth requirement of § 563.13(b) of this Subchapter, there may be included as net worth, up to a limit of 20 percent of such net worth requirement, the principal amount of any subordinated debt securities (the amount of which shall be calculated as provided in § 563.8 of this Subchapter) issued upon written approval by the Corporation of an application submitted pursuant to § 563.8–1 of this Subchapter, as long as the remaining period to maturity (or time of any required sinking fund or other prepayment or reserve allocation, with respect to the amount of such prepayment or reserve) is not less than one year. For purposes of satisfying any net worth requirement of the Corporation other than the annual closing net worth requirement of § 563.13(b), there may be included as net worth, to the extent explicitly authorized in writing by the Corporation, the principal amount of any subordinated debt securities issued pursuant to § 563.8–1 or otherwise with the specific prior written approval of the Corporation.

PART 563—OPERATIONS

2. Amend § 563.13 by amending paragraphs (a) and (b), removing paragraph (c), redesignating paragraphs (d), (e) and (f) as paragraphs (c), (d) and (e), and revising new paragraph (d) to read as follows:

§ 563.13 Reserve accounts.

(a) *Statutory reserve requirement.*

(1) This reserve requirement is established, pursuant to subsection 403(b) of the National Housing Act of 1934, as amended, solely for absorption of bad debts and other losses.

(2) The reserve requirement shall be an amount equal to four percent of all insured account balances on the date of calculation, or the average of such account balances on such date and on one or more of the four immediately preceding annual calculation dates, provided all such dates are consecutive: *provided,* that institutions that have not reached the twentieth anniversary of insurance of accounts shall calculate the reserve requirement by multiplying the above percentage by a fraction of which the numerator is the number of consecutive years of insurance and the denominator is twenty. The calculation period shall be as described in paragraph (b)(1) of this section.

(3) Institutions may count as reserves meeting the reserve requirement those items listed in the definition of net worth, as set forth in § 561.13 of this Subchapter, except that the following items shall be excluded:

(i) subordinated debt securities;

(ii) specific loss reserves; and

(iii) mutual capital certificates which include a redemption provision pursuant to § 563.7–4(l)(2)(v)(*a*) to the extent the amount of such certificates included in the institution's net worth in accordance with § 561.13 exceeds 20 percent of the statutory reserve requirement.

(4) Institutions shall maintain until the next annual closing date reserves at least equal to the dollar amount required at the last closing date.

(5)(i) Each institution shall, at any one annual closing date not later than the twentieth anniversary of insurance of accounts, have reserves equal to four percent of all insured accounts on such date except that institutions that have been insured from 18 to fewer than 26 years as of July 31, 1980, shall meet this requirement within 26 years of the date of insurance. (ii) Institutions may apply to the Corporation for extension of the time period, up to a maximum of the thirtieth anniversary, on the grounds that such action is necessary for the institution to meet mortgage needs. The Principal Supervisory Agent of the institution's Federal Home Loan Bank district is hereby delegated authority to approve such applications upon a determination that the institution has the opportunity and willingness to make additional mortgage loans and provided that the Agent does not take supervisory objection to the probable effect of the extension on the institution's safe and sound operating condition. If approval is denied, the application shall be forwarded for review and final decision by the Corporation.

(6) Items previously credited to the predecessor Federal Insurance Reserve Account shall be designated "restricted retained earnings" in the list of items comprising the net worth account, and shall be used only for absorption of losses. Items earmarked or otherwise designated but not credited to that Account may be designated as restricted retained earnings.

(7) Payment of dividends to insured members must be made in accordance with § 563.14 of this Part.

(8) The term "all insured accounts" as used in this paragraph has the meaning prescribed in § 561.6 of this Subchapter.

(b) *Net worth requirement.*

(1) *Calculation period.* The annual net worth requirement, as set forth in paragraph (b)(2) of this section, shall be established as of the opening of business of the first day of each fiscal year and shall be met on the annual closing date of the year; *Provided,* That institutions shall change to the beginning-of-year calculation by January 1, 1983, or sooner, but that if such change is made prior to that date, there may be no reversion to the end-of-year calculation.

(2) *Minimum required amount.* On the annual closing date of the twentieth anniversary of insurance of accounts

and on each annual closing date thereafter, an insured institution shall have net worth at least equal to the sum of (i) four percent of the amount on the date specified in paragraph (b)(1) of this section or of the average amount on such date and on the corresponding date(s) of one or more of the four immediately preceding fiscal years (provided all such dates are consecutive) of all liabilities (*i.e.*, total assets minus net worth) of the institution, plus (ii) an amount equal to 20 percent of the institution's scheduled items. Commencing with the annual closing date after the fiscal year in which a certificate of insurance is issued, each insured institution that has not reached the twentieth anniversary of insurance of accounts shall have a net worth at least equal to the sum of the amount required by (i) above multiplied by a fraction of which the numerator is the number of consecutive years of insurance of accounts and the denominator is twenty, plus an amount equal to 20 percent of the institution's scheduled items.

(3) *Maintenance of minimum level.* Institutions shall maintain until the next annual closing date net worth at least equal to the dollar amount required at the last closing date.

(4) *Qualifying balance deduction.* The amount of the minimum net worth requirement imposed by paragraph (b)(2) of this section will be reduced by three cents for each dollar of "qualifying balances" held by the institution in an amount not exceeding ten percent of the amount of net worth that would otherwise be required by paragraph (b)(2). "Qualifying balances," as used in this paragraph, means (i) interest-bearing liquid assets, as described in § 523.10 of this Chapter (including accrued interest on unpledged assets that qualify as liquid assets within that definition or that would so qualify except for their maturities), provided that they will mature within one year, (ii) up to one-half of all mortgages on which the interest rate may fluctuate, and (iii) fixed-rate, liability sources of funds (including outside borrowings and Federal Home Loan Bank advances but excluding certificate accounts permitting withdrawal of account funds prior to maturity) that have a remaining term to maturity of more than five years.

(c) *Failure to meet statutory reserve or net worth requirements.* If an insured institution fails to meet the statutory reserve requirement set forth in paragraph (a) of this section or the net worth requirement set forth in paragraph (b) of this section, the Corporation may, whether through enforcement proceedings or otherwise, require such institution to take one or more of the following corrective actions:

(1) Increase the amount of its net worth to a specified level or levels;

(2) Convene a meeting or meetings of its board of directors with the Director, Office of Examinations and Supervision, or his designee, for the purpose of accomplishing the objectives of this section;

(3) Reduce the rate of earnings that may be paid on savings accounts;

(4) Limit the receipt of deposits to those made to existing accounts;

(5) Cease or limit the issuance of new accounts of any or all classes or categories, except in exchange for existing accounts;

(6) Cease or limit lending or the making of a particular type or category of loan;

(7) Cease or limit the purchase of loans or the making of specified other investments;

(8) Limit operational expenditures to specified levels;

(9) Increase liquid assets and maintain such increased liquidity at specified levels; or

(10) Take such other action or actions as the Corporation may deem necessary or appropriate for the protection of the Corporation, the insured institution, or depositors or investors in the insured institution.

(d) *Exemption relating to the sale or other disposition of mortgages, mortgage-related securities and certain debt securities.* An institution shall not be required to meet the minimum net-worth requirement set out in paragraph (b)(2) of this section or the statutory-reserve requirement set out in paragraph (a)(2) of this section, to the following extent and subject to the following conditions:

(1) failure to meet the minimum net-worth or reserve requirements shall result solely from losses recognized (net of related income taxes computed in accordance with generally accepted accounting principles), pursuant to generally accepted accounting principles, from the sale or other disposition of mortgage loans, mortgage-related securities (as defined in § 563.17–4(a)(4) of this Subchapter), and debt securities that do not qualify as liquid assets under § 523.10(g) of this Chapter;

(2) the institution intends to use the proceeds of such sales or other dispositions so as to improve its future profitability and/or to reduce its interest-rate risk;

(3) the authority granted by this paragraph (d) shall not be used to reduce the institution's statutory reserve to less than 3 percent;

(4) the exemption shall be effective for no more than the average of the remaining terms to maturity of the mortgage loans and qualifying debt securities sold or otherwise disposed of; and

(5) the institution shall maintain complete records of all transactions undertaken pursuant to this paragraph.

(e) *Charging of losses to statutory reserve.* Losses charged to the statutory reserve under paragraph (a) of this section shall exhaust all other net worth accounts in the statutory reserve before constituting a charge against mutual capital certificates.

PART 563c—ACCOUNTING REQUIREMENTS

Subpart B—Other Accounting Requirements

3. Add new § 563c.14, to read as follows:

§ 563c.14 Accounting for gains and losses on the sale or other disposition of mortgage, mortgage-related securities loans and certain debt securities.

(a) *General.* An institution, by resolution of its board of directors at the board's first meeting of the fiscal year, may elect to defer and amortize all gains and losses (net of related income taxes computed in accordance with generally accepted accounting principles) on any sale or other disposition, occurring in that fiscal year, of mortgage loans, mortgage-related securities (as defined in § 563.17–4(a)(4) of this Subchapter), and debt securities that do not qualify as liquid assets under § 523.10(g) of this Chapter because of their maturities or that have remaining terms to maturity of at least five years. Using the same procedure, an institution may revoke any prior election(s) to amortize gains and losses on the disposition of such assets.

(b) *Amortization.* An institution making this election shall:

(1) demonstrate an intent to use the sale proceeds so as to improve the institution's future profitability and/or reduce interest-rate risk;

(2) if it is a state-chartered institution, exercise this election only if its state supervisory authority has provided the Corporation either specific or blanket concurrence for state law purposes in the use of this accounting treatment; and

(3) account for such gains and losses as follows:

(i) such gains and losses (net of related income taxes computed in accordance with generally accepted accounting principles) shall be carried in

a separate account and shall be readily identifiable in the institution's statement of condition;

(ii) such gains or losses shall be amortized by the straight-line method as described in § 563.23–1(g)(10)(i) of this Subchapter, or by the level-yield method, as described in § 563.23–1(g)(10)(iii), over a period not to exceed the average of the remaining terms to maturity of the disposed mortgage loans or debt securities, with the yield calculated to reflect the length of the amortization period.

(c) For purposes of this section, "disposition" includes, but is not limited to, (1) prepayment at a discount of an institution's mortgage loans by existing borrowers, (2) sales of mortgage loans and participation interests therein, mortgage-related securities, and qualifying debt securities, and (3) exchanges of assets eligible for disposition under this section.

(d) The accounting treatment authorized by this section may be used only for mortgages and qualifying securities sold or otherwise disposed of during fiscal years ending on or after September 30, 1981. The board of directors of any institution that has a fiscal year ending prior to December 31, 1982, must make the election authorized by paragraph (a) prior to January 1, 1982.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR 1943–48 Comp., p. 1071)

Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 81–29481 Filed 10–8–81; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 379

Revision of Regulations to Require a Validated License for Export of Technical Data Related to Infrared Imaging Equipment to all Destinations Except Canada

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule and request for comments.

SUMMARY: This rule amends the Regulations to prohibit the export of technical data related to infrared imaging equipment under General License *GTDR*. This action results from a previous decision by the U.S. Department of State, Office of Munitions Control (OMC), to transfer licensing jurisdiction for such equipment and technical data to the U.S. Department of Commerce, Office of Export Administration (OEA) to the same degree as previously controlled by OMC. This Department has determined that technical data relating to infrared imaging equipment has the potential for significant military application that could prove detrimental to the national security of the United States. Accordingly, validated license controls are imposed on exports of this technology to all destinations except Canada. This permits a case-by-case review by the Department to determine the significance of each export to the national security of the United States. This rule also clarifies the technical data regulations to show that data relating to *reciprocating* internal combustion engines are exportable under General License *GTDR*.

DATES: This rule becomes effective on October 9, 1981, but may be further revised in light of any comments received. Comments must be received by the Department before noon, December 8, 1981.

ADDRESSES: Written comments (five copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, Washington, D.C. 20044.

The public record concerning these regulations may be inspected at the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Oral communications: Oral communications or requests for further information concerning the rule should be directed to: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Telephone: (202) 377–4811.

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. This regulation is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981).

This rule will not have a significant economic impact on a substantial number of small business entities because it is only transferring jurisdiction over a commodity from one agency to another. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in the interim form and comments will be considered in developing final regulations.

The period for submission of comments will close at noon, December 8, 1981. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the close of the comment period will be considered if possible, their consideration cannot be assured. Public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in any further revision to the regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202)–377–3031.

PART 379—EXPORT ADMINISTRATION REGULATIONS

Accordingly, § 379.4(d) of the *Export Administration Regulations* (15 CFR Part 368 *et seq.*) is amended as follows:

Section 379.4(d)(1) and (d)(8) are revised, (d)(9) is redesignated as (d)(10), and a new paragraph (d)(9) is added, to read as follows:

§ 379.4 General license GTDR: Technical data under restriction.

* * * * *

(d) * * *

(1) Civil aircraft, civil aircraft equipment, parts, accessories, or components, except laminated or tempered safety glass for aircraft; hydraulic motors; reciprocating internal combustion engines; air-conditioning systems; heat exchangers and oil and liquid coolers; pumps, air compressors, fans, and blowers; fire extinguishing systems; electric motors and motor controls; electrical apparatus for making, breaking, or protecting electrical circuits; ignition harness and cable sets; electrical starting and ignition equipment; meters and instruments; alarm, warning, and signaling instruments; constant speed propellers, fixed pitch and ground-adjustable propellers for non-military aircraft, and rotors and rotor blades for non-powered rotorcraft, landing lights and other lighting fixtures; apparatus, equipment, and components for oxygen systems; mechanical tachometers, and other aircraft instruments n.e.s. included in the Commodity Control List under No. 6599;

* * * * *

(8) Airborne detection and tracking equipment using infrared radiation;

(9) Infrared imagining equipment; and

(10) Any other commodity under the export control jurisdiction of the Office of Export Administration, if such commodity is not covered by an entry on the Commodity Control List.

(Secs. 5, 15 and 21, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; E.O. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3, (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41-1, (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

Dated: September 2, 1981.

William V. Skidmore,

Director, Office of Export Administration.

[FR Doc. 81-29462 Filed 10-8-81; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 8 and 141

[Docket No. RM81-36]

Licensed Hydropower Development Recreation Report: FERC Form No. 80; Revision

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) revises Form No. 80, "Licensed Hydropower Development Recreation Report" and the related regulations at 18 CFR 8.11 and 141.14. Form No. 80 collects information on a biennial basis concerning recreational opportunities and facilities at developments within hydroelectric projects licensed by the Commission.

The elements in the form are consolidated, simplified, and clarified and the form is reduced in size by approximately 60 percent. The revisions to Form No. 80 are part of the Commission's ongoing program to eliminate reporting requirements that are not necessary to the Commission's performance of its regulatory responsibilities and to reduce the burden of filing required information with the Commission.

DATE: The revisions are effective October 29, 1981.

ADDRESSES: Copies of the Form No. 80 are available at the Federal Energy Regulatory Commission, Office of Public Information, 825 North Capitol Street, NE., Room 1000, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: John O. Young, Office of Electric Power Regulation, 825 North Capitol Street NE., Room 308RB, Washington, D.C. 20426, (202) 376-4312.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) revises the Form No. 80,[1] "Licensed Hydropower Development Recreation Report") and the related regulations at 18 CFR 8.11 and 141.14. The revisions are part of the Commission's ongoing program to review and evaluate all of its reporting requirements and to eliminate those requirements which pose unnecessary reporting burdens and are unnecessary to the performance of the Commission's regulatory responsibilities. As a result of this rulemaking, the number of data elements in the form are reduced by approximately 60 percent. This should result in a net decrease of 75 percent in the time it takes for respondents to collect, record and submit data for each filing of the form. Thus, only 10 hours should be needed to complete the form, instead of the 40 hours previously needed.

II. Description and Uses of Form No. 80

Form No. 80 gathers information about recreational facilities and recreational opportunities at developments within hydroelectric projects[2] licensed by the Commission under the Federal Power Act.[3] These data are used to determine whether the public's need for water-based recreational facilities is being met by the licensees of such projects and whether additional efforts should be made to meet current and future recreational needs.

The Form No. 80 is currently filed by about 160 hydroelectric project licensees. The form is required to be submitted every other year and it collects data only for the calendar year immediately preceding the year in which it is filed.

III. Summary of Proposed Changes

The Notice of Proposed Rulemaking to revise Form No. 80 (notice) was issued on July 2, 1981 (46 FR 35298, July 8, 1981). By that notice, the Commission proposed to completely redesign Form No. 80 to consolidate and clarify necessary data requirements, eliminate unnecessary elements and update certain of the reporting requirements. The notice also stated that the instructions would be revised to provide that only the 1981 filing or an initial (first-time) filing of the revised Form No. 80 would have to be a complete filing; after 1981, the form would be preprinted by the Commission so that respondents would have only to "change, delete or add to" the previously submitted information as necessary.

With respect to the Commission's regulations that require the filing of

[1] Form No. 80 (Attachments A and B) is not being printed by the Federal Register. Copies of the Form No. 80, including all instructions to the form are available at the Commission's Office of Public Information, 825 North Capitol Street, NE., Room 1000, Washington, D.C. 20426.

[2] For purposes of Form No. 80, each development within a project contains a reservoir, or a generating station and its specifically-related waterways.

[3] According to the provisions of the Department of Energy Organization Act (DOE Act), the Commission is authorized to issue licenses for hydropower projects under sections 4 and 15 of the Federal Power Act (16 U.S.C. 797, 808). Also according to the DOE Act, the Commission collects Form No. 80 data under section 304 of the Federal Power Act (16 U.S.C. 825c).

Form No. 80, the most significant revisions in the notice were proposed for § 8.11. That section would reflect the changes to the instructions whereby project licensees would complete the Form No. 80 in its entirety only for the 1981 filing or for initial filings of the form. Subsequent filings would have to be completed only to the extent needed to update previously-submitted data. Another revision was proposed for § 8.11 to reflect changes in other portions of the Commission's regulations pursuant to requirements in the Public Utility Regulatory Policies Act.[4]

IV. Summary and Analysis of Comments

In response to the Notice of Proposed Rulemaking, the Commission received comments from six electric utility companies and one association representing the majority of investor-owned electric utility companies.[5] All of the comments supported the Commission's efforts to reduce the amount of data collected in the form and decrease the amount of preparation time needed to complete Form No. 80. One commenter stated that the proposed revisions to delete approximately 60 percent of the data elements from the current form should result in a 75 percent decrease in the time required to complete the form. Another commenter noted that the reduction and simplification of the reporting requirements in the Form No. 80 would also benefit its customers through cost savings.

Two commenters offered specific suggestions to further revise the Form No. 80 requirements. Both of these commenters were concerned about the proposed change in the filing date for the form from November 30 of each odd-numbered year to February 28 of each odd-numbered year.[6] Because the form reports information for the previous calendar year, only two months would be available to collect and synthesize this information before it had to be filed. The commenters argued that this would present certain difficulties for respondent companies, including the burden of compiling the data for the Form No. 80 at the same time that other reports must be prepared for the Commission and for other agencies. One of the commenters suggested an April 1st deadline, as an alternative. The other commenter preferred the current November 30th filing date, but added that May 31st may also be appropriate.

In response to these comments, the Commission has changed the filing date for submitting the Form No. 80 to April 1st of each odd-numbered year. This new date will be effective for reports due subsequent to the 1981 filing (*i.e.*, 1983, 1985, etc.). The Commission believes that the additional month will provide licensees ample time to accumulate, record and submit the data on the form, and will not adversely affect the timeliness of the information reported for the previous calendar year. Furthermore, the reductions in the information required in the Form No. 80 as a result of this rulemaking and the preprinting of the form by the Commission will greatly reduce the amount of time needed to prepare the form.

Although it was not specifically discussed in the comments, the Commission further revises the proposed requirement for filing 1981 reports. Instead of requiring that all licensees must complete the Form No. 80 in its entirety for the 1981 filing, the Commission will send to licensees who currently file the form, copies of a preprinted version of the last report which they submitted to the Commission (1979); this information will already be converted to the format of the revised Form No. 80. These licensees will have only to correct the previously-filed data, as necessary. The preprinted forms should reduce, somewhat, the amount of time needed by respondents to complete the forms for the 1981 filing. As provided in the notice, the Commission will also preprint the forms for filings that are due subsequent to 1981 so that respondents who filed in 1981 will only have to alter the information in the form as necessary, to correct such previously-filed data.

Instead of changing the filing date, one of the commenters said the Commission should provide that, when it is a burden to file the specific data, early filings and estimated data will be accepted, if they are believed to be essentially similar to information that would be obtained at the closing date.

The Commission will accept early filings of the forms (*i.e.*, prior to the due date), if such forms contain an accurate report of the required data. Thus, the reported information may be for a period ending before December 31st of an even-numbered year, so long as that information completely satisfies the requirements in the form. To clarify this point the Commission has amended the *General Information* portion of the form to provide that the report shall contain "information compiled during" an even-numbered calendar year.

The Commission has also amended the *General Instructions* in the form to provide that reasonable estimates of required data will be accepted if actual information is not available at the time of the filing. Such estimated data may include information that tends to vary from report to report, such as the number of annual visits to the development (Item 26) or annual recreational costs for the development (Item 27 (a)). Actual information, however, is required for data that varies little from report to report, such as the number of boat ramps within the development (Item 33—Definition 11) or the existing total acreage or mileage at the development for the facilities identified in the report (Item 39).

One commenter identified certain definitions and instructions that could be further revised or clarified. One such definition was "Code 66—*Hunting Areas*", which is defined as, "[p]ublic areas designated for hunting." The commenter said this definition should be clarified to exclude private lands located within, and adjoining, the project boundaries which are open to hunters because no legal obligation requires the private owners to provide such information to the licensee. For the same reason, the commenter said that Item Nos. 33 through 42 of the instructions, which refer to facilities within and adjacent to the development boundary, should be revised to exclude private recreational facilities within and adjoining these boundaries.

The Commission will require reports of facilities within the development that are operated by entities other than the licensee because the Commission needs information about all of the facilities at a development in the performance of its regulatory functions. Furthermore, the Commission believes that each licensee can require information about hunting areas or other recreational facilities operated by others within the development. The privately-owned facilities, including those that are adjacent to the development, may affect the type and amount of recreational activities within the development. The Commission uses this information to make a reasonable assessment of the recreational needs for the development. The Commission notes, however, that

[4] For a complete discussion of the proposed revisions to Form No. 80, see Part II of the Notice of Proposed Rulemaking.

[5] American Electric Power Service Corporation (AEP), Georgia Power Company, Northeast Utilities (representing the Connecticut Light and Power Company, the Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Northeast Utilities Service Company and Northeast Nuclear Energy Company), Southern California Edison Company, Utah Power and Light Company, the Washington Water Power Company, and Edison Electric Institute (EEI).

[6] The Notice of Proposed Rulemaking required that the initial submissions of the revised Form No. 80 be made by November 30, 1981. Subsequent filings of this biennial report would be required by February 28th of each odd-numbered year.

this information may be estimated if actual data are not available at the time of filing the Form No. 80.

To clarify these provisions, the Commission has revised the definition of "*Hunting Areas*" to read, "Public or private areas open to the general public for the purpose of hunting." Thus, in Items 33–40, each licensee must report all hunting areas which it provides within the development and also in places that are adjacent to the development, and all hunting areas within the development that are operated by others, including private owners. In Items 41–42, the licensee must report those hunting areas that are outside but adjacent to the development and operated by entities other than the licensee, including private owners.

In order to clarify the requirements for reporting all recreational facilities, the Commission has amended the Note that refers to Items 33–40 to provide that, the facilities within the development to which these items apply are "land- and water-based facilities provided by licensees or others, including privately-owned facilities."[7] The Commission has also amended Item 41 to provide that each of the facilities outside of the development is one that "is owned and operated by entities other than the licensee, 'including privately-owned facilities.' " (Emphasis added).

The commenter also recommended clarification of "Code *72—Motels, Hotels and Lodges*", which is defined, in part, as "[o]vernight lodging establishments for transient use in and around the development." According to the comments, a quantitative definition for the phrase, "around the development" is needed so that such establishments can be inventoried. The commenter requested clarification as to whether "around the development" also applied to *"Code 70—Year-Round Homes", "Code 71—Seasonal Cottages"* and *"Code 80—Trailer Parks."*

In response to this comment, the Commission has amended the definition for *Motels, Hotels and Lodges* to read as follows: "Overnight lodging establishments open to the general public for transient use that are within the development (or in the case of Part II, Item 41, that are adjacent to, or within the reasonable vicinity of the development). The category includes, as one unit, each group of rental cabins that are generally rented or used on daily basis. This category does not include *Code 70—Year-Round Homes, Code 71—Seasonal Cottages,* or *Code 80—Trailer Parks."* Under the definition of Motels, Hotels and Lodges, licensees must report the motels, hotels and lodges that are within the development and also those outside of the development that would *reasonably* provide overnight accommodations for recreational visitors to a development, even though such facilities may not necessarily be adjacent to the development. With respect to year-round homes, seasonal cottages or trailer parks, however, the Commission only requires information about licensee-operated facilities or facilities operated by others that are either within, or adjacent to, the development.

The Commission has also clarified *Code 20—Trails* to eliminate the phrase "in or around a development." Such trails are either within or adjacent to a development (or partially within and partially adjacent to a development); thus, the instructions at Items 33–40 and 41–42 elicit the necessary information without the "in and around" qualification.

The commenter criticized Item 27(a), which requires a report of recreational costs for the previous year because that instruction did not specify whether the costs are maintenance costs only or include costs associated with any development since the last report. The Commission has revised Item 27(a) to require the report of recreational operation and maintenance costs.

The commenter also recommended that Items 27(a), 27(b), 28, 29 and 30 of the instructions be clarified to produce a consistent data base.[8] The commenter said that those items should be revised to exclude information about the costs, revenues and future developments of private developers who operate within a project but operate independently of a licensee. This information is not provided to the licensee, according to the comment.

The Commission has clarified the instructions at Items 27 (a) and (b) to require information only with respect to the licensee's costs and revenues because the Commission needs such information only as it pertains to the licensee's facilities. Furthermore, licensees could not be expected to obtain such information from private entities operating within the development. However, the Commission will require information in Items 28, 29 and 30 concerning the development of recreational facilities by private entities within the development. The Commission has clarified the instructions in Item 28 to provide that reports for Items 28 and 29 shall include "privately-owned facilities." The Commission requires this information from licensees to properly assess the growth possibilities at a development. Also, licensees can require such data from any private entity operating in the development. In addition, the Commission has clarified Item 30 to require the name of any cooperating agency or entity "assisting in the development of" such planned recreational facilities.

The phrase "within or contiguous to the development (project) boundary" has been deleted from Item 33[9] because it duplicates the requirement in the Note preceding Item 33. The Commission has also added the following provision to Item 33: "Do Not Use Codes 70, 71, 72, 73, 80 and 81." These codes are excluded from Items 33 through 40 because they are reported in adequate detail elsewhere in the form and need not be duplicated here.

V. Summary of Changes To Form No. 80 Requirements

The Commission adopts the revisions to Form No. 80 and to the regulations at §§ 8.11 and 141.14 that were proposed in the Notice of Proposed Rulemaking. The Commission also makes further changes to the form and the regulations at § 8.11 as a result of the comments received in response to the notice and to further clarify the form or its instructions.

The more important of these further changes to the form are as follows:

(1) The *General Information* section has been amended to provide that the filing date for forms submitted subsequent to 1981 is April 1st of each odd-numbered year.

(2) The *General Information* section has been changed to provide that reports must include "information compiled during" an even-numbered year.

(3) The *General Information* section has also been amended to provide that only initial (first-time) submissions of the form shall be completed in their entirety. All other forms, including those due on November 30, 1981, will be preprinted by the Commission, containing the data that were previously-filed. The preprinted forms

[7] The Commission has also corrected this note to specify that the licensee-provided facilities for which data are required include those that are "adjacent" to the development.

[8] According to the notice, Item 27(b) requires information on the revenues and charges from a previous year, Items 28 and 29 require data on facilities to be developed in the next two years and Item 30 requires the name of any cooperating agency or entity providing financial assistance for the development of the facilities identified in Items 28 and 29.

[9] According to the notice, Item 33 requires the identification of each recreational facility within or contiguous to the development and all facilities planned for the future.

shall be changed, deleted or added to only as necessary to correct such previously-filed data.

(4) The *General Instructions* have been revised to provide that, when actual data are not available at the time of a filing, reasonable estimates of such data may be substituted.

(5) The words, "in and around the development" have been eliminated from *Code 20—Trails* of the Recreational Facility Definitions.

(6) *Code 66—Hunting Areas* has been revised to read, "Public or private areas open to the general public for the purpose of hunting."

(7) *Code 72—Motels, Hotels and Lodges* has been revised to read, "Overnight lodging establishments open to the general public for transient use that are within the development (or in the case of Part II, Item 41, that are adjacent to, or within the reasonable vicinity of, the development). This category includes, as one unit, each group of rental cabins that are generally rented or used on a daily basis. This category does not include *Code 70—Year-Round Homes, Code 71—Seasonal Cottages,* or *Code 80—Trailer Parks."*

(8) Items 27 (a) and (b) in Part I of the *Specific Instructions* have been revised to require information about only the licensee's recreational costs and recreational revenues, respectively.

(9) Item 28 in Part I of the *Specific Instructions* has been amended to provide that the facilities reported in Items 28 and 29 include "privately-owned facilities."

(10) Item 30 is clarified to require the name of any cooperating agency or entity "assisting in the development of" the planned recreational facilities.

(11) The Note preceding Item 33 in Part II of the *Specific Instructions* has been amended to require that the facilities within the development are "land- and water-based facilities provided by licensees and others, including privately-owned facilities." The reference in the Note to licensee-provided facilities outside of the development has been corrected. Location of such facilities is now described as "adjacent to the development (project) boundary."

(12) Item 33 is revised as follows: The phrase "within or adjacent to the development (project) boundary" is eliminated. The following sentence has also been added: "DO NOT USE Codes 70, 71, 72, 73, 80 and 81."

(13) Item 41 in Part II of the *Specific Instructions* has been amended to provide that the recreational facilities for which reports are required in Items 41 and 42 include "privately-owned facilities."

The more important of the further changes to the regulations at § 8.11 are as follows:

(1) Clause (a)(1) has been amended to provide that copies of the form shall be submitted to Commission regional offices, pursuant to the requirements in the form.

(2) In clause (a)(2) the filing date for forms submitted subsequent to 1981 has been changed to April 1st of each odd-numbered year.

(3) Clauses (a)(3) and (4) have been changed to provide that only initial filings of the Form No. 80 must be completed in their entirety. All other filings due in 1981 and subsequently shall be completed only to the extent necessary to correct previously-filed data.

VI. Final Regulatory Flexibility Analysis

This final regulatory flexibility analysis is prepared pursuant to the Regulatory Flexibility Act (RFA),[10] which requires certain statements, descriptions, and analyses of final rules that will have "a significant economic impact on a substantial number of small entities". The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules which may significantly affect small business and small government entities, and to encourage cost-benefit analyses of these rules as well as the agency's consideration of alternative approaches which may better resolve any unnecessarily costly or adverse effects on these small entities.

The Commission prepared an initial regulatory flexibility analysis according to the requirements of section 603 of the RFA. That initial analysis was published as part of the Notice of Proposed Rulemaking in this docket.[11] In Parts I and II of the preamble of this final rule, the Commission has presented its reasons of its need for and its objectives of the rulemaking, in accordance with the requirements of section 604(a)(1) of the RFA. In sum, the final rule reduces substantially the reporting burden on *all* respondents (*i.e.,* both small and large entities) who file reports pursuant to § 8.11 of the Commission's regulations.

The final rule redesigns, simplifies, and updates the data in Form No. 80, the "Licensed Hydropower Development Recreation Report", reduces the number of data elements therein by approximately 60 percent and provides for preprinting of the forms. The changes reduce by about 75 percent the time required by each of the respondents to collect and record the necessary data; thus, instead of the approximately 40 hours formerly needed to complete each Form No. 80, it will now take only about 10 hours per form. This time savings should result in a significant economic savings to the respondents.

Section 604(a)(2) of the RFA requires a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis and the agency's response to those comments. The Commission is not including such a summary here because none of the comments received in response to the notice raised any issues with respect to the initial analysis.

Section 604(a)(3) of the RFA requires a description of each of the significant alternatives to the rule designed to minimize any adverse economic impact on small entities which were considered by the agency, and reasons for rejecting each alternative. From the viewpoint of regulatory flexibility, the significant alternatives to the rulemaking were to leave the existing provisions intact or to further reduce the reporting requirement.

The first alternative (leave the existing provisons intact) contradicts the objectives of the RFA. The primary purpose of this rulemaking is to reduce the reporting burdens from the current regulations. This can be accomplished by positive Commission action, such as that proposed in this docket.

With respect to the second alternative (further reduce the reporting requirements), this form has undergone extensive review over a period of five or six years. The data elements have been pared to an essential minimum in light of the intent of the Federal Power Act and the Commission's regulatory responsibilities specified in that Act. Therefore, the Commission cannot justify a further reduction in the data requirements for small entities and perform an adequate oversight of such licensees.

As a third alternative for this rulemaking, the Commission could have amended § 8.11(c) of the regulations. Paragraph (c) provides an exemption from the filing of Form No. 80 for licensees of projects having no recreational use. The Commission could have provided an exemption for licensees of projects wherein the recreational usage is below a predetermined amount (*e.g.,* less than 1000 visits per year). The Commission believes that this is not a reasonable alternative because it would contradict the statutory requirement in section 10(a) of the Federal Power Act which provides that each project licensed by the Commission "* * * will be best

[10] 5 U.S.C. 601–612.

[11] *See* Part III of the Notice of Proposed Rulemaking.

adapted to a comprehensive plan for improving and developing a waterway or waterways, for * * * beneficial public uses, including recreational purposes."

VII. Effective Date

The changes in this final rule will be effective on October 29, 1981, for reports to be filed on or before November 30, 1981 and for reports filed thereafter.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142; Federal Power Act, 16 U.S.C. 792–828c; Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2635)

In consideration of the foregoing, the Commission amends Form No. 80 as set forth in Attachments A and B, and Parts 8 and 141 of Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 81—RECREATIONAL OPPORTUNITIES AND DEVELOPMENT AT LICENSED PROJECTS

1. Section 8.11 is revised to read as follows:

§ 8.11 Information Respecting Use and Development of Public Recreational Opportunities.

(a) *Applicability.* (1) Except as provided in paragraph (b) of this section, each licensee of a project under major or minor Commission license shall prepare with respect to each development within such project an original and two conformed copies of FERC Form No. 80 prescribed by § 141.14 of this chapter and submit them to a Commission Regional Office pursuant to the requirements in the General Information portion of the form.

(2) The Form No. 80 is due on November 30, 1981, for data compiled during the calendar year ending December 31, 1980. Thereafter, this report is due on April 1 of each odd-numbered year for data compiled during the previous calendar year.

(3) The Form No. 80 shall be completed in its entirety for each initial filing of the report. Filings of Form No. 80 made subsequent to an initial filing of the report shall be completed only to the extent necessary to change, delete or add to the information supplied in a previously-filed form.

(4) A copy of the Form No. 80 should be retained by the respondent licensee in its file.

(b) *Initial Form No. 80 Filings.* Each licensee of an unconstructed project shall file an initial Form No. 80 after such project has been in operation for a full calendar year prior to the filing deadline. Each licensee of an existing (constructed) project shall file an initial Form No. 80 after such project has been licensed for a full calendar year prior to the filing deadline.

(c) *Exemptions.* A licensee who has filed a Form No. 80 may request an exemption from any further filing of the form for any development that has no existing or potential recreational use by submitting a statement not later than 6 months prior to the due date for the next filing, stating that Form No. 80 has been filed previously for such development and setting out the basis for believing that the development has no existing or potential recreational use.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

2. Section 141.14 is revised to read as follows:

§ 141.14 Form No. 80, Licensed Hydropower Development Recreation Report.

The form of the report, Licensed Hydropower Development Recreation Report, designated as FERC Form No. 80,[1] for use by licensees in reporting information with respect to existing and potential recreational use at developments within projects under major and minor license, is approved and prescribed for use as provided in § 8.11 of this chapter.

[FR Doc. 81-29480 Filed 10-8-81; 8:45 am]

BILLING CODE 6712-02-M

[1] Form filed as a part of original document.

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18 CFR Part 271

[Docket No. RM79-76 (Pennsylvania—1); (Order No. 178)]

High-Cost Gas Produced From Tight Formations; Final Rule

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

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

EFFECTIVE DATE: This rule is effective September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8307, or John Roy Johnson, (202) 357–8731.

Issued September 30, 1981.

SUPPLEMENTARY INFORMATION:

The Commission hereby amends § 271.703(d) of its regulations to include the Medina Group in Pennsylvania as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued June 29, 1981 (46 FR 35119, July 7, 1981) [1] based on a recommendation by the Pennsylvania Department of Environmental Resources, Bureau of Topographic and Geologic Survey, (Pennsylvania) in accordance with § 271.703(c) that the Medina Group be designated as a tight formation.

Evidence submitted by Pennsylvania supports the assertion that the Medina Group meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Pennsylvania recommendation.

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

(Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. § 3301–3342; Administrative Procedure Act, 5 U.S.C. § 553.)

For the reasons stated herein, Part 271 of Subchapter H, Title 18, *Code of Federal Regulations*, is amended as set forth below, effective September 30, 1981.

By the Commission.

Kenneth F. Plumb,

Secretary.

[1] Comments were invited and several comments supporting the recommendation were received. No party requested a public hearing and no hearing was held.

271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (55) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(55) *The Medina Group in Pennsylvania.* RM79-76 (Pennsylvania—1).

(i) *Delineation of formation.* The Medina Group is found in Erie, Crawford, Mercer, Venango and Warren Counties, Pennsylvania.

(ii) *Depth.* The Medina Group is defined as that formation occurring within the Lower Silurian System between the Reynales Dolomite and the Queenston Shale, found at an approximate depth of 3,000 feet in the updip area, dipping to the southeast at approximately 50 feet per mile.

[FR Doc. 81-29477 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

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18 CFR Part 282

[Docket No. RM80-18; Order No. 177]

Incremental Pricing; Final Rule

Issued: September 24, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations on incremental pricing under Title II of the Natural Gas Policy Act (NGPA) to provide an exemption for natural gas used as a boiler fuel in the manufacture of fertilizer, agricultural chemicals, animal feed and food.

The final rule is subject to 30-day Congressional review before becoming effective.

EFFECTIVE DATE: Final rule becomes effective following 30 days of continuous session of Congress unless either House adopts a resolution of disapproval within that 30-day period.

FOR FURTHER INFORMATION CONTACT: Barbara Christin or Michael Kessler, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) is amending its regulations on incremental pricing (18 C.F.R. Part 282) under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. §§ 3301-3432). Specifically, it is revising § 282.203 and adding new § 282.210 to exempt from incremental pricing natural gas used as boiler fuel in the manufacture of fertilizer, agricultural chemicals, animal feed and food, until such time as the Commission determines that there is an alternative fuel that is economically practicable and reasonably available.

This rule is issued pursuant to section 206(d) of the NGPA. Section 206(d) authorizes the Commission to exempt categories of users from the incremental pricing program established by Title II of the NGPA. Section 206(d)(1) authorizes the Commission "by rule or by order, [to] provide for exemption, *in whole or in part, of any other incrementally-priced industrial facility or category thereof.*" (Emphasis added.) Section 206(d)(2) provides that when the Commission promulgates an exemption by rule under section 206(d)(1), the exemption does not become effective until the day following a thirty-day Congressional review period unless either House of Congress adopts a resolution of disapproval.

I. Background

On August 14, 1981, the Commission issued a Notice of Proposed Rulemaking regarding the Treatment Under the Incremental Pricing Program of Natural Gas Used in the Manufacturing Process for Fertilize, Agricultural Chemicals, Animal Feed, or Food (Notice). 46 FR 41748 (August 17, 1981). The Notice fully describes the statutory framework and procedural history surrounding this rulemaking. In response to the Notice, the Commission received 35 comments, all of which have been considered before promulgation of this final rule.[1]

In considering the above-described exemption, the Commission recognized that agriculture was singled out for favored treatment in the NGPA. The agricultural use of natural gas was the only specific industrial use of gas expressly exempted from incremental pricing under Title II and given a preferred curtailment priority in Title IV. The "agricultural use" of natural gas was exempted from incremental pricing in section 206(b) of the NGPA. Section 206(b)(3) defines "agricultural use" as follows:

> (b)(3) Agricultural Use Defined.—For purposes of this subsection, the term "agricultural use," when used with respect to natural gas, means the use of natural gas to the extent such use is—
>
> (A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, or crop drying; or
>
> (B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food.

This exemption is subject to the alternative fuel test defined in section 206(b)(2) of the NGPA. Section 206(b)(2) of the NGPA requires the Commission to promulgate a rule to exempt from incremental pricing only those agricultural uses of natural gas for which the Commission determines that an alternative fuel is not economically practicable or reasonably available.[2]

It is clear that by defining agricultural use as it did, Congress delineated a class of uses that merited special treatment under Title II of the NGPA. Included in this class of special uses are the fertilizer, agricultural chemicals, animal feed and food industries. Congress thus acknowledged the fundamental necessity of food and the vital role of energy to the food production process.

II. Discussion

A. Exemptions

Legislative intent. Although the exemption was proposed under the Commission's broad authority in section 206(d) of the NGPA, several commenters noted that, with regard to gas used in the production of fertilizer, agricultural chemicals, animal feed and food, section 206(b)(3)(B) of the NGPA limits the availability of the "agricultural use"

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[1] Atlanta Gas Light Company (Atlanta Gas) filed comments in the instant docket seeking clarification of the billing treatment to be afforded certain fertilizer manufacturers it serves. These comments urge the Commission to determine how Atlanta Gas should handle past billing periods for which incremental pricing surcharges were assessed but were not paid by the customers on the basis of a claimed exemption for use in fertilizer production. The Commission intends to act expeditiously to resolve this issue, which is of concern not only to Atlanta Gas, but also to other distribution companies. Such action will be undertaken in the context of Docket No. RM80-75. Atlanta Gas' comments will be deemed to have been filed in that docket as well as in the instant docket.

[2] It should be noted that the Commission has not yet promulgated the rule required for section 206(b)(2). Only then will the scope of the "agricultural use" exemption be finally determined. *See* pp. 15-16, *infra.*

exemption to process or feedstock uses. These commenters asserted that, by providing an agricultural exemption from incremental pricing for the process and feedstock use of natural gas by the industries enumerated in section 206(b)(3)(B), Congress thereby expressed its intent that the boiler fuel use of gas by these same industries should be afforded the same pricing treatment as all other industrial boiler fuel users of gas.

To further support this argument, these commenters explored the legislative history of the NGPA. By examining statements made by various interest groups before House and Senate subcommittees during deliberation of the Act, these commenters argued that various industrial groups contemplated that only process and feedstock uses of natural gas would be exempt from incremental pricing surcharges and, conversely, that boiler fuel should not be exempt.[3]

In this connection, the Commission notes that the legislative history of the NGPA is far less than crystal clear on this point. However, there is legislative history that militates against the above-stated position. Pertinent history is a colloquy between Senator Talmadge, then Chairman of the Senate Committee on Agriculture, Nutrition and Forestry, and Senator Jackson, then Chairman of the Senate Committee on Energy and Natural Resources, during debate on the conference report on the NGPA. Colloquies such as this are frequently used to announce Congressional intent with respect to legislation.

Relevant portions of the colloquy are as follows:

> Mr. Talmadge: . . . [S]ection 206(b) assures agriculture the same high priority accorded households and small businesses in protection against sharply high natural gas prices by exempting agricultural users from the incremental pricing features of the bill . . .
>
> Mr. Jackson: The Senator is correct. . . .
>
> Mr. Talmadge: . . . Concerning the agricultural exemption for incremental price increases, does this mean that farmers, processors, food warehousemen, and *fertilizer, and other agricultural chemical manufacturers* will not experience the higher price increases that will bring in new supplies of natural gas? . . .
>
> Mr. Jackson: . . . [T]hose increases will not be as great as boiler fuel or other industrial price increases.
>
> There is no guarantee to anyone that there will not be price increases, *but agriculture will be accorded that benefit which basically runs to the residential and small business user.* (Emphasis added.)

Discretely, this language supports three propositions. First, agriculture is to be accorded the same kind of benefits as residential and small commercial users under the incremental pricing program. Second, manufacturers of these products are to be protected from higher prices of natural gas regardless of its use as a boiler fuel because boiler fuel is disfavored in connection with industrial, but not agricultural, uses. Last, the boiler fuel use of natural gas in the fertilizer, agricultural chemical, animal feed and food industries should not be distinguished from other agricultural boiler fuel uses. More importantly, reading the colloquy as a whole casts significant doubt on the assumption that boiler fuel applications of gas connected with fertilizer, agricultural chemicals, animal feed and food industries were *ipso facto* relegated to a lower status than other agricultural uses. The Commission emphasizes that, although the definitions of agricultural use in Titles II and IV are substantially similar, this conclusion is applicable only to considerations under Title II. Congress had, and apparently adopted, sound policies to protect certain agricultural boiler fuel uses from incremental pricing, but the Commission agrees with the Court of Appeals in *Process Gas Consumers Group* v. *United States Department of Agriculture*, No. 80-1558 (D.C. Cir., June 30, 1981), slip op. at 13-14, that those reasons do not extend to Title IV for the policy reasons that underlay the Federal Power Commission's determination that boiler fuel was in *all* cases a low-priority use. In short, there is a difference between advantages in access to fuel and advantages as to the price that is paid for it.

Other commenters argued that, by promulgating the instant exemption pursuant to the Commission's broad authority under section 206(d) of the NGPA, the Commission is not limited by the language of section 206(b)(3)(B). These commenters noted that the Commission has broad discretion to issue exemptions in addition to those specifically enumerated in sections 206(a)-(c) of the NGPA. The commenters cited *Ohio Association of Community Action Agencies* v. *Federal Energy Regulatory Commission (Ohio Association)*, No. 80-1208 (D.C. Cir.; June 15, 1981), as support for this proposition. In *Ohio Association*, the Court reviewed the propriety of the Commission's actions in Order No. 51, which exempted all industrial boiler fuel facilities from incremental pricing surcharges exceeding the level of high sulfur No. 6 fuel oil.[4] The Commission issued Order No. 51 pursuant to its authority under section 206(d) notwithstanding the fact that section 204(e) provides specific statutory guidelines for the Commission's issuance of a rule or order reducing the alternative fuel cost ceiling below the level of No. 2 fuel oil.[5]

The Court of Appeals rejected the challenge to the Commission's use of section 206(d) to exempt industrial users from incremental pricing surcharges above the price of high sulfur No. 6 fuel oil. The Court found that the broad language of section 206(d) was intended by Congress to give the Commission the discretion to modify implementation of the incremental pricing program in view of the innovative nature of the program. The Court stated at slip op. 19-20 that:

> In the context of the entire Act, a broad exemption power is entirely consistent with the objectives and concerns expressed by Congress during the passage of Title II. Moreover, the portions of the legislative history which specifically refer to section 206(d) indicate an express intent to maximize the Commission's discretion in administering the innovative incremental pricing system.

Thus, these commenters argued, the Commission is not limited in promulgating a rule under section 206(d) by the definitional limitations in section 206(b)(3)(B).

In support of the Commission's issuance of this exemption under section 206(d), many commenters also noted the vital relationship of fertilizer, agricultural chemicals, animal feed and food to agricultural production. Representing fertilizer manufacturers, one commenter submitted that over one-third of domestic food and fiber production is directly attributable to the application of fertilizer. Moreover, the nutrients supplied by fertilizer must be replenished each year, and farmers must make substantial fertilizer purchases on a continuing basis. Representing animal feed and food producers, two commenters indicated that, like the other agricultural products specified in section 206(b)(3)(B), pet food production is related to the production of food for human consumption:

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[3] *See e.g.* Hearings on H.R. 6831, *et al.* Before the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. 992-93 (May 17, 1977); Hearings Before the Senate Committee on Energy and Natural Resources on S. 256 and S. 1469 (Pt. D), 95th Cong., 1st Sess. 524 (June 14, 1977).

[4] Rule Exempting Industrial Boiler Fuel Facilities From Incremental Pricing Above the Price of No. 6 Fuel Oil, Docket No. RM79-21, issued September 28, 1979 (44 Fed. Reg. 57778 (October 5, 1979)).

[5] The Court cited the numerous concerns expressed by various leaders in Congress with the concept of incremental pricing to substantiate its interpretation of the role Congress intended section 206(d) to play in implementing the new pricing approach. *See, Ohio Association*, slip opinion at 20-24.

The pet food industry provides a critical source of income to the processors of livestock, poultry, and seafood for human consumption. By providing a market for more than one-third of the by-products of these industries, the production of pet food serves to create a demand for farm products—most of which cannot be used for human consumption—and thereby reduces the cost of human food for consumers. [Comments of Kal Kan Foods, Inc.]

Thus, by issuing the rule in this docket, these commenters argued that the Commission is addressing a distinct class of users of natural gas who have a vital link to agricultural production.

In opposition to the proposed rule, several commenters argued that, once the Commission starts granting certain boiler fuel end-use exemptions from incremental pricing under section 206(d), there is no basis upon which to exclude other boiler fuel uses from incremental pricing exemptions. In addition to this argument, these commenters, citing *Process Gas Consumers Group* v. *United States Dept. of Agriculture,* No. 80-1558 (D.C. Cir., June 30, 1981) slip opinion at 13-14, also argued that, as a policy matter, section 206(d) exemptions should not be extended solely on the basis of the ultimate product.

On the other hand, several commenters argued that the Commission could reasonably deny exemptions to other industries for two reasons. First, the commenters noted that Congress recognized the importance of the fertilizer, agricultural chemical, animal feed and food industries in section 206(b)(3)(B). By using its section 206(d) authority to exempt the boiler fuel use of gas to manufacture these products, the Commission is furthering the Congressional intent to give these industries a preferred status under the NGPA. Second, several commenters argued that the subject industries provide primary inputs to agricultural production and, therefore, deserve a preferred exemption status vis-a-vis more remote agriculturally-related industries.[6]

One commenter noted that it was Congress that recognized the link, whether direct or indirect, between certain end products and agriculture. Thus, Commission issuance of the instant exemption would further the Congressional intent that these end products receive preferred treatment under the NGPA.

Price Impact. Other questions asked by the Commission in the Notice relate to arguments set forth by commenters in response to the notice issued on February 21.[7] Many commenters argued that the imposition of incremental pricing surcharges on natural gas used as boiler fuel in fertilizer, agricultural chemicals, and animal feed and food production would have an immediate and detrimental impact on the agricultural sector. It was asserted that incremental pricing surcharges inevitably would increase the cost of fertilizers and other agricultural inputs, and these increased costs either would be passed on through the chain of production beginning with the farmer or, to the extent these costs are absorbed by the farmer, would reduce farm income which is being squeezed by high costs and lower crop prices.

It was further argued that the impact upon the agricultural sector would be particularly acute at this time, because rising agricultural input costs, depressed commodity prices, heavy crop and livestock losses, and extremely high costs of operating capital have combined to yield a net farm income which, in real value, is the lowest since the days of the Great Depression. The commenters concluded that the agricultural sector should not now be burdened with additional, unnecessary costs which would further depress farm income and productivity and which would increase inflationary pressures.

In addition, the fertilizer manufacturers claimed that the imposition of incremental pricing surcharges would intensify the competitive disadvantages of many American fertilizer manufacturers with respect to fertilizer imports. For example, it was argued that foreign nitrogen fertilizer manufacturers are already undercutting domestic prices and driving some domestic manufacturers out of business. Price increases resulting from incremental pricing surcharges would accelerate this growing dependence upon foreign sources for key agricultural inputs.

In the Notice, the Commission requested additional information of a more specific nature so that it could properly evaluate the above-described arguments set forth by commenters in support of an incremental pricing exemption.

Many commenters who responded to the Commission's questions agreed that the farmer or the consumer will eventually bear production cost increases, but were unable to precisely quantify the impact of incremental pricing surcharges on consumer prices and net farm income. Instead, the commenters focused on the effect that incremental pricing surcharges would have on their production costs.

For example, National Soybean Processors Association stated that one producer of animal feed estimated that even a ten percent increase in gas costs resulting from incremental pricing would increase feed manufacturing costs by two percent. InterNorth, assuming a differential of one dollar per Mcf between the average industrial gas price and the No. 6 ceiling price, projected that the annual increases in affected customer costs would be four million dollars due to incremental pricing surcharges.

The Department of Agriculture stated that, while savings to a given producer from an exemption may be substantial, the savings to the industries as a whole are minimal. The total cost of the interstate gas used as boiler fuel by the industries in question based on 1977 estimates represents less than 0.3 percent of the entire production expenditures of these industries. Incremental pricing would increase the cost of production of all agricultural chemicals and fertilizer between 0.02 percent and 0.05 percent and would raise the cost of crop production between 0.001 percent and 0.004 percent. The Department of Agriculture also stated that these projected cost increases in crop production are insubstantial and that net farm income would decline only slightly if the fertilizer, agricultural chemical, animal feed and food industries were subject to incremental pricing.

Some commenters argued that consumers would be "irreparably harmed" if the Commission does not grant an incremental pricing exemption to manufacturers of fertilizer, agricultural chemicals, animal feed and food. They stated that consumers would ultimately bear all of the cost increases in the form of higher prices for food products.

The Department of Agriculture, however, noted that incremental pricing of the gas used to manufacture these products is not likely to produce much effect on consumer food bills. Assuming the worst (fifteen percent increase per year in natural gas prices by 1984), the Department concluded that consumer expenditures for food would rise only eight cents per year per person.

Conclusion. The arguments in favor of granting the exemption, as well as the arguments against the exemption, are both very compelling and the question of

[6] The Commission wishes to emphasize that it does not question the importance of other industries to the American economy, nor does it suggest that an exemption from incremental pricing could not be granted to other industries on the basis of some other relevant policy consideration.

[7] Notice of Opportunity to Comment on Whether a Rulemaking Proceeding Should Be Established, Docket No. RM80-18, issued Feb. 21, 1980 (45 FR 13122 (Feb. 28, 1980)).

exemption is close. Nevertheless, the Commission has determined to grant the exemption for two reasons. First, the arguments in favor of granting the exemption outweigh the counter-arguments, if only slightly. On balance, the Commission believes the comments demonstrate that agricultural production will be furthered by granting an exemption. Second, granting the exemption appears to be consistent with Congressional intent to single out generally this industry for preferred treatment in connection with incremental pricing. Therefore, for the reasons stated above and in the comments supporting the exemption, the Commission believes it to be in in the public interest to issue this final rule granting exemption pursuant to section 206(d) of the NGPA on a prospective basis only.

The Commission is concerned that, at least with reference to incremental pricing, Congress may have intended to include the subject boiler fuel uses within the agricultural exemption. Although sound policy connected with agricultural production, previously expressed by Congress in the debate and drafting of the NGPA, supports the exemption, the Commission recognizes that Congress will have an opportunity to reach an opposite result.

B. Alternative Fuel Test

As noted above, section 206(b)(2) requires the Commission to promulgate an alternative fuel test for "agricultural uses." In the Notice, the Commission requested comments on whether a section 206(d) exemption for facilities which manufacture fertilizer, agricultural chemicals, animal feed and food should be made specifically subject to an alternative fuel test such as the one set forth in section 206(b)(2) of the NGPA for "agricultural uses."

The comments received have convinced the Commission to make this final rule subject to the alternative fuel test to be promulgated under section 206(b)(2). To do otherwise would be inequitable, because it would effectively give the instant uses of natural gas a more favored status with respect to incremental pricing than the agricultural uses to which they are vitally connected. Therefore, when the Commission develops an alternative fuel test for agricultural uses of natural gas pursuant to § 282.203(a)(2) of its rules, the boiler fuel use of natural gas in the production of fertilizer, agricultural chemicals, animal feed and food will be subject to that alternative fuel test because of its link to agricultural production.

C. "Integral" Use

In the Notice, the Commission also sought comment on the appropriate method for determining whether a particular use of steam is "integral" to the manufacturing process of fertilizer, agricultural chemicals, animal feed and food. Several commenters suggested that the "integral use" test be deleted in its entirety. The Commission has decided to delete the restriction in the proposed rule that the steam be used as an integral part of the manufacturing process. The Commission believes that the "integral use" requirement is subsumed within the requirement that the natural gas be used in the manufacture of the subject products. Therefore, in the final rule all natural gas used as a boiler fuel in the manufacture of fertilizer, agricultural chemicals, animal feed and food is eligible for an exemption from incremental pricing surcharges.

One commenter suggested that the Commission use Standard Industrial Classification (SIC) Codes to designate the users who would be eligible for an exemption. The Commission has adopted this system, because the use of SIC Codes is consistent with the Commission's use of SIC Codes for other end-use exemptions. (*See* § 282.202(a).)

III. Congressional Review and Effective Date

As already noted, the rule set forth below is issued pursuant to section 206(d) of the NGPA. That section requires that the rule be submitted to the Congress for review prior to taking effect. After submission to each House of Congress, the rule may take effect on the day following 30 days of continuous session of Congress (as set forth in subsection 507(b) of the NGPA) unless either House adopts a resolution of disapproval within that 30-day period. Accordingly, this rule will be effective, on a prospective basis only, on the day following expiration of the 30-day period for Congressional review.[8]

In consideration of the foregoing, if neither House of Congress passes a Resolution of Disapproval of the regulations transmitted to it in this rulemaking within 30 days of Congressional review, as determined in accordance with section 507(b) of the NGPA, Part 282 of Subchapter I, Chapter 1, Title 18, Code of Federal Regulations, is amended as set forth below, effective on the day following expiration of the 30-day Congressional review period.

(Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350, 15 U.S.C. §§ 3301-3434).

By the Commission. Commissioner Sheldon concurred with a separate statement attached.

Kenneth F. Plumb,

Secretary.

PART 282—INCREMENTAL PRICING

1. The Table of Contents for Subpart A of Part 282 is amended to add a new § 282.210 entitled "Exemptions for natural gas used in the manufacturing process of fertilizer, agricultural chemicals, animal feed and food."

2. Section 282.203 is amended by adding a paragraph (d) to read as follows:

§ 282.203 Exempt end-users.

* * * * *

(d) *Exemptions for natural gas used in the manufacturing process of fertilizer, agricultural chemicals, animal feed and food under section 206(d).* Natural gas used as boiler fuel in the manufacture of fertilizer, agricultural chemicals, animal feed or food is exempt from incremental pricing according to the provisions set forth in § 282.210.

3. Part 282 is amended by adding a new § 282.210 to read as follows:

§ 282.210 Exemptions for natural gas used in the manufacturing process of fertilizer, agricultural chemicals, animal feed and food.

(a) Natural gas used as boiler fuel in the production of fertilizer, agricultural chemicals, animal feed and food and specified by the classes or portions of classes in paragraph (b) is exempt from incremental pricing under Title II of the NGPA and this Part, unless by rule or order the Commission determines that there is an alternative fuel or feedstock for such use of natural gas that is economically practicable and reasonably available, as defined in section 206(b)(2) of the NGPA.

(b) Standard Industrial Classificaiton No. and Industry Description:

Fertilizer and Agricultural Chemicals

1474 Potash, Soda, and Borate Materials (Agricultural related only).
1475 Phosphate Rock (Agricultural related only).
1477 Sulfur (Argicultural related only).
2819 Industrial Inorganic Chemicals, Not Elsewhere Classified (Agricultural related only).
2865 Cyclic Crudes and Cyclic

[8] The Commission notes that the exemption provided by this rule has no retroactive effect.

Intermediates, Dyes and Organic Pigments (Agricultural related only).
2869 Industrial Organic Chemicals, Not Elsewhere Classified (Agricultural related only).
287 Agricultural Chemicals.
2899 Chemicals and Chemical Preparations, Not Elsewhere Classified (salt-food and feed grade only).
3274 Lime (Agricultural lime only).

Animal Feed and Food

2047 Dog, Cat and Other Pet Food.
2048 Prepared Feeds and Feed Ingredients for Animals and Fowls, Not Elsewhere Classified.

Sheldon, Commissioner, *concurring*.

I agree with my colleagues' position that agricultural use of natural gas was given a preferred status under the Natural Gas Policy Act (NGPA). Whether or not this preferred treatment extends to the boiler fuel use of natural gas for manufacturing agricultural related products is very much at issue and has generated a substantial amount of controversy.

Obviously, Titles II and IV of the NGPA were intended to have different meanings. The comments we have received attest to this fact. But the precise meaning needed to resolve this issue, has been clouded by the conflicting "legislative history" [1] and can be resolved only by its authors. Therefore, I *concur* in referring this rule to the Congress.

My separate statement should not be viewed as opposition to the agricultural industry. As my colleagues are well aware, the rule itself raises additional concerns which need to be addressed. The incremental pricing exemption authorized by this rule is subject to the "alternate fuel test", a statutory requirement in Section 206(b) which the Commision has not promulgated, regardless of the fact, the NGPA (Section 206(b)) mandated it to be in effect eighteen months after the date of enactment of the NGPA.

I would expect the Commission to act as expeditiously on the statutorily required rule as on the present exemption. Since the Commission has not specified when it will act, in my view, it would be appropriate that our rule on the "alternate fuel test" be concluded by November 15, 1981.

Georgiana H. Sheldon,

Commissioner.

[FR Doc. 81-29478 Filed 10-8-81; 8:45 am]

BILLING CODE 6712-02-M

[1] Final Rule at page 5 fn. 3 and page 6.

18 CFR Part 282

[Docket No. RM81-27]

Incremental Pricing: Adoption of Single-Tier Alternative Fuel Price Ceiling; Effective Date

October 5, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of effective date.

SUMMARY: On July 24, 1981, the Federal Energy Regulatory Commission (Commission) issued a rule (46 FR 38912, July 30, 1981) under Title II of the Natural Gas Policy Act of 1978 (NGPA) amending its regulations at 18 CFR Part 282. The rule provides a permanent exemption, for all facilities subject to incremental pricing under Title II, from the alternative fuel price ceiling based on the cost of No. 2 fuel oil. In so doing, the rule establishes a single-tier alternative fuel price ceiling for such facilities, based on the cost of high-sulfur No. 6 fuel oil.

The rule was transmitted to the Congress for review as required by section 206(d) of the NGPA. During the period for Congressional review set forth in section 507(b) of the NGPA, neither House disapproved the submittal. This document confirms that the exemptive rule thus became effective October 3, 1981, the day following expiration of the review period.

EFFECTIVE DATE: October 3, 1981.

FOR FURTHER INFORMATION CONTACT:
Thomas P. Gross, Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, (202) 357-8171
Carol M. Lane, Federal Energy Regulatory Commission 825 North Capital Street, N.E., Washington, D.C. 20426, (202) 357-8511

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29479 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Authorities of the Commissioner

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority from the Assistant Secretary for Health to the Commissioner of Food and Drugs. By memorandum dated August 11, 1981, the Assistant Secretary reissued his delegations under Title III, General Powers and Duties of Public Health Service, of the Public Health Service Act as they relate to the functions of FDA. The revised delegations contain an "as amended" provision which will eliminate reissuing delegations under sections of Title III each time a section is revised.

EFFECTIVE DATE: October 9, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: Section 5.10 (formerly § 5.1; see 46 FR 26052; May 11, 1981) is being amended to include the revised delegations of authority. There were no new sections of the title added by the revised delegations, but the delegation under section 310 (formerly 309), Health Conferences and Health Education Information of the Public Health Service Act, was expanded to include the authority to issue information related to public health for the use of the public and other pertinent health information for the use of persons and institutions concerned with health services when such information is related to the functions of FDA.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)) and the Public Health Service Act (sections 301, 302(a), 303, 307, 310, 311, 351, 352, 354 through 360F, 361, and 362 (42 U.S.C. 241, 242(a), 242a, 242*l*, 242o, 243, 262, 263, 263b through 263n, 264, and 265) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 5 is amended by revising § 5.10(a) (2), (3), (4), (5), (6), (7), (19), and (21) to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.10 Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials.

(a) * * *

(2) Functions vested in the Secretary under section 301 (Research and Investigations); section 307 (International Cooperation); and section 311 (Federal-State Cooperation) of the Public Health Service Act (42 U.S.C. 241,

242*l*, 243), as amended, which relate to the functions of the Food and Drug Administration.

(3) Functions vested in the Secretary under sections 354 through 360F of the Public Health Service Act (42 U.S.C. 263b through 263n), as amended, which relate to electronic product radiation control.

(4) Functions vested in the Secretary under section 361 of the Public Health Service Act (42 U.S.C. 264), as amended, which relate to the law enforcement functions of the Food and Drug Administration concerning the following products and activities: biologicals (including blood and blood products); interstate travel sanitation (except interstate transportation of etiological agents under 42 CFR 72.25); food (including milk and food service sanitation and shellfish sanitation); and drugs, devices, cosmetics, electronic products, and other items or products regulated by the Food and Drug Administration.

(5) Functions vested in the Secretary under sections 351 and 352 of Part F, Subpart 1 of the Public Health Service Act (42 U.S.C. 262 and 263), as amended, Biological Products, insofar as they relate to the functions assigned to the Food and Drug Administration.

(6) Functions vested in the Secretary under section 302(a) of the Public Health Service Act (42 U.S.C. 242(a)), as amended, which relate to the determination and reporting requirements with respect to the medicinal and scientific requirements of the United States for controlled substances.

(7) Functions vested in the Secretary under section 303 of the Public Health Service Act (42 U.S.C. 242a), as amended, which relate to the authorization of persons engaged in research on the use and effect of drugs to protect the identity of their research subjects with respect to drugs scheduled under Pub. L. 91–513 for which a notice of claimed exemption for an investigational new drug is filed with the Food and Drug Administration and with respect to all drugs not scheduled under Pub. L. 91–513.

* * * * *

(19) Functions vested in the Secretary under the second sentence of section 310(a) and under section 310(b) (Health Conferences and Health Education Information) of the Public Health Service Act (42 U.S.C. 242o), as amended, to call for a conference and invite as many health authorities and officials of State or local public or private agencies or organizations as deemed necessary or proper on subjects related to the functions of the Food and Drug Administration, and to issue information related to health for the use of the public and other pertinent health information for the use of persons and institutions concerned with health services when such information is related to the functions of the Food and Drug Administration.

* * * * *

(21) Functions vested in the Secretary under section 362 of the Public Health Service Act (42 U.S.C. 265), as amended, which relate to the prohibition of the introduction of foods, drugs, devices, cosmetics, electronic products, and other items or products regulated by the Food and Drug Administration into the United States when it is determined that it is required in the interest of public health when such functions relate to the law enforcement functions of the Food and Drug Administration.

* * * * *

Effective date. This regulation shall be effective October 9, 1981.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a); secs. 301, 302(a), 303, 307, 310, 311, 351, 352, 354 through 360F, 361, and 362 (42 U.S.C. 241, 242(a), 242a, 242*l*, 242o, 243, 262, 263, 263b through 263n, 264, and 265)))

Dated: October 5, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-29370 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

Food and Drug Administration

21 CFR Part 172

[Docket No. 79F-0479]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Low Substituted Hydroxypropyl Cellulose

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of low substituted hydroxypropyl cellulose as a formulation aid in foods. This action is being taken in response to a petition filed by the Shin-Etsu Chemical Co., Ltd.

DATES: Effective October 9, 1981; objections by November 9, 1981.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 29, 1980 (45 FR 6651), FDA announced that a petition (FAP 0A3489) had been filed on behalf of Shin-Etsu Chemical Co., Ltd., Tokyo, Japan, proposing that § 172.870 (21 CFR 172.870) of the food additive regulations be amended to provide for the use of low substituted hydroxypropyl cellulose as a formulation aid in foods.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use is safe and that § 172.870 should be amended as set forth in this document.

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

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) Part 172 is amended by revising § 172.870 to read as follows:

§ 172.870 Hydroxypropyl cellulose.

The food additive hydroxypropyl cellulose may be safely used in food, except standardized foods that do not provide for such use, in accordance with the following prescribed conditions:

(a) The additive consists of one of the following:

(1) A cellulose ether containing propylene glycol groups attached by an ether linkage which contains, on an anhydrous basis, not more than 4.6 hydroxypropyl groups per anhydroglucose unit. The additive has a minimum viscosity of 145 centipoises for 10 percent by weight aqueous solution at 25° C.

(2) A cellulose ether containing propylene glycol groups attached by an ether linkage having a hydroxypropoxy (OC_3H_6OH) content of 5 to 16 percent weight in weight (w/w) on an anhydrous basis, i.e., 0.1 to 0.4 hydroxypropyl groups per anhydroglucose unit. The common name for this form of the additive is low substituted hydroxypropyl cellulose.

(b) The additive is used or intended for use as follows:

(1) The additive identified in paragraph (a)(1) of this section is used or intended for use as an emulsifier, film former, protective colloid, stabilizer, suspending agent, or thickener, in accordance with good manufacturing practice.

(2) The additive identified in paragraph (a)(2) of this section is used or intended for use as a binder and disintegrator in tablets or wafers containing dietary supplements of vitamins and/or minerals. The additive is used in accordance with good manufacturing practice.

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 9, 1981 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 9, 1981.

(Secs. 201(s) 409, 72 Stat. 1784–1788 as amended (921 U.S.C. 321(s), 348))

Dated: September 30, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-29229 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510 and 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Monensin Blocks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Cooperative Research Farms, Inc., providing for the safe and effective use of a medicated block containing monensin for increased rate of weight gain in pasture cattle. The regulations are also amended to add the firm to the list of approved NADA sponsors.

EFFECTIVE DATE: October 9, 1980.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Cooperative Research Farms, Box 69, Charlotteville, NY 12036, filed an NADA (119–253) providing for use of a 33⅓-pound block containing 400 milligrams of monensin per pound for increased rate of weight gain in slaughter, stocker, and feeder cattle on pasture. Approval of this NADA partly relies upon safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 95–735 and 38–878. The NADA's provide for use of monensin premixes for making finished animal feeds used for increased rate of weight gain. Use of the data in NADA's 95–735 and 38–878 to support this NADA has been authorized by Elanco. Because this approval provides for use of the block as an alternative form for administering monensin, the Bureau of Veterinary Medicine concludes that it poses no increased human risk from exposure to residues of the drug nor does it change the conditions of the drug's use in the target animal species. Accordingly, under the Bureau's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this original NADA has been treated as would an approval of a Category II supplement and did not require reevaluation of safety and effectiveness data in NADA 95–735 or safety data in NADA 38–878. The NADA is approved and the regulations are amended to reflect the approval.

Cooperative Research Farms has not previously been included in the regulations under the list of approved sponsors. The regulations are further amended to include this firm in the list of sponsors.

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

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

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

PART 510—NEW ANIMAL DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 520 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Cooperative Research Farms, Box 69, Charlotteville, NY 12036	051207
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
051267	Cooperative Research Farms, Box 69, Charlotteville, NY 12036

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

2. In Part 520, §.520.1448 is amended by adding new paragraph (d), to read as follows:

§ 520.1448 Monensin blocks.

* * * * *

(d)(1) *Specifications.* Each pound of block contains 400 milligrams of monensin (0.088 percent) as monensin sodium.

(2) *Sponsor.* See 051267 in § 510.600(c) of this chapter.

(3) *Related tolerances.* See § 556.420 of this chapter.

(4) *Conditions of use*—(i) *Amount.* 50 to 200 milligrams of monensin (2 to 8 ounces of block) per head per day.

(ii) *Indications for use.* Pasture cattle: Increased rate of weight gain.

(iii) *Limitations.* Blocks to be fed free choice to pasture cattle (slaughter, stocker, and feeder) weighing more than 400 pounds. Provide at least one block per five head of cattle. Feed blocks continously. Do not feed salt or mineral supplements in addition to the blocks. Ingestion by cattle of monensin at levels of 600 milligrams per head per day and higher has been fatal. Do not allow horses or other equines access to formulations containing monensin (ingestion of monensin by equines has been fatal). The effectiveness of this block in cull cows and bulls has not been established.

Effective date. October 9, 1981.

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

Dated: October 1, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-29228 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Lavergne Supplement Co. providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine feeds for control of large roundworm, nodular worm, and whipworm infections; and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: October 9, 1981.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Lavergne Supplement Co., 1038 Space Park South, Nashville, TN 37211, is the designated sponsor of an NADA (127-823) providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine and chicken feeds. The complete swine feed is used as an aid in controlling large roundworm, nodular worm, and whipworm infections. The complete chicken feed is used as an aid in the control of large roundworms, cecal worms, and capillary worms. The NADA was actually filed by Elanco Products Co., but designates Lavergne Supplement Co. as the sponsor. The NADA is based on safety and effectiveness data contained in Elanco's approved NADA's 10-918 and 11-948. Use of the data in NADA's 10-918 and 11-948 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (December 23, 1977; 42 FR 64367), approval of NADA 127-823 does not require reevaluation of the safety and effectiveness data in NADA's 10-918 and 11-948. NADA 127-823 is approved, and the regulations are amended to reflect the approval. Satisfactory chemistry, manufacturing, and control data and information were also submitted.

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

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

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) (formerly 5.1; see 46 FR 26052; May 11, 1981), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.274 by adding paragraph (a)(4) and amending paragraph (e)(1) (i) and (ii) by revising the first entry, to read as follows:

§ 558.274 Hygromycin B.

(a) * * *

(4) Premix level of 0.6 gram per pound granted to sponsor 022422 in § 510.600(c) of this chapter for use in chickens as in paragraph (e)(1)(i) of this section and in swine as in paragraph (e)(1)(ii) of this section.

* * * * *

(e) * * *

(1) * * *

Hygromycin B in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 8 to 12		Chickens: Control of infestation of large roundworms (*Ascaris gal*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	Withdraw 3 days before slaughter	000986, 022422

Hygromycin B in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(ii) 12		Swine: Control of infestation of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostomum dentatum*), and whipworms (*Trichuris suis*).	Withdraw 15 days before slaughter.	000986, 043733, 011490, 016968, 022422

Effective date. October 9, 1981.

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

Dated: October 1, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-29230 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300 to End

CFR Correction

Title 21, Chapter II, Parts 1300 to end, revised as of April 1, 1981 is corrected as follows:

Everywhere the words: "Dockets Management Branch" appears, it should be changed to read: "Hearing Clerk."

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 210

Loyalty and Security Investigations for Persons Serving Under Contracts Financed From United States Foreign Assistance Funds

AGENCY: Agency for International Development, IDCA.

ACTION: Revocation of regulations.

SUMMARY: AID Contractor and contract personnel clearance procedures set forth in AID Handbook 6, Chapter 6 relating to 22 CFR part 210 are fully authorized by Executive Order 10450—Security requirements for Government employment, and Executive Order 10865—Safeguarding classified information within industry. 22 CFR part 210 which also provides authority for these procedures has become obsolete, and is therefore being removed.

EFFECTIVE DATE: September 29, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald G. Russell, Attorney Advisor, Office of Assistant General Counsel for Employee and Public Affairs, Agency for International Development, Washington, D.C. 20523, Telephone: (202) 632-8219 or 632-8218.

PART 210—[Removed]

Title 22 of the Code of Federal Regulations is amended by removing Part 210.

(Sec. 111, 79 Stat. 1005 (22 U.S.C. 237 ont.; E.O. 10973, 24 FR 10469; 3 CFR, 1959—1963 Comp., p. 493, Sec'y Delegation of Authority No. 104, 26 FR 10608)

Dated: September 29, 1981.

John F. Owens,

Acting Assistant Administrator for Program and Management Services.

[FR Doc. 81-29472 Filed 10-8-81; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-004E]

Occupational Exposure to Lead; Supplemental Statement of Reasons and Amendment of Standard; Notice of Deferral of Effective Date

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of further deferral of effective date of final rule.

SUMMARY: This notice defers the effective date of the Supplemental Statement of Reasons and Amendment of the Lead Standard until December 10, 1981. The action is necessary to allow additional time to consider the appropriateness of the lengthy and complex docucment in light of the numerous petitions for administrative review which have been received.

DATE: The effective date is deferred until December 10, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Beliles, Occupational Safety and Health Administration, Room N3617, U.S. Department of Labor, Washington, D.C. 20210 (202) 523-7081.

SUPPLEMENTARY INFORMATION: On January 21, 1981, OSHA published in the Federal Register (46 FR 6134) a supplemental statement of reasons assessing the technological and economic feasibility of meeting the permissible exposure level for lead contained in the lead standard (29 CFR 1910.1025), in 46 industries. The document was prepared in response to a remand order from the U.S. Court of Appeals for the D.C. Circuit, in the "United Steelworkers of America v. Marshall," 647 F. 2d 1189 (D.C. Cir. 1980). The Supplemental Statement of Reasons covered nearly 100 pages in the Federal Register, and was originally scheduled to be effective on February 20, 1981. On February 3, 1981, the agency joined industry petitioners in a motion to the circuit court to defer action on the Supplemental Statement of Reasons until OSHA has an opportunity to review petitions for administrative reconsideration. On February 6, 1981, the effective date of the Supplemental Statement of Reasons was deferred until March 30, 1981 pursuant to a presidential memorandum to the Secretary of Labor and other cabinet officials (46 FR 11253). On March 27, 1981, OSHA further deferred the effective date, for a period of 30 days, so that it might have additional time to consider the numerous petitions for administrative review of the Supplemental Statement of Reasons—a very lengthy and complex document.

On April 28, 1981 (46 FR 23742), on June 29, 1981 (46 FR 33244), and on August 28, 1981 (46 FR 43416) the effective date was again deferred in succession until October 11, 1981.

On July 17, 1981, the D.C. Circuit granted the joint motion to defer action on the Supplemental Statement until

October 11, 1981, pending OSHA's review of the petitions for administrative reconsideration. "United Steelworkers v. Marshall," No. 79-1048. The agency is currently formulating a detailed response to the petitions for administrative reconsideration and will require an additional sixty days to complete this work. OSHA has therefore petitioned the court for the additional time necessary to complete this task.

Accordingly, the effective date of the Supplemental Statement is hereby deferred until December 10, 1981. Due to the short deferral period, notice and opportunity for public comment on the deferral is impractical and unnecessary under 5 U.S.C. 533 and 29 U.S.C. 655(b).

Signed at Washington, D.C. this 7th day of October, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

FR Doc. 81-29592 Filed 10-8-81; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1933-6]

Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision of the Maryland State Implementation Plan. The revision includes changes to sections concerning definitions, permits and approvals, control of certain sources, and control and prohibition of carcinogenic and toxic substances of the Maryland regulations.

EFFECTIVE DATE: Effective November 9, 1981.

ADDRESSES: Copies of the revision and associated support material are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn.: Patricia Sheridan

Maryland Air Management Administration, 201 Preston Street, Baltimore, Maryland 21201, Attn.: George P. Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20405

FOR FURTHER INFORMATION CONTACT: Edward A. Vollberg (3AH12), U.S. Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8990.

SUPPLEMENTARY INFORMATION:

Note.—Maryland's regulations have been recodified since this revision was submitted. Please refer to the August 5, 1981 Federal Register (46 FR 39818) for current numbers.

Background

The amendments to COMAR 10.18.01-10.18.07 were submitted by the State of Maryland as a revision of the Maryland State Implementation Plan. The changes are outlined below. For detailed descriptions please refer to the notice of proposed rulemaking published in the Federal Register on June 10, 1981 (46 FR 30654).

A. COMAR 10.18.01

1. Section .01 (Definitions)—Minor administrative changes were made to two definitions.

2. Section 11. (Permits and Approvals)—This revision significantly modifies the existing regulations governing construction permits, operating permits and registration. The reorganization consolidates and clarifies the regulations in this section.

EPA requested that the State show how it can legally enforce the terms and conditions of a permit or approval which has expired or been suspended or revoked, pursuant to subsection .11G(3). The State responded that under Article 43, 697(a), *Annotated Code of Maryland,* it has broad authority to adopt regulations to control air pollution.

In 10.18.01.11K(2)(b), the State requires an applicant to demonstrate that it would comply with the terms of a permit or approval which has expired or been suspended or revoked. EPA asked the State to show its authority to require these conditions. The State's response was that it has such authority under Article 43, 697(a) and 706, *Annotated Code of Maryland.* If the State's intention is to incorporate into subsequent permits or approvals the terms and conditions of an expired, suspended or revoked permit or approval, the applicant must comply with those conditions.

The State was also asked to identify the types or orders or consent agreements that are available to it under State laws for varying the substantive requirements of 10.18 .01-.07 as they apply to a particular source. The State responded that under Article 43 of the Annotated Code of Maryland the Secretary of Health and Mental Hygiene may grant an exception on evidence produced at an adjudicatory hearing. A hearing is held when an operator contests the issuance of a violation or when a permit or approval is denied, revoked, or suspended.

EPA approves all sections as amended in COMAR 10.18.01.

B. COMAR 10.18.02-.07

1. Section .05 (Control of Certain Sources)—This section was modified to conform to the 1978 edition of 40 CFR Part 60 for New Source Performance Standards.

2. Section .07 (Control and Prohibition of Carcinogens and Toxic Substances)—This section now conforms with the 1978 edition of 40 CFR Part 61 for National Emission Standards for Hazardous Air Pollutants.

EPA approves the changes to 10.18.02-10.18.07.

Public Comments

No public comments were received during the 30 day comment period.

EPA Action

By this notice, the Administrator hereby approves the above modifications as a revision of the Maryland State Implementation Plan.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to these comments are available for public inspection at the address listed for Patricia Sheridan at the beginning of this notice.

Pursuant to the provisions of 5 U.S.C. Section 605(b) I certify that the SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the

requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Authority: 42 U.S.C. 7401–642.

Dated: September 29, 1981.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, Code of Federal Regulations is amended by adding paragraph (c)(53) to read as follows:

Subpart V—Maryland

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

* * * * *

(53) A revision submitted by the State of Maryland on December 10, 1979, consisting of changes in Sections .01 and .11 of COMAR 10.18.01, and in Sections .05 and .07 of COMAR 10.18.02, 10.18.03, 10.18.04, 10.18.05, 10.18.06 and 10.18.07.

[FR Doc. 81-29518 Filed 10-8-81; 8:45 am]

BILLING CODE 6560-38-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 311 (Sub-No. 4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Final modifications of the fuel surcharge program for motor carriers and freight forwarders.

SUMMARY: The Commission is replacing the revenue based fuel surcharge with a program which will reimburse owner-operators now and in the future for full costs above 63.5 cents a gallon. Reimbursement will be on a mileage basis, initially at a rate of 14 cents per mile. During a 60-day transition period, carriers may fold in that portion of the surcharge which will cover their increased fuel costs. The fold in will be effective on 30-days' notice. Shippers will have a right to protest the fold in. The Commission has provided special procedures for future fuel-related rate increases.

EFFECTIVE DATE: This decision will be effective November 9, 1981.

FOR FURTHER INFORMATION CONTACT:
Lee Alexander, (202) 275–7597
Richard Shullaw, (202) 275–7639
Ted Kalick, (202) 275–6446
David Manning, (202) 275–7395
Robert G. Rothstein, (202) 275–7912
Joseph A. Heberle, (202) 275–7371

SUPPLEMENTARY INFORMATION: The history of this proceeding has been adequately documented in numerous other Commission decisions, including the decisions served in this proceeding on April 11, 1980, and July 31, 1981. The facts will not be reiterated here.

Current surcharge procedures were responsive to the fuel-related concerns of the motor carrier industry, and ended the owner-operator [1] truck strike in June of 1979. It has become clear, however, that the current revenue-based surcharge does not accurately reflect the fuel-related cost component of a rate. The result has been several serious distortions in the rate structure.

So compelling were these inequities that on April 11, 1980, the Commission instituted this proceeding to consider improving the surcharge program or phasing it out. Four alternatives to the present program were then presented for public comment. Briefly, these options were (A) a mileage-based surcharge plan; (B) a mileage-based surcharge plan with phase out; (C) a revenue-based surcharge phase out; and (D) a leasing rule modification.

Open meetings were also held at strategic points throughout the country so that owner-operators in particular could supplement the record with their views. After reviewing the comments and the transcripts of the six public hearings, we determined that there was merit to one additional alternative, Option E. On July 31, 1981, we issued a notice of proposed modification of the fuel surcharge program, requesting additional comments on this fifth option—to freeze the surcharge and require separately negotiated fuel-reimbursement agreements. Oral argument on the five options was held September 22, 1981.

Comments

The three major groups of commentors are shippers, owner-operators, and authorized carriers. Owner-operators overwhelmingly reject the proposed elimination of the fuel surcharge program. Many of their comments, particularly at the public hearings, focused on their continued inability to operate without the fuel surcharge. They view the revenue-based surcharge as protection for the rising cost of fuel. As fuel prices rise, so does the surcharge based on the Commission's weekly-developed index. When questioned, most owner-operators would favor, albeit reluctantly, a mileage-based surcharge system. Those who work on a percentage basis oppose incorporation of the surcharge into the rate base, fearing that the incorporated amount will be subject to the division of revenue provision in their leases. In response to Option E, owner-operators uniformly argue that meaningful negotiations will not occur.

Shippers generally are unified in their desire to see the program terminated. Most object to the revenue-based surcharge as having no relationship to actual fuel costs. If there is a surcharge, the preference is that it be mileage based. Many believe they have become embroiled in a problem which exists only between carriers and owner-operators, a problem which could be resolved by requiring carriers to bear the cost of fuel. There is clear resentment that shippers are in effect compensating owner-operators for the latters' increased costs of fuel. Of the options presented, shippers generally find incorporation of the surcharge into the rate base (Option C) the least objectionable. They stress that incorporation of the surcharge should be cost-justified with 30-days' notice so that surcharge inequities do not become a permanent part of the rate base.

Carriers' comments were mixed. Many favor retention of the surcharge program while some suggest retention of the surcharge without the mandatory pass-through to the owner-operator. As an alternative, carriers believe that conversion to a mileage-based surcharge program would meet the needs of all parties. Option E received strong support from carriers to the extent it requires incorporation of the surcharge into the base rates on short notice. Most carriers argue that they should be required to incorporate *all* of the surcharge. Many carriers express doubt as to the Commission's authority to require separate agreements and suggest that this matter is best left to owner-operator-carrier resolution without Commission involvement. Carriers fear that the Commission may destroy owner-operator incentive to operate in a fuel-efficient manner and may adversely affect the independent contractor status of owner-operators. They uniformly support future, fuel-related increases effective on-one-day's notice based on Commission developed fuel-cost data.

[1] ——

Discussion and Conclusions

We view the present fuel surcharge cost recovery program as one involving two distinct relationships: one, fuel cost reimbursement arrangements between carriers and owner-operators; and two, rate relationships between carriers and shippers. We will address our resolution of the problems in that manner.

Carriers-Owner-Operators

In the decision of July 31, 1981, the Commission proposed that carriers negotiate separate agreements with owner-operators relative to fuel costs. Owner-operators would be reimbursed for fuel costs ranging from total costs in excess of 63.5 cents a gallon to total fuel costs.

Many commentors are skeptical of "negotiated" agreements between carriers and owner-operators. Owner-operators generally assail the Commission's assumption that productive arms' length bargaining will in fact occur. They point out that the owner-operator's lack of bargaining power resulted in the work stoppage in 1979 and led to the current fuel surcharge program. Owner-operators assert that they were not adequately compensated for rapidly escalating fuel costs until a mandatory component was added to the surcharge mechanism. Just as a ceiling at "total fuel costs" was designed in the July 31, 1981 decision to protect shippers from excessive costs; owner-operators contend that a specific floor is essential to provide them concomitant protection. Many carriers fear that individually negotiated separate fuel agreements will result in competitive disadvantages.

We conclude that owner-operators require a measure of protection in this area and that separate agreements will not accomplish this goal. The national transportation policy includes, among other objectives, the promotion of safe, adequate, economical and efficient transportation, and the encouragement of fair working conditions in the transportation industry. 49 USC 10101(a)(2) and (6). A phase out of the fuel surcharge without the substitution of an effective replacement would be particularly harsh, and in our opinion not consistent with our statutory mandate. Similarly, no confidence was expressed in the use of separately negotiated agreements. Accordingly, if we are to promote efficient transportation and fair working conditions for owner-operators, we have determined that a variation of our mileage-based compensation proposal, noticed as Option A in the decision of April 11, 1980, may provide the best answer.[2] A mileage compensation formula resulting in a mandatory cents-per-mile payment by carriers to all owner-operators will be utilized. As described below, this approach would establish a reimbursement mechanism keyed to actual owner-operator fuel costs rather than the revenue of a given shipment. The method will be easy to apply. The Commission will publish and otherwise make available a cents-per-mile figure which will reimburse owner-operators for fuel costs in excess of 63.5 cents a gallon.

The Commission-Developed Mileage Compensation Method

There are four components to the Commission's index: a miles-per-gallon figure (MPG); a mileage guide; an empty mileage application; and a fuel cost study.

A. Miles-per-gallon figure: In response to earlier requests for comments on this subject, MPG figures of from 4–6 have been proposed. Carriers using owner-operators have submitted actual figures ranging from 4.5 to 5.5. The American Trucking Associations (ATA) released a study [3] containing a formula to calculate miles per gallon. The Commission developed a figure of 5.2 miles per gallon by applying ATA's formula, related coefficients produced by ATA, and an average vehicle weight of approximately 30 tons.[4] An extrapolation of the *1977 Census of Transportation, Truck Inventory and Use Survey,* conducted by the Bureau of the Census, U.S. Department of Commerce, reports a 4.833 MPG figure. In light of the comments submitted and giving due consideration to administrative and enforcement factors, we believe a *5 MPG* figure most accurately represents average fuel efficiency.

B. Mileage Guide: Most commentors propose utilization of the Household Goods Mileage Guide in any mileage-based compensation mechanism. We agree that this is the proper starting point to estimate actual miles traversed. The most current mileage guide is identified as Household Goods Carriers' Bureau, Mileage Guide No. 11. This guide is to be used until further notice of the Commission. Inasmuch as the "mileage charts" containing the mileages between the key point cities indicate short-line miles, we are allowing an adjustment of six percent for circuity. Recognizing that distances beyond key city points must be determined in actual miles, for the sake of simplicity we are providing for circuity for the total distance from origin to destination. This circuity adjustment is reflected in the mileage compensation figure shown in Appendix A. The six percent factor has received long-term acceptance in its application to ratemaking proceedings. *Paper Bags From Chicago to Kansas City, Mo.,* 321 I.C.C. 732 (1964); *Green Salted Hides, Pacific Southwest to the Mid West,* 309 I.C.C. 299 (1959); *Sugar From Minnesota To Illinois and Wisconsin,* 306 I.C.C. 17 (1959).

C. Empty Mileage Application: The Commission's compensation method will reimburse owner-operators for all miles traveled at the direction of the carriers, whether loaded or empty. Empty miles traveled by owner-operators for personal or non-carrier related business will not be subject to the fuel compensation method.

D. Fuel Cost Study: In the July 31, 1981, decision, we proposed to continue monitoring fuel prices. This mechanism is currently in place and is generally accepted by carriers and owner-operators as a valid nationwide average. We will continue the practice of monitoring fuel prices. The Commission will no longer issue a weekly decision in Ex Parte No. 311, but will only issue decisions when the mileage compensated figure rises or declines by a .5 cent per mile. Thus, compensation as of September 28, 1981, is 14.1 cents a mile. Initially, the compensation will be rounded off to the nearest .5 cent per mile (14 cents if fuel costs remain constant until this decision is effective). The compensation will change when the actual basis changes to 13.5 or 14.5 cents a mile. Subsequent changes will only be authorized on the basis of even half cents per mile. It should be stressed that the authorized mileage compensation will be adjusted *up* or *down* as the cost-per-gallon dictates.

E. Mileage Compensation Method: The mileage cost compensation is computed on the basis of these components as follows:

[2] As under the current revenue based surcharge system, carriers may avoid our mileage compensation system by providing their owner-operators with fuel or credit cards, so that the owner-operator is not absorbing more than 63.5 cents on a gallon of fuel.

[3] Potential for Conserving Fuel Through Modern Truck Size and Weight Regulations, American Trucking Associations, Inc., 1981.

[4] Federal Highway Administration Loadometer Study.

Commission Compensation Factor

$$\left[\frac{\text{Cost of fuel above 63.5 cents a gallon}}{\text{MPG}} \times .06 \times (\text{Circuity factor of 6 percent})\right] \times \text{Miles}$$

As already noted, the Commission will supply the compensation factor and revise it as the cost-per-gallon changes. The owner-operator will only have to multiply the compensation factor by the mileage of the shipment to determine what his compensation is on a per shipment basis.[5]

The current mileage cost compensation figure and the format to be used as a medium for calculation of changes in owner-operator mileage compensation is illustrated in Appendix A. Modifications of the formula and its components will be made as warranted.

Effect of the Commission-Developed Compensation Method on the Lease Agreement and "Dual Compensation" Problems

The fuel reimbursement plan delineated in this decision in effect separates owner-operator compensation for fuel costs in excess of 63.5 cents a gallon from the lease agreement. Carriers may apply for rate increases to recoup payments made pursuant to the Commission-developed method.

Since owner-operators generally are paid on a percentage-of-revenue basis, situations could arise where an owner-operator could receive dual compensation—receive fuel compensation under the cents-per-mile payment while receiving a share of both the folded-in surcharge and future fuel-related increases. We cannot accept the ATA proposal to subtract the fuel compensation payments from the gross revenue subject to the split. While the proposal has the advantage of simplicity, it would nevertheless defeat the principle of complete fuel cost reimbursement. The numbers do not correlate. For example, if a carrier took no fold-in, the owner-operator reimbursement would still be subtracted from the revenue before the split, leaving the owner-operator with substantially less than what the combination of full fuel reimbursement and his split would have yielded.

To prevent dual compensation, the parties may modify the lease to provide for 100 percent retention by the carrier of any Ex Parte No. 311 fuel-related rate increases. If the lease is amended, a base of gross revenue less (1) the amount of any surcharge folded into the rate base, and (2) the amount of any future fuel-related increases as supported by fuel mileage payments to owner-operators, would be used to determine owner-operator compensation. A base rate for determining owner-operator compensation should be established as of the effective date of the fold in. This base rate would remain constant and be adjusted downward for the surcharge fold-in and subsequent Ex Parte No. 311 increases and upward for all other rate increases. The downward adjustment for Ex Parte No. 311 increases would be based on the mileage-based owner-operator compensation shown in Appendix C, footnote 1. Modifications may be effected during the 60-day period following the effective date of this decision. This problem does not exist when owner-operators are paid on a mileage basis.

An example of the procedure which would be used by carriers to determine the base rate follows:

Trip Revenue ($1,000 × 18%)	$1,180.00
Less: Existing Surcharge at 18%	−180.00
Subtotal	1,000.00
Less: Subsequent (assumed) fuel related Ex Parte 311 increases by carrier at 3%	−35.40
Subtotal	964.60
Plus: Rate increases other than Ex Parte 311 fuel	+94.40
Total basis for 0/0 split	1,059.00

It must be emphasized that the total base revenue available for the owner-operator revenue split is then supplemented by the Commission-developed mileage compensation amount.

Owner-operators must have the necessary information to determine the actual fuel surcharge folded into the rate base and future fuel-related rate increases associated with owner-operator compensation to be retained by the carrier, as described above. We reiterate the requirement in Ex Parte No. MC–43 (Sub No. 7), *Lease and Interchange of Vehicles*, 131 M.C.C. 141 (1979), that carriers make copies of tariffs available to owner-operators for inspection upon request. Carriers also shall make copies of the current mileage guide available to the owner-operator. In addition, if the parties have modified their lease to prevent "dual compensation", as suggested above, carriers shall provide owner-operators with a copy of Appendix C to this decision which reflects fuel-related rate increases to be used as an adjustment to owner-operator compensation. We encourage carriers to explain clearly fuel payments on settlement sheets.

We admonish carriers not to adjust the revenue split in the lease agreement to deprive owner-operators of payments required pursuant to the Commission's compensation method. We are prepared to take appropriate actions to protect the rights of the owner-operator under the provisions of our enforcement authority 49 U.S.C. 11701(a).

Fuel Efficiency and Owner-Operators as Independent Contractors

Many commentors believe that fuel reimbursement pursuant to Commission-developed mileage compensation will destroy owner-operators' incentive to operate in a fuel-efficient manner. Carriers state they will be forced to exercise additional control over owner-operator activities, and that this may change their status from independent contractors to employees. Because of the importance of these contentions they will be specifically addressed.

Fuel reimbursement as delineated in this decision will be based on a uniform cents/mile figure. Although reimbursement of inefficient and efficient operators will be identical (based on an estimate), the efficient operator may get better than 5 miles per gallon and therefore the efficient operator will consume less fuel. Efficiency will be rewarded. Owner-operators will have the same incentive to operate in a fuel-efficient manner as today, i.e., to spend less money on fuel.

Carriers will not bear the additional costs associated with the inefficient operator because reimbursement levels are not specifically related to actual fuel consumed. Therefore, carriers will not be forced to exercise greater control over owner-operators than under the present revenue-based system. We have observed no change in owner-operators' status as independent contractors or increase in fuel-inefficient operators as a result of the current fuel surcharge program. The use of the Commission's mileage compensation should not have an effect in these areas.

[5] While carriers will be required to make current mileage guides available, copies of the Household Goods Mileage Guide can be obtained from the Household Goods Carriers' Bureau, 3110 Columbia Pike, Arlington, VA 22204. The telephone number is (703) 524–6860.

Commission Authority To Require Fuel Reimbursement

Many carriers question the Commission's authority to require reimbursement for fuel. In establishing current standards for the recovery of fuel increases, the Commission has, in essence, affected one distinct element of the owner-operator's compensation. The Commission derives its authority partially to affect compensation under its general rulemaking powers under 49 U.S.C. 10321(a) (formerly 49 U.S.C. 304(a)(6)). *Mourning* v. *Family Publication Service, Inc.*, 411 U.S. 356, 369 (1973). Requiring carriers to reimburse owner-operators for fuel costs in excess of 63.5 cents a gallon is not tantamount to regulating compensation. The Commission is merely prescribing a procedure relating to an individual component of compensation. Even if it can be argued that the Commission is mandating compensation, we have broad authority in this regard to assure sound transportation practices.

In *American Trucking Assn's, Inc.* v. *U.S.*, 344 U.S. 298 (1953), the Supreme Court found that the Commission has broad authority to regulate leasing practices. There, the Supreme Court affirmed Commission regulations which had far reaching effects on leasing contracts. These regulations not only abolished what was then the prevalent practice of single-trip leasing but also mandated that lease contracts have a duration of 30 days and that compensation be measured by other than a percentage of gross revenue. *Id.* at 308.

In 1956, Congress amended the Act by adding former section 204(e) (formerly 49 U.S.C. 304(e); recodified at 49 U.S.C. 11107) to confirm the Commission's authority over lease contracts involving regulated carriers and former section 204(f) (formerly 49 U.S.C. 304(f); recodified at 49 U.S.C. 11101(c)), to exempt from that authority lease arrangements affecting the transportation of exempt agricultural produce. Although Congress made no specific mention of setting the amount of compensation in former section 204(e), it specifically exempted from the Commission's regulations "the amount of compensation" paid in leasing operations involving exempt carriers in former section 204(f). Thus, Congress implicitly recognized the authority of the Commission to set the amount of compensation in leases involving non-exempt transportation.

The legislative history of these sections also demonstrates Congress' intent to preserve Commission power to regulate the duration and compensation of contracts between regulated carriers and owner-operators. In the report accompanying the bill,[6] the Senate Committee stated:

> The primary objection made to the bill in its original form was that it would take from the Interstate Commerce Commission the power to regulate trip leasing by denying the *right to regulate* the duration of the lease, or the *amount of compensation to be paid* under its terms. (Emphasis added.)

While Congress clearly intended to restrict the Commission's authority with respect to exempt haulers, there is absolutely no indication that it intended, in effect, to rescind the Commission's general rulemaking powers with respect to regulated carrier leases. Moreover, subsequent court decisions have recognized that, in enacting the 1956 legislation, Congress meant to reaffirm the broad authority over leasing practices recognized by the Supreme Court in *American Trucking Assn's* and to limit that authority only to the extent of removing exempt agricultural haulers from the Commission's authority to regulate the length of leases and amount of compensation. See *Agricultural Trans. Ass'n of Texas* v. *King*, 349 F.2d 873, 881 (5th Cir. 1965); *Atchison, T. & S.F. Ry.* v. *United States*, 209 F.Supp. 35, 37–38 (N.D. Ill. 1962); *Christian* v. *United States*, 152 F.Supp. 561, 566 (D. Md. 1957).

A recent decision of the United States Court of Appeals, District of Columbia Circuit, provides additional support for Commission authority to require carriers to reimburse owner-operators for their fuel costs. *Global Van Lines* v. *ICC*, 627 F.2d 546 (D.C. Cir. 1980). In that case, the court affirmed a Commission rule requiring a carrier to pay interest on owner-operator funds held in escrow. The Commission set the interest rate at the average yield on a 91-day Treasury bill. Because the Commission chose a rate of interest that is both unambiguous and uniform throughout the country, the court found that the Commission had reasonably exercised its general rulemaking power.

Shippers-Carriers

The Fold In of the Surcharge

Shippers uniformly comment that allowing carriers to fold in all of the existing surcharge will perpetuate the distortions in the current system. We agree. However, we also recognize that the problem is not quite that simple. The revenue-based surcharge has in fact over-compensated carriers on some types of commodities and under-compensated them on others. Many carriers who have been over-compensated have declined rate increases as a result.

Because surcharges are a temporary measure and to rationalize the rate structure, we will order that surcharges be cancelled and will allow them to be incorporated into the rate structure. However, in no case shall the amount folded in exceed the amount necessary to compensate owner-operators pursuant to the Commission's compensation method or to compensate non-owner-operator carriers for actual increased fuel costs since January 1, 1979. To protect the legitimate interests of shippers, the fold-in must be published to be effective on 30-days' notice. Shippers may protest any rate increase which exceeds the amount necessary to cover increased fuel costs since January 1, 1979.

When this decision is effective, carriers will be permitted to fold into their rates the lesser of either their existing surcharge or the amount necessary to compensate them for added fuel costs since January 1, 1979. In addition, carriers shall submit a verified statement with the fold-in tariff supplement to this Commission affirming that the surcharge folded in is necessary to cover added fuel costs since January 1, 1979, and no more, and that all owner-operators will presently and in the future be reimbursed for fuel costs at the level established by the Commission's compensation method. This affirmation shall also be noted on the tariff. 49 U.S.C. 10762(1). If publication is by rate bureau, the rate bureaus shall certify that all carriers for whom they are publishing a fold-in tariff have verified these facts. The rate bureaus shall keep the verified statements on file until January 31, 1983. Carriers which choose to incorporate all or a portion of their existing surcharge into the rate base may do so either (1) directly, by independent action, or (2) by participating in conversion table supplements to agency tariffs, as reflected in Part 1 of Appendix B. Shippers may protest a proposed fold-in on the basis that the fold-in overcompensates the carrier for actual increased fuel costs. Rule 40 of the Commission's General Rules of Practice, 49 CFR 1100.40, will apply. Failure to reply to any protest within 7 days of the tariff effective date will be accorded weight in our determination to suspend or investigate. Unlawfully established tariffs may be challenged within 60 days after their effective date before the Tariff Integrity Board. Rule 22(a) of the Commission's General Rules of Practice, 49 CFR 1100.22(a).

[6] S. Rep. No. 1271, 84th Cong., 1st Sess. (1955).

Carriers and rate bureaus may not simultaneously propose any rate relief not specifically authorized in this decision. Restructuring proposals are not to be filed through the fold-in mechanism. We are aware of the fact that some carriers may not have sought rate increases while the fuel surcharge was effective. If revenue shortfall problems are created by the fold-in, the Commission will entertain individual requests for short notice rate relief.

All surcharges must be converted into the rate base by the 60th day after the effective date of this decision. On that day, Special Permission Nos. 79–2800, 79–2620, and all other related Special Permissions will be canceled. Any surcharges remaining in effect on that date will be null and void. In addition, the National Motor Freight Traffic Association surcharge tariff (ICC NMF Tariff 121) will be canceled no later than the 60th day after the effective date of this decision.

During the 60-day period in which the existing surcharge levels are frozen, and until such time as allowable adjustment is effected each carrier shall continue to pay its owner-operators the maximum surcharge in effect on the effective date of this decision.

Future Fuel-Related Rate Increases

In view of the possibility that the country may continue to be confronted with periods of rapidly rising fuel prices, the Commission will retain the 10-day notice procedures for fuel-related rate increases (not surcharges). This procedure will be available after expiration of the 60-day transition period, and will provide a short-notice publication to permit carriers to recover payments made to owner-operators pursuant to the mandatory Commission-developed compensation method or for non-owner-operator carriers to recoup actual fuel cost increases. We will cancel the present 10-day notice procedure (Special Permission No. 76–350) and replace it with the updated one attached as Part 2 of Appendix B to this decision. This procedure may be implemented collectively or by independent action, and increases under this Special Tariff Authority are to be filed by percentage increase supplements only. No other short-form tariffs or master tariff publications will be allowed. Carriers shall supply the fuel data required in the Special Tariff Authority, and these increases will be subject to investigation and suspension, where appropriate.

Miscellaneous Matters

In the July 31, 1981, decision, we proposed that for purposes of the zone of rate freedom "the rate in effect one year prior to the effective date" would include the 13-percent surcharge then in effect. Based on public comments we have determined that rate adjustments resulting from folding in the surcharge will not be considered against the zone. The fold in of the surcharge is not intended to be a general rate increase so as to come under the procedures of Ex Parte No. MC–82, *New Procedures in Motor Carrier Revenue Proceedings.*

A major carrier complaint is that the fold-in procedure will increase gross revenues which will increase insurance premiums and other costs based on gross revenue. The surcharge program separated the fuel component from the rate base. If a surcharge program had not been implemented, carriers would likely have sought increases in their base rates and incurred these higher costs for the last two years. Now that the separate surcharge mechanism is terminated, carriers cannot complain about the loss of this two-year benefit. Carriers may apply for a rate increase to cover these increased insurances costs.

Numerous carriers argue for mandatory fold in of the entire surcharge into the rate base. We point out that the surcharge to shippers is not a mandatory element of the present program. Many carriers have published less than the fully-authorized surcharge or no surcharge on their rates. Therefore, it appears inconsistent with the competitive goals of the Motor Carrier Act of 1980, and the goals of the surcharge program to require an 18 percent across-the-board increase in rates.

This decision will not be effective until 30 days after publication in the Federal Register. Rate bureaus and carriers indicate that a 60-day period is inadequate to fold the surcharge into the rate base. We continue to believe that 60 days allows adequate time for the carriers and bureaus to complete the necessary work to prepare tariffs for publication. In this context, tariff publishers complain that they will be unable to file verified statements for their members. We see no reason to alter the requirements that verified statements be filed. Carriers may transmit statements to their tariff publishers, who can then file a verified statement that they have received statements which comply with this decision from their members. Carriers which do not transmit statements in sufficient time can fold the surcharge into their rates by independent action. In any event, all surcharges must be cancelled within 90 days from publication of this decision. This requirement will not unduly delay rate filings (the delay involves transmittal time from the carrier to the tariff publisher, a matter of a few days).

Special Permission No. 81–2500 provides that all "outstanding decisions of the Commission are modified to the extent necessary to permit the filing of the tariff publications". Based on suggestions by certain carriers, we will specifically waive any bureau docketing procedures inconsistent with this decision. But see *Board of Trade of City of Chicago* v. *ICC*, 646 F.2d 1187 (7th Cir. 1981). We are unpersuaded that, as a policy matter, any legitimate carrier interest will be served by ordering a uniform mandatory date for the fold in of the surcharge. Carriers argue against "fold ins" by conversion supplement and that future fuel-related rate increases be limited to a percentage statement of increased rates. These limitations are necessary for standardization and will facilitate public and Commission recognition of what constitutes a surcharge fold in, future fuel rate increase, or general increase.

Carriers and tariff publishing agents argue against the July 1, 1982, expiration date on publications incorporating the surcharge. Based on comments we will extend the date to January 31, 1983. Subject to proper justification, any individual or carrier may apply for Special Permission if more time is necessary.

This decision does not significantly affect either the quality of the human environment or conservation of energy resources.

This decision is based, in part, on the economic evaluations and comments appearing in the Final Regulatory Flexibility Analysis. The Commission expressly adopts the Final Regulatory Flexibility Analysis rule and decided upon concurrently with this decision. Copies of the Final Regulatory Flexibility Analysis required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq., 94 Stat. 1166) are available at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

It is ordered:

1. Thirty days after publication of this decision in the Federal Register the maximum fuel surcharge level will be frozen for sixty days.

2. Carriers will be required to compensate owner-operators at this level until the surcharge is canceled or the allowable adjustment in base rates is made.

3. During the 60-day period in which the maximum fuel surcharge is frozen, a carrier may fold into its rates the lesser

of either (a) its existing surcharge or (b) the amount necessary to compensate owner-operators pursuant to the Commission's compensation method or to compensate non-owner-operator carriers for actual increased fuel costs since January 1, 1979.

4. Carriers shall submit a verified statement that the surcharge folded in is necessary to cover fuel costs above 63.5 cents a gallon, as described above, and no more, and that all owner-operators presently and in the future will be reimbursed for fuel costs at the level established by the Commission.

5. The tariff shall contain a certification of the facts contained in the verified statement.

6. The fold in shall be filed to be effective on 30-days' notice.

7. Shippers may protest a rate increase on the ground that the fold-in exceeds increased fuel costs.

8. Ninety days after publication of this decision in the Federal Register all relevant Special Permissions will be canceled and any surcharges remaining on that date will be null and void.

9. For the future, carriers will be required to reimburse owner-operators for fuel costs in excess of 63.5 cents a gallon on a continuing basis based on the Commission's mileage-based compensation method.

10. This compensation will apply when the surcharge is no longer applicable.

This decision will be effective November 9, 1981.

Decided: October 5, 1981.

By the Commission. Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham and Gilliam.

James H. Bayne,

Acting Secretary.

APPENDIX A.—DIESEL FUEL—PRICES AND REQUIRED MILEAGE ESCALATION

Date	Price including taxes (cents)	Increased fuel cost (cents) (over 63.5¢)		Required amount (cents)[2]
		Total	Per mile[1]	
(1)	(2)	(3)	(4)	(5)
Jan. 1, 1979	63.5	0	0	0
Jan. 7, 1980	106.7	43.2	8.6	9.1
Jan. 5, 1981	120.3	56.8	11.4	12.1
July 6, 1981	132.3	68.8	13.8	14.6
Sept. 28, 1981	130.2	66.7	13.3	14.1

[1] In cents per mile assuming 5.0 miles per gallon (Column 3 ÷ 5).
[2] Cost per mile increased by 6 percent for circuity.

Appendix B.—Special Tariff Authority No. 81–2500; Fuel Related Increases in Rates and Charges

In a decision in Ex parte No. 311 (Sub-No. 4), *Modification of the Motor Carrier Fuel Surcharge Program*, the Commission ordered that, before 60 days from the effective date of the decision, all motor carriers and freight forwarders are required to cancel fuel surcharge publications which have been filed under Special Permission Nos. 79–2800, 79–2620, and any others which are related.

The carriers may incorporate into their rates the lesser of either (a) their existing surcharge or (b) the amount necessary to compensate owner-operators pursuant to the Commission's compensation method or to compensate non-owner-operator carriers for actual increased fuel costs since January 1, 1979. Incorporation shall be directly, through independent action, or by means of conversion table supplements to agency rate tariffs. The fold in shall be filed to be effective on 30-days' notice.

Carriers shall submit a verified statement that the surcharge folded in is necessary to cover added fuel costs since January 1, 1979, and no more, and that all owner-operators will presently and in the future be reimbursed for fuel costs at the level established by the Commission's compensation method. This also must be noted on the tariff. Rate bureaus shall certify that all participating carriers have verified these facts.

Shippers may file a protest to a proposed fold-in adjustment on the basis that the fold-in overcompensates the carrier for actual increased fuel costs. Rule 40 of the Commission's general rules of practice, 49 CFR 1100.40. Failure of carriers to reply to any protest within 7 days of the effective date of the tariff will be viewed most seriously. To expedite consideration, one copy of the reply should be labeled "*Fuel Fold-In*" and be mailed directly to the Commission's Suspension Board, Room 4340, in addition to the copies filed with the Secretary's office. Unlawfully established tariffs may be challenged within 60 days after their effective date before the Tariff Integrity Board. Rule 22(a) of the Commission's general rules of practice, 49 CFR 1100.22(a). Carriers and rate bureaus may not propose any rate relief not specifically authorized in this decision.

The Commission has retained 10-day notice fuel-related rate increase procedures (not surcharges) to be used by carriers at the end of the 60-day transition period. Special Permission Nos. 76–350 and 76–360 (for freight forwarders) are canceled and are being replaced by this new updated Special Tariff Authority (Part 2), and a separate authority for freight forwarders, No. 81–2501. The verified statement of fuel expense to be filed with each increase closely follows that in canceled Special Permission No. 76–350. The explanatory statement of the data to be filed, found in Ex Parte No. 311, 350 I.C.C. 578–579, as modified here, should be followed, where appropriate, especially with regard to current period data. Any increases in fuel cost prior to the effective date of this decision, however, may not be considered when publishing increases under Part 2 of this Special Tariff Authority.

Part 1 (Fold-In of Existing Surcharges)

It is ordered:

1. Motor common carriers of property or passengers, freight forwarders, United Parcel Service, and their tariff publishing agents, are authorized to incorporate into their basic rates, fares, and charges, either directly specifically, by independent action, or by conversion table supplements, all or a portion of the surcharge presently allowable to them. The maximum surcharge that may be incorporated is the lesser of either (a) the existing surcharge or (b) the amount necessary to compensate owner-operators pursuant to the Commission's compensation method or to compensate non-owner-operator carriers for actual increased fuel costs since January 1, 1979.

2. Conversion table supplements filed hereunder shall be constructed substantially as provided in 49 CFR 1310.10(j). For the initial incorporation, neither a percentage statement of increased rates nor a so-called master tariff may be used.

3. The incorporating publication may be filed upon not less than 30-days' notice.

4. The incorporating publication shall bear the following notation:

"Issued on 30-days' notice; Special Tariff Authority No. 81–2500."

5. The incorporating publication shall bear an expiration date of January 31, 1983, by which date the increase shall be reflected in the basic tariff rates, and with which date this Part 1 will expire.

6. Tariff publishing regulations in 49 CFR 1300, et seq. are waived to the extent necessary to publish conversion table supplements and to maintain in effect two conversion tariff supplements at the same time. However, only one fuel related conversion table supplement to a tariff shall be in effect at a time.

7. Concurrent with the issuance of a publication incorporating the fuel surcharge into the rate structure, carriers shall cancel the fuel surcharge publication.

8. Any surcharge supplement or master tariff of surcharges not specifically canceled within 60 days of the effective date of this decision shall

be null and void and stricken from the tariff.

9. The incorporating publication may not be amended under any circumstances without specific special tariff authority.

10. The incorporating publication shall be transmitted to the Commission in a separate envelope prominently marked *"Fuel Fold-In."*

Subsequent Increases—Part 2

1. Following the end of the 60-day incorporation period of the fuel surcharge under Part 1 of this authority, motor common carriers of property or passengers, and United Parcel Service, individually or collectively, may increase their rates, fares, and charges for line-haul transportation and charges for other services which consume fuel, by an amount equal to the increase in fuel costs determined by the "Verified Statement of Fuel Expenses and Supporting Data" shown in Appendix C. Tariff publication filed under this authority shall specifically identify the charges for other services when applying any increase thereon. Any increase in the cost of fuel prior to the effective date of this decision, may not be considered when publishing increases under this Part 2. Freight forwarders must use the procedures in Special Tariff Authority No. 81–2501.

2. The initial increase publication may be in the form of only a percentage statement of increased rates. It may not be in the form of a conversion table supplement or a so-called master tariff.

3. The increase publications shall be filed upon not less than 10 working days' notice. (Working days means working days at the I.C.C.)

4. The increase publication shall bear the following notation:

"Issued on 10 working days' notice; ICC Special Tariff Authority No. 81–2500."

5. Each increase publication shall bear an expiration date of one year from its effective date, which date may not be changed or canceled without specific authority.

6. Tariff publishing regulations in 49 CFR 1300, et seq., are waived to the extent necessary to maintain in effect two percentage increase supplements at the same time. However, only one fuel related percentage supplement to a tariff may be in effect at a time.

7. Each increase publication shall be accompanied by an original and two copies of an executed "Verified Statement of Fuel Expenses and Supporting Data" in the manner and form provided in Appendix C. Each carrier or groups of carriers must justify their fuel related increases.

8. The increase publication with the accompanying justification shall be transmitted to the Commission in a separate envelope prominently marked "Fuel Related Increases and Justifications."

9. A carrier may file an increase supplement as often as it can justify a fuel related increase, but each increase supplement shall cancel the previous fuel related increase supplement for that carrier. All carriers are expected to update their tariffs by incorporating the increase into the specific rate structure as soon as practicable.

10. This decision shall remain in effect until further decision of the Commission.

11. Protests and requests for suspension shall reach the Commission at least 5 days before the effective date of increase publications filed under this Special Tariff Authority. To expedite consideration, one copy of the protest should be labeled *"Fuel Related Increases"* and be mailed directly to the Commission's Suspension Board, Room 4340, in addition to the copies filed with the Secretary's office.

All outstanding decisions of the Commission are modified to the extent necessary to permit the filing of the tariff publications authorized herein. The Commission is waiving any bureau docketing requirements inconsistent with this decision.

Notice of this Special Tariff Authority shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC, for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

James H. Bayne,

Acting Secretary.

Special Tariff Authority No. 81–2501 Fuel Related Increases in Rates and Charges—Freight Forwarders

Special Tariff Authority No. 81–2500 (Part 2) authorizes all motor carriers, other than freight forwarders, after the 60-day fold-in period of existing surcharges ordered in the notice in Ex Parte No. 311 (Sub-No. 4), to file for fuel-related increases on 10-working days' notice. A similar procedure is required for freight forwarders.

It is ordered:

Following the incorporation of the fuel surcharge under Special Tariff Authority No. 81–2500, freight forwarders, individually or collectively, may increase their rates and charges to reflect only the amount of increased costs passed to the freight forwarder from the underlying carriers on a dollar for dollar basis (and not on a percentage basis) exactly as charged in the underlying carriers' tariffs; and increased fuel costs of pickup and delivery operations of the freight forwarders' own vehicles. Any increased costs prior to the effective date of this decision may not be considered when publishing increases under this Part 2. Each increase publication shall be accompanied by an original and two copies of a verified statement of fuel costs to justify the increase.

The provisions in Special Tariff Authority No. 81–2500 relating to manner of publication (percentage statement of increased rates), disposition of fractions, copies, notice, marking and title on separate envelope, future supplements, incorporation in subsequently filed tariffs, and protests are made applicable to this Special Tariff Authority.

The increase publication shall bear the following notation:

"Issued on 10 working days' notice; ICC Special Tariff Authority No. 81–2501."

All outstanding decisions of the Commission are modified to the extent necessary to permit the filing of the tariff publications authorized herein.

Notice of this Special Tariff Authority shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC, for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

James H. Bayne,

Acting Secretary.

BILLING CODE 7035-01-M

Appendix C—Verified Statement of Fuel Expenses and Related Data in Support of Requested Fuel Rate Increase

Filed by:
Address:

Line No.	Items	Ratemaking Carrier	Owner-Operator (if applicable)
	(a)	(b)	(c)
1.	(a) Requested fuel rate increase, current period over base period (Col. (b)) (not to exceed percent on line 15 col. (b) (percent)-- Effective date: (Mo.) (Day) (Yr.)	%	%
	(b) Last fuel rate increase granted under this procedure (percent)-- (Col. (b))1/ Effective date: (Mo.) (Day) (Yr.)	%	%
	I BASE PERIOD DATA:		
2.	Fuel expenses including taxes--	$	$
3.	Number of gallons purchased or miles paid for (Cols. (b) & (c) respectively)		
4.	Average purchase price per gallon of fuel or per mile including taxes (L.2÷L.3) (cents to 2 dec.)--	¢	¢
	II CURRENT PERIOD DATA		
5.	Indicate month/year for which current period data (Lines 6 through 12) are applicable: (Mo.) (Day (Yr.)		
6.	Fuel expenses, including taxes--	$	$
7.	Number of gallons purchased or miles paid for (Cols. (b) & (c) respectively)		
8.	Average purchase price per gallon of fuel or per mile including taxes (L.6÷L.7)(Cents to 2 dec.)--	¢	¢
9.	Total operating revenues--	$	$

1/ Cumulative amount of fuel related increase associated with mileage compensation to owner-operators ___ % (Line 1(a) plus (b) Col. (c)).

10. Payment to owner-operators--	xxx	$
11. Revenues retained by ratemaking carrier when transportation is performed by owner-opertor--	$	xxx
12. Balance of operating revenues (L.9. Col.(b)) minus (L.10, Col.(c)+L.11, Col.(b))--	$	xxx
III PERCENT THAT INCREASED FUEL COSTS IS OF TOTAL OPERATING REVENUE		
13. Increase in purchase price per gallon of fuel or per mile, including taxes (L.8-L.4) (cents to 2 dec.)--	¢	¢
14. Increase in fuel expenses, including taxes, current period over base period: (L.7xL.13)--	$	$
15. Percent that increased fuel costs, including taxes, is to total operating revenues (L.14 Cols. (b) and (c) ÷ (L. 9) (2 dec.)	%	%
IV. LAST FUEL-RELATED RATE INCREASE RECEIVED		
16. Last rate increase relying on fuel cost increases alone under this Special Tariff Authority or a rate increases based upon fuel expenses among other expenses published under regular notice. (percent to 1 dec.)--	%	xxx
Study period relied on to support fuel cost increases From:_____to_____		
Other basis		

V. OTHER MATTERS

BILLING CODE 7035-01-C

Verification

_____

(State)

_____

(County) SS:

_____,

being duly sworn, deposes and says that he has read the foregoing statement, knows the contents, and that they are true as stated.

_____

(Signature)

Subscribed to and sworn before me, a Notary Public, this day of _____ (month), _____ (Year).

_____

(Notary Public)

My Commission expires _____.

[FR Doc. 81-29497 Filed 10-8-81; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 196
Friday, October 9, 1981

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

Farmers Home Administration

7 CFR Parts 1910, 1924, 1941, and 1943

New Full-time Family Farmer and Rancher Development Project

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations pertaining to management assistance for certain farmer programs applications and borrowers. The change will implement a "New Full-time Family Farmer and Rancher Development Project" that will supplement the management assistance available from FmHA County Supervisors. The intended effect of this project is to help develop a continuing and reliable supply of successful full-time commercial family farmers and ranchers to replace the retiring generation and other agricultural producers who discontinue their operations.

DATE: Written comments will be received on or before November 9, 1981.

ADDRESSES: Submit written comments in duplicate to Carl O. Opstad, Chief, Directives Management Branch, Farmers Home Administration, U. S. Department of Agriculture, Room 6348–S, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Morris Monesson, Emergency (EM) Loan Branch Chief, Loan Division U. S. Department of Agriculture, Farmers Home Administration, Washington, D.C. 20250, telephone: (202) 382–1632.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor."

This proposed action has been determined "nonmajor" since the annual effect on the economy is less than $100 million and there will be no increase in costs of prices for individuals, organizations, or other government agencies affected. There will be no 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 following alternatives and effects were considered in the implementation of this proposed action:

Alternatives and Effects

1. Take no action:
   Because of current heavy workloads of FmHA County Supervisors, less time is available to provide counseling and management supervision for farm loan applicants and borrowers, thereby significantly contributing to fewer such families entering farming and ranching and more failures among those who do.
2. FmHA hire more County Supervisors:
   Greater capacity for FmHA to provide more supervision and management assistance, but at substantially increased cost to government for salaries, overhead, training, travel, etc.
3. FmHA contract for professional farm or ranch management service for borrowers:
   Increased cost to Government.
4. Borrowers required by FmHA to contract for professional farm or ranch management services as a condition of loan approval:
   Increased cost of production to borrowers making a larger loan necessary, trying up funds that could go to other new borrowers.
5. Implementation of project to use volunteer local Development Committees and Guidance Counselors:
   - Only new cost to government is reimbursement of volunteer's mileage while performing the volunteer services.
   - Imput of key public and private sector representatives will promote a more complete analysis of applicant's needs and a more comprehensive farm or ranch plan with better ongoing supervision.
   - FmHA county supervisor receives substantial, effective supplement to his/her capacity to provide essential supervision and servicing of borrowers.
   - Participation of private lenders in evaluating candidates at outset, and annually thereafter, sets the stage for graduation at the earliest possible date, thus freeing government funds and accomplishing the objective of FmHA's temporary financing.

Alternative 5 was selected because it will provide the greatest net benefits to society at the lowest cost.

The full field force network of the United States Department of Agriculture (USDA) agencies, representatives of actively interested local farm organizations and local farm lending institutions will provide management assistance and supervision on a voluntary basis, for certain prospective full-time family farmers and ranchers who are dependent on FmHA financing to implement their long-range plan. The FmHA and the other USDA agencies believe there is a definite need for a concerted effort to be made, through coordination and utilization of all Department resources, to replace the steadily declining number of family farmers and ranchers in rural America. This additional service will be made available, on a pilot basis, immediately in 81 Farmers Home Administration (FmHA) County Office areas within 10 selected States, and then implemented nationwide at every FmHA County Office location in Fiscal Year 1983. The 10 pilot States are: Illinois, Minnesota, Mississippi Missouri, Nebraska, North Carolina, North Dakota, Oregon, Pennsylvania, and Texas.

This action does not directly affect any FmHA programs or projects that are subject to A–95 Clearinghouse review.

CFDA No. and Title:
10.406 Farm Operating Loans
10.407 FarmOnwership Loans
10.416 Soil and Water Loans (S&W)

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statement." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

This action is being published with a comment period of less than 60 days to permit the new project to be implemented on a pilot basis and have its benefits made available to interested farmers and ranchers in sufficient time for them to plan and develop their 1982 farming or ranching plans. The time

involved in publishing this proposal as a final rule, in organizing the Full-Time Family Farmer and Rancher Development Committee in each of the pilot counties, and in reviewing candidates for assistance and assisting in preparation of their proposed financing plans for submission to FmHA, makes it imperative that the shortened comment period be used. It is estimated that the Final Rule will not be published before November 16, 1981, and that it will take at least another month after the date of final publication before the Development Committees are organized and able to extend services to potential candidates. In addition, FmHA believes that it will need at least thirty days to review an application and accompanying documentation before a loan is able to be approved; and that, in order to have financing for the 1982 farming and ranching year, candidates must be approved for financing by February 1, 1982. In the event this time table is not met, prospective beneficiaries of this project will be denied the opportunity to commence their long-range plans for another year and the Department would not be able to properly evaluate the pilot project before implementing the project nationwide by the 1983 farming and ranching year.

Accordingly, for the above reasons, FmHA proposes to amend Subpart A of Part 1910, Subpart B of Part 1924, Subpart A of Part 1941, Subpart A of Part 1943 and Subpart B of Part 1943, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

1. As proposed, the introductory text of § 1910.4 is revised to read as follows:

§ 1910.4 Processing applications.

When obtaining information concerning applicants and evaluating their qualifications, FmHA personnel will be governed by the provisions of ECOA and the established policies for the various types of assistance offered by FmHA. In the processing of applications for Farm Ownership, Farm Operating and Soil and Water loans received from family size operators, the County Supervisor may recommend the applicant for the additional services of the "New Full-Time Family Farmer and Rancher Development Committee." See Exhibit A of Subpart B of Part 1924 for the policies governing those additional services.

* * * * *

PART 1924—CONSTRUCTION AND REPAIR

Subpart B—Management Assistance to Individual Borrowers and Applicants

2. As proposed, Table of sections is amended to add the following:

Exhibit A—New Full-Time Family Farmer and Rancher Development Projects

3. As proposed, § 1924.51 is revised to read as follows:

§ 1924.51 General.

This subpart sets forth policies for providing management assistance to individual applicants and borrowers. The term "individual" as used in this subpart also applies to farming partnerships, corporations and cooperatives receiving Farmer Program loans. This subpart pertains to all insured loan applicants/borrowers who depend on farm income for loan repayment, including those FO, SW and/or OL loan applicants and borrowers who are afforded the services of a "New Full-Time Family Farmer and Rancher Development Committee." (See Exhibit A of this subpart). It also provides for the necessary supervision and appropriate credit counseling for Rural Housing (RH) applicants/borrowers not dependent on farm income for loan repayment.

4. As proposed, Exhibit A is added to the end of Subpart B to read as follows:

Exhibit A—New Full-Time Family Farmer and Rancher Development Projects

I. *Objective.* The objective of this additional applicant/borrower service is to develop a continuing and reliable supply of full-time commercial family farmers and ranchers to replace the retiring generation and other agricultural producers who discontinue their operations. This service will enlist the management assistance from the full field force network of the United States Department of Agriculture (USDA) Agencies as well as voluntary representatives of local farm and forestry organizations and farm lending institutions. No applicant applying for FmHA loan assistance will be required to utilize the management assistance of the Development Committee. The decision of an FmHA loan applicant not to utilize the services of the Development Committee will not impair in any way the applicant's eligibility for FmHA assistance.

II. *Definitions.* A. *USDA Agency Representative*—A USDA full-time or part-time employee.

B. *New Full-Time Family Farmer or Rancher*—an individual, a family partnership or a family corporation who/which is a part-time or a beginning farmer or rancher and has expressed the interest to become a full-time farmer or rancher at the time of recommendation to the Development Committee.

C. *Family Size Farming or Ranching Operation*—An operation recognized to be a family size farming or ranching operation as defined in § 1941.4(d) of this chapter.

III. *Delivery.* This additional service will be made available, on a pilot basis, immediately in 81 Farmers Home Administration (FmHA) County Office areas within 10 selected States, and then implemented nationwide in Fiscal Year 1983. The 10 pilot States and 81 pilot counties are:

I. Illinois

1. Greene
2. Jefferson
3. Kankakee
4. McDonough
5. Stephenson

II. Minnesota

1. Clearwater
2. Kanabec
3. Kandiyohi
4. Kittson
5. Murray
6. Olmsted
7. Ottertail

III. Mississippi

1. Calhoun
2. Copiah
3. George
4. Monroe
5. Newton
6. Pearl River
7. Pontotoc
8. Quitman
9. Washington
10. Yazoo

IV. Missouri

1. Barry
2. Cape Girardeau
3. Douglas
4. Johnson
5. Livingston
6. Mississippi
7. Nodaway
8. Osage
9. Randolph
10. Texas

V. Nebraska

1. Box Butte
2. Buffalo
3. Custer
4. Dodge
5. Gage
6. Greeley
7. Knox
8. Red Willow
9. Wayne
10. York

VI. North Carolina

1. Alleghany
2. Jackson
3. Nash
4. Northampton
5. Yadkin

VII. North Dakota

1. Bottineau
2. Emmons
3. Hettinger
4. LaMoure
5. Mercer
6. Pierce
7. Richland
8. Sheridan
9. Stark
10. Williams

VIII. Oregon

1. Clackamas
2. Douglas
3. Jefferson
4. Klamath
5. Linn
6. Malheur
7. Union

IX. Pennsylvania

1. Berks
2. Bradford
3. Center
4. Columbia
5. Crawford
6. Franklin
7. Huntington
8. Lancaster
9. Somerset
10. York

X. Texas

1. Haskell
2. Houston
3. Menard
4. Milan
5. Pecos
6. Starr
7. Van Zandt

IV. *Organization of Voluntary Field Force.* A. *New Full-Time Family Farmer and Rancher Development Committee.*

1. *Responsibilities for Organizing*—It is the responsibility of FmHA State, District and County Office officials (and County Committeepersons if they wish to volunteer

their assistance in organizing and publicizing) to take the necessary and appropriate actions to:

a. Publicize the concept and objectives of the Development Committees and stimulate local interest in the project through the news media and through personal contacts. (All FmHA employees are expected to participate in this action.)

b. Schedule an organizational meeting(s), and establish a New Full-time Family Farmer and Rancher Development Committee at the FmHA County Office level. The County Supervisor will schedule the organizational meeting(s) and serve as chairperson *pro tem* until the Development Committee is established and has elected its permanent officers.

c. Assure that a farmer member of the FmHA County Committee serves as a member of the Development Committee. (The County Supervisor is responsible for taking this action.)

2. *Composition of the Development Committee*—Committee composition will be a local decision. However, they must be selected without regard to race, color, national origin, sex, age or handicapped condition. The Committees are to be organized and established in each of the 81 pilot FmHA County Office area in Fiscal Year 1982, and in every FmHA County Office area during Fiscal Year 1983. Membership on the Development Committees will be composed of:

a. A farmer member of the FmHA County Committee.

b. A member of the Agricultural Stabilization and Conservation Service (ASCS) County Committee.

c. A farmer member of the Soil Conservation District Governing Board.

d. A farmer representative of the county Cooperative Extension Service (CES).

e. A Federal Crop Insurance Corporation (FCIC) Field Supervisor.

3. *Additional Members*—may be selected for the Development Committee during its organizational meeting(s) and may include, but is not limited to, some or all of the following individuals:

a. A representative(s) of the local Farm Credit System. (Federal Land Bank Association and/or Production Credit Association.)

b. A representative of a local commercial lender(s) who is actively involved in agricultural lending in the area (Bank agricultural loan officer (s).)

c. An officer or active member of local farm or forestry organizations.

d. A Vocational Agriculture Instructor and/or a 4-H Club Leader.

e. A senior member of a local Future Farmers of America (FFA) chapter and/or a farm project oriented 4-H Club.

f. A representative of a farm supply or farm marketing cooperative serving the area.

4. Representatives from the local offices of ASCS, CES, FmHA, FS (Forest Service), SCS and all other appropriate USDA agencies will support the Development Committees as consulting experts and *ex officio* members of the Committees.

B. *Guidance Counselors*—The New Full-time Family Farmer and Rancher Development Committees will solicit and recruit Volunteer Guidance Counselors and assign a Counselor to each individual candidate. The Counselors must be selected without regard to race, color, national origin, sex, age or handicapped condition. The Counselors will provide on-the-farm management assistance and supervisory functions by guiding the candidates in the successful pursuit of their long range plans. Each Development Committee will establish its own qualifying criteria for Counselors and recruit them from the following sources:

1. *Retired farmers or ranchers*—who have been successful operators during their active farming or ranching years.

2. *Active successful farmers and ranchers*—including those who have had FmHA loan assistance and graduated to conventional credit.

3. *Retired professionals*—who have management expertise.

V. *Terms and Compensation of Development Committee Members and Guidance Counselors.* A. *USDA Agency Employees*—who serve on the Development Committees will work without additional compensation, utilizing agencies' equipment, facilities and services as necessary. USDA agencies will provide representatives to serve on the Committees as long as the project is continued.

B. *Other Committee Members and Guidance Counselors*—All other Committee members and Guidance Counselors who are not USDA Agency employees or representatives of other institutions; e.g., Farm Credit Association—PCA's, FLB's, banks, agribusinesses, etc., will be compensated for mileage traveled while performing their voluntary services. Those volunteers for whom mileage reimbursement is authorized will maintain and submit monthly mileage claims to the local FmHA County Supervisor during the pilot project. County Supervisors are authorized to process mileage claims as set out in FmHA Instruction 2036-A, a copy of which is available in any FmHA office.

C. *Term of Office*—The term of service for Committee members can vary from one to three years, but the same individuals will not serve for more than three consecutive years. However, the terms of Guidance Counselors may continue with an individual farmer until that farmer graduates to conventional credit or is terminated from the services of the Committee for other reasons.

VI. *Duties and Responsibilities of the Development Committee*—Principal Duties and Responsibilities of the New Full-Time Family Farmer and Rancher Development Committee include:

A. *Serving New Candidates*—

1. Interviewing candidates referred to the Committee. Written referrals are required and may be accepted from any responsible local person.

2. Assisting candidates in the development of annual and long range plans to become successful farmers or ranchers. These plans will be prepared on Forms FmHA 431-1, "Long Time Farm and Home Plan" and FmHA 431-2, "Farm and Home Plan", or other similar plans. Also, the Committee will assist candidates in preparing Form FHA 410-1, "Application for FHA Services." All FmHA forms will be provided to the Committee as needed by FmHA.

3. Advising candidates on location and suitability of farm and ranch land resources (as tenants and/or owners).

4. Advising candidates on capital expenditures for livestock, machinery and equipment, and real estate.

5. Recommending the type(s) of farm or ranch enterprise(s) to be conducted which has been proven successful for the local area.

6. Reaching an agreement with the candidates on the type(s) and amount(s) of FmHA loan assistance for which the candidate will apply.

7. Obtaining a written agreement between candidate and Development Committee. The Agreement will read as follows:

"Agreement Between the—(Name of County)—County New Full-Time Family Farmer and Rancher Development Committee and Candidate—(Candidate's name).

The Candidate:

a. Agrees to voluntarily disclose to the Development Committee complete personal financial information and submit a current financial statement;

b. Understands that the assistance to be received from the Development Committee is voluntary; and that such assistance can be terminated by either the candidate or the Development Committee upon written notification. Termination by either of the parties will not preclude the candidate from applying directly to FmHA for loan assistance, nor will it impair the candidate's eligibility for FmHA assistance.

c. Agrees to follow the recommendations and advice of the Development Committee and Guidance Counselor.

The Development Committee:

a. Agrees to treat all information provided by the candidate as confidential.

b. Will assist the candidate in completion of a FmHA loan package which will include Forms FHA 410-1, "Application for FHA Services;" 431-1, "Long-Time Farm and Home Plan;" and 431-2, "Farm and Home Plan."

c. Will provide a written recommendation to the FmHA County Supervisor for those candidates determined qualified to receive the continued services of the Development Committee. Such recommendation will ordinarily be made within 2 months, but should not exceed 6 months after the candidate has been referred to the Committee. Such recommendation will carry no assurance of FmHA loan(s) approval.

d. Will notify, in writing, any candidate who does not qualify for the Development Committee's continued service, and return to the candidate all papers and information submitted by the candidate. Such notification will be given not later than 30 days after the candidate has been referred to the Committee. The FmHA County Supervisor will be notified, in writing, of the termination by the Development Committee chairperson.

Candidate ———————

Date ———————

Development Committee Chairperson ———

Date ———————

B. *Serving candidates who are successful in obtaining FmHA financing as a New Full-Time Family Farmer or Rancher*—These services include:

1. *Selecting and assigning*—a Guidance Counselor to work closely with the farmer or rancher.

2. *Reviewing*—an annual operational analysis (financial, production and marketing) of each borrower's operation with the borrower and the Guidance Counselor.

3. *Submitting*—an annual report on each borrower to the FmHA County Supervisor by February 1st of each year. The annual report will include the following information and recommendations as the Committee deems appropriate.

a. Actual figures of expenses and income for the previous year's operation, and an analysis of progress made for the year.

b. A plan of operation for the coming crop year if the borrower is to be recommended to continue to receive the services of the Comittee.

c. Recommendations as the Committee deems appropriate:

(1) Graduation to other credit where progress justifies it.

(2) Additional FmHA loan(s) and/or continued FmHA financing.

(3) Discontinuance of the services of the Committee due to insufficient progress, lack of cooperation, and/or inability to make necessary adjustment; and notifying FmHA, in writing, of such action.

4. *Recruiting, assigning and overseeing*—the counseling activities of Voluntary Guidance Counselors. Counselors will be expected to work closely with USDA personnel, make on-the-farm visits at least monthly, and advise and counsel the borrower in all areas of farm or ranch management.

VII. *Participation of Individuals and/or Groups Involved or Assisting in Each Phase of This Effort.*

TABLE 1.—PARTICIPATION DIAGRAM FOR NEW FULL-TIME FAMILY FARMER AND RANCHER DEVELOPMENT COMMITTEE CANDIDATES

Action	Participants				
	Candidate	NF-TF/R development committee	Guidance counselor	Consulting agency representative	FmHA county committee
1. Nomination/Referral—Any responsible person from the agricultural community—					
2. Application review including inventory of resources	X	X		X	
3. Evaluate need for and feasibility of USDA resources	X			X	
4. Candidate not selected	X	X			
5. Candidate selected	X	X			
6. Comprehensive plan development	X	X		X	
A. On-site planning	X			X	
1. Define objectives	X	X		X	
2. Review problems and opportunities	X	X		X	
3. Evaluate alternatives	X	X		X	
4. Select alternatives	X	X		X	
5. Record planning decisions				X	
B. Prepare comprehensive plan document				X	
7. Review and approve comprehensive plan	X	X		X	
8. Recommend to FmHA those candidates qualified for continued Development Committee assistance		X			
9. Determination of eligibility for FmHA financing				X	X
10. Determination of soundness of proposal by FmHA loan approval official				X	
11. Implementation of plan	X		X	X	
12. Annual review and update of comprehensive plan	X	X	X	X	X
A. Review for graduation to private credit	X	X	X	X	X
B. Termination/continuation of Development Committee's and Counselor's services	X	X	X		
13. Termination/continuation of FmHA financing	X			X	X

NOTE.—More than one X on a line indicates joint participation. *Joint* participation is essential to achieve optimized coordinated delivery of USDA programs, assurance of consideration of all resource needs and potentials, assurance of consideration of all farm/ranch operational needs, and successful development of full-time commercial family farmers and ranchers.

VIII. *Criteria for Selection of Candidates.* A candidate may be an individual, a family partnership, or a family corporation conducting or proposing to conduct a full-time family size farming or ranching operation and having strong agricultural background, training and/or experience, and resources other than the availability of necessary capital on suitable terms.

A. *Candidates May be Referred to the New Full-Time Family Farmer and Rancher Development Committee*—by any responsible person residing in the local area, including but not limited to:

1. The FmHA County Supervisor. (Applicants or borrowers presently indebted for one or a combination of Farm Ownership, Soil and Water, and/or Operating loan(s) may be referred).

2. A local agricultural lender.

3. A successful active or retired farmer or rancher.

4. A local agricultural leader.

5. Any other responsible person knowledgeable of good farm or ranch management practices.

B. *Candidates must:*

1. Express a commitment to be a full-time farmer or rancher.

2. Be able to offer evidence and project realistic plans indicating that by the end of the third full year of operation, full-time and effort (100 percent) will be devoted to conducting a successful farming operation.

3. Possess the necessary farm experience and/or background and resources, other than capital, which will likely enable the candidate to make sufficient progress and graduate to private credit within 5–10 years.

4. Agree to cooperate with, accept, and utilize the management assistance and supervision of the New Full-Time Family Farmer and Rancher Development Committee and Guidance Counselor(s).

5. Need and qualify for FmHA Farm Ownership, Soil and Water and/or Operating loan assistance to become established in a full-time family farming or ranching operation.

IX. *Candidates Recommended to FmHA for Continued Development Committee Services.* Any candidate recommended to FmHA by the Development Committee will continue to receive the Development Committee's services provided the FmHA approves a loan(s) for the candidate.

A. *FmHA County Committees*—will continue to be responsible for determining a candidate's basic eligibility for FmHA assistance.

B. *County Supervisors*—will remain responsible for determining the soundness of the proposed loan(s) and all security and account servicing of borrowers in this program, and for management assistance as set out in Part 1924, Subpart B.

C. *The Services of the Volunteer Development Committee and Guidance Counselors*—are intended to be closely coordinated with FmHA's and other USDA agencies' management assistance responsibilities, but not replace them.

D. *Nonfarm Enterprise or Recreational Loan Assistance*—authorized by Part 1941, Subpart A and Part 1943, Subparts A and C will not be available to candidates or borrowers participating in this project. If such loan assistance is requested from FmHA, the candidate or borrower will be terminated from further assistance by the Development Committee.

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures and Authorizations

5. As proposed § 1941.3 is revised to read:

§ 1941.3 Management assistance.

As provided in Subpart B of Part 1924 of this Chapter, management assistance will be provided all borrowers to the extent necessary to achieve the

objectives of the loan. See Exhibit A of Subpart B of Part 1924 for the policies governing the furnishing of additional services to borrowers by the "New Full-Time Family Farmer and Rancher Development Committee."

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

6. As proposed, § 1943.3 is revised to read:

§ 1943.3 Management assistance.

Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with Subpart B of Part 1924 of this chapter. Such assistance consists of farm, home and nonfarm planning; recordkeeping; analyzing the farm and any nonfarm business; and giving management advice. See Exhibit A of Subpart B of Part 1924 for the policies governing the furnishing of additional services to borrowers by the "New Full-Time Family Farmer and Rancher Development Committee."

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

7. As proposed, § 1943.53 is revised to read:

§ 1943.53 Management assistance.

Supervision will be provided borrowers to the extent necessary to achieve loan objectives and protect the Government's interests, in accordance with Subpart B of Part 1924 of this chapter. See Exhibit A of Subpart B of Part 1924 for the policies governing the furnishing of additional services to borrower by the "New Full-Time Family Farmer and Rancher Development Committee."

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

Dated: September 30, 1981.

Ruth A. Reister,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 81-29358 Filed 10-6-81; 8:45 am]

BILLING CODE 3410-07-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions Share, Share Draft and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The National Credit Union Administration Board proposes to revise its regulations establishing a schedule for the phase-out of dividend ceilings on share certificates to ensure that the Federal credit unions may effectively compete with other depository institutions.

DATE: Comments must be received by November 9, 1981.

ADDRESS: Send comments to Robert S. Monheit, Regulatory Development Coordinator, Office of the General Counsel, National Credit Union Administration, 1776 G St., NW, Washington, DC, 20456.

FOR FURTHER INFORMATION CONTACT: Dan Gordon, Senior Financial Economist, Office of Policy Analysis at (202) 357-1090.

SUPPLEMENTARY INFORMATION: In June of 1981, the NCUA published a phase-out schedule for the removal of dividend ceilings on share certificates. Pursuant to that schedule, on August 1, 1981, the dividend ceiling on share certificates with maturities of 4 years or more was eliminated. The dividend ceiling on shorter maturities is the greater of 12% or the average 2½ year yield for U.S. Treasury securities at the time the certificate is issued. On August 1, 1982, the dividend ceiling on share certificates with maturities of 3 years and more will be removed. Also at the time, the maximum dividend rate on share certificates with maturities of less than 3 years will equal the greater of 12% or the average 2 year yield for United States Treasury securities at the time the certificate is issued. On August 1, 1983, the dividend ceiling will be removed on all share certificates with maturities of 2 years or more, and the ceiling rate on shorter maturities will equal the greater of 12% or the 52 week Treasury bill rate at the time the certificate is issued. On August 1, 1984 all dividend ceilings on share certificates with maturities of 1 year or more will be removed, and the ceiling on shorter maturities will equal the greater of 12% or the 13 week Treasury bill rate. Finally, on August 1, 1985, all ceilings on share certificates will be removed.

In recent action the Depository Institutions Deregulation Committee proposed a revised schedule for the phase-out of dividend ceilings affecting banks and savings and loan associations. The revised schedule would remove dividend ceilings on certificates of 3½ years or more on February 1, 1982 and phase-out dividend ceilings on shorter-term certificates at one year intervals through 1986. NCUA is now proposing corresponding adjustments to the schedule for Federal credit unions to ensure that they may effectively compete with other depository institutions. NCUA is proposing the following: On February 1, 1982, the dividend ceiling on share certificates with maturities of 3½ years and more would be removed. The maximum dividend rate on share certificates with maturities of less than 3½ years would be equal to the greater of 12% or the average yield for 2½ year Treasury securities. On February 1, 1983, the dividend ceiling would be removed on share certificates with maturities of 2½ years or more. The maximum dividend rate on share certificates with maturities of less than 2½ years would equal to the greater of 12% or the average yield for 1½ year Treasury securities. On February 1, 1984, the dividend ceiling would be removed on share certificates with maturities of 1½ years and more and the maximum dividend rate on share certificates with maturities of less than 1½ years would be the greater of 12% or the 26 week Treasury bill rate. On February 1, 1985, the dividend ceiling would be removed on share certificates with maturities of 6 months or more. The maximum dividend rate on share certificates with maturities of less than 6 months would be the greater of 12% or 13 week Treasury bill rate. On February 1, 1986, the dividend ceiling would be removed on all share certificates.

The NCUA Board requests comments on whether it should adopt this revised schedule.

Regulatory Flexibility Act

The NCUA Board certifies that these proposed rules, if adopted, would not have a significant economic impact on a substantial number of small credit unions because the rules would increase management flexibility and enhance their competitive position. Therefore, an initial flexibility analysis is not required pursuant to 5 U.S.C. 605(b).

Comment Period

The NCUA Board is providing a comment period of less than 60 days on these proposed changes to the existing

rules since the changes would relieve regulatory burdens. In addition, a longer period is not in the public interest as it would unnecessarily delay consideration of regulatory changes to improve Federal credit union asset-liability management.

By order of the National Credit Union Administration Board on the 24th of September 1981.

Roesmary Brady,

Secretary of the Board.

[FR Doc. 81-29476 Filed 10-8-81; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (New Mexico-7)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Pictured Cliffs Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 2, 1981.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 19, 1981.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8307, or Victor Zabel, (202) 357-8616.

Issued October 2, 1981.

SUPPLEMENTARY INFORMATION:

I. Background

On September 16, 1981, the State of New Mexico Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 F.R. 56034, August 22, 1980), that the Pictured Cliffs Formation located in San Juan and Rio Arriba Counties, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Pictured Cliffs Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands in San Juan and Rio Arriba Counties, New Mexico, and is located on the northeast flank of the San Juan Basin of northwest New Mexico. The recommended area contains approximately 33,500 acres within portions of Townships 30 and 31 North, Ranges 7 and 8 West, and Township 31 North, Range 6 West. NMPM.

The recommended formation ranges in thickness from 150 to 250 feet. The average depth to the top of the formation is approximately 3,200 feet.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7086 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Pictured Cliffs Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 2, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (New Mexico-7), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 19, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter 1, Title 18, Code of Federal Regulations, as set

forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (69) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(55) through (68) [Reserved]

(69) *Pictured Cliffs Formation in New Mexico.* RM79–76 (New Mexico–7).

(i) *Delineation of formation.* The Pictured Cliffs Formation is found in the San Juan Basin and underlies portions of Townships 30 and 31 North, Ranges 7 and 8 West, and Township 31 North, Range 6 West, NMPM, in San Juan and Rio Arriba Counties, New Mexico.

(ii) *Depth.* The average depth to the top of the Pictured Cliffs Formation is approximately 3,200 feet. The thickness of the Pictured Cliffs Formation ranges from 150 to 250 feet.

[FR Doc. 81–29475 Filed 10–8–81; 8:45 am]

BILLING CODE 6717–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 1955–3]

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

AGENCY: U.S. Environmental Protection Agency.

ACTION: Extension of public comment period.

SUMMARY: On August 27, 1981 (46 FR 43188), the Environmental Protection Agency proposed to approve revisions to the carbon monoxide and ozone portions of the State Implementation Plan. In response to a request from the State of Indiana, the public comment period is being extended to October 30, 1981.

DATE: Comments must be received on or before October 30, 1981. Please send an original and three copies, if possible.

ADDRESSES: Comments should be submitted to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Gerald Kellman at (312) 353–6070.

Dated: September 25, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81–29453 Filed 10–8–81; 8:45 am]

BILLING CODE 6560–38–M

INTERSTATE COMMERCE COMMISSION

49 CFR 1047

[No. 38622]

Petition of New Jersey Transit Corporation to Exempt Mass Transportation Services

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed rulemaking (exemption) and discontinuance of proceeding.

SUMMARY: In a notice of proposed rulemaking, the Commission proposed to grant New Jersey Transit Corporation, et al. a partial exemption under 49 U.S.C. 1608(f)(i) regarding rate and service matters. The requested exemption from various rate, service, and insurance regulations filed by New Jersey Transit Corporation, Transport of New Jersey, and Maplewood Equipment Company has been found inconsistent with statutory criteria and, accordingly, denied.

EFFECTIVE DATE: September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: By a prior Federal Register Notice, 46 FR 36721 (published July 15, 1981 and extended at 46 FR 41831, August 18, 1981), we sought public comment on a petition filed pursuant to the Urban Mass Transportation Act of 1964, as amended, to exempt mass transportation provided by a state body from certain aspects of our jurisdiction. Specifically, we contemplated exempting the New Jersey Transit Corporation (Transit), Transport of New Jersey (Transport), and Maplewood Equipment Company (Maplewood), pursuant to 49 U.S.C. 1608(f)(1), from provisions in former Part II of the Interstate Commerce Act, including those governing changes in fares; increases, curtailments, or abandonment of service; insurance requirements; financial filing requirements; and regulation of service adequacy.

Transit is an entity of the State of New Jersey. Its functions and operations will be discussed in detail below. Transport is a wholly owned subsidiary of Transit. Maplewood is a wholly owned subsidiary of Transport. Transit, Transport, and Maplewood (collectively referred to as Petitioners) specify however that they do not seek an exemption from our regulations governing charter and special services, acquisitions and mergers, issuance or transfers of operating rights (except for transfers between Transport and Maplewood) or removal of restrictions on operating rights.

The comments we received in response to our Federal Register Notice convince us that the request exemptions are not warranted.

Preliminary Matters

Greyhound Lines, Inc., one of the parties filing comments, requested an oral hearing and an opportunity to cross-examine Transit's representatives regarding the extent of the requested exemption. However, Greyhound has not shown that such hearing and cross-examination would add meaningfully to the written comments. Accordingly, its request is denied. The American Bus Association (ABA) requested a procedure for submission of replies to comments and, subsequently, for leave to file a reply. Its requests are also denied since the ABA fails to show why such replies are necessary or desirable.

Greyhound and ABA also both requested that we define "mass transportation" and express their views in this regard. They argue that in light of the Urban Mass Transportation Act of 1964, as amended, "mass transportation" within the context of 49 U.S.C. 1608(f) must be "urban" and should not extend to transportation among intercity pairs. They envision the "mass transportation" which may be exempted to be primarily transportation of large masses of people from the city to the suburbs or back during the weekday rush-hours with commutes being not more than 50 or 100 miles. In their view it should not extend, as was proposed here, to discretionary travel, vacation, sightseeing and casino gaming. ABA argues that the term "commuter operations" used in our Notice of Proposed Rulemaking has no precise meaning, and fails to confine the exemption to its lawful scope.

We recognize that, in light of the character and purpose of the Urban Mass Transportation Act, the definition of "mass transportation service" given in our Notice of Proposed Rulemaking may have been too broad. However, because we are not granting any exemption, there is no need to define "mass transportation" in this proceeding.

49 U.S.C. 1608 governs exemptions of this nature. Subsection (f) requires that, upon petition, we exempt from former Part II of the Interstate Commerce Act mass transportation services provided by a state or local public body or provided to such state or local public body by contract, unless:

(a) The public interest would not be served by such exemption,

(b) The exemption requested would result in an undue burden on interstate or foreign commerce, or

(c) The mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

This exemption provision was enacted in the Urban Mass Transportation Act of 1964. This Act, as amended, was designed to enhance the welfare and vitality of urban areas and to encourage the establishment of urban mass transportation systems needed for urban development.

Fares; Financial Filing Requirements; and Increases, Curtailments or Abandonments of Service

When enacting the Urban Mass Transportation Act Congress was aware that in certain situations independent private operators might be adversely affected by an exemption. For this reason the Commission, when addressing a proposed exemption, must consider whether destructive competition would result. In our view, exempting petitioners from our rate regulation has more than a remote potential for destructive competition.

Transit is an entity of the State of New Jersey. Its responsibilities include (1) establishing and providing for the operation and improvement of public transportation in New Jersey, (2) acquiring and operating bus companies, (3) administering subsidies to private passenger carriers, (4) contracting for interstate and intrastate transportation services throughout New Jersey to be provided by various motor bus carriers, and (5) regulating the fares, schedules, routes, and services of the contracting carriers. Transport and Maplewood are among the carriers to whom Transit administers subsidies, in the form of operating loss subsidies and provision of revenue equipment. Presently Transit is subsidizing its wholly-owned interstate bus lines, 14 other intrastate bus lines, and 3 private, independent interstate bus lines as well as ConRail service. These deficit operations are funded to cost through state funds and federal grants.

Thus, Transit stands in the dual position of regulator of all owned, contracting, and subsidized bus lines, on the one hand, and as direct competitor through its affiliated carriers with independent, privately-owned carriers, on the other. As a result, Transit sets the routes, schedules, and fares for the bus companies it owns and subsidizes, and also regulates the independent bus companies competing with those firms. These latter companies have expressed concern that, if Transit's operations were to be exempted, Transit might adopt non-compensatory fares along the corridors of competition. Transit replies that the possibility of its engaging in destructive competition is remote in the light of cut-backs in federal funding and the massive deficits its subsidized carriers are already incurring. We disagree. We believe that, overall the concerns raised by competitive carriers must be taken seriously.

Transit clearly has a vested economic interest in advancing the revenue position of its owned and subsidized carriers, Transport and Maplewood. It has no such interest regarding the competing private bus lines which receive little, if any, state subsidy. Indeed, as Transit's deficit operations are funded to cost, it is in a unique position to engage in monopoly pricing and cross-subsidization. It can and does set passenger fares without regard to the costs of the operations and the revenues they return. Moreover, it admits that it uses its charter operations to cross-subsidize its deficit commuter operations. While Transit does hold quasi-legislative hearings on fare increases and curtailment of service, it has no statutory duty under New Jersey law to do so on fare *decreases*. Should we grant the requested exception, Transit could, through the setting of non-compensatory fares for subsidized carriers, jeopardize the competitive posture of the non-subsidized operations with which its carriers compete. We have not been convinced, based on petitioners' presentation, that the appeal procedures available would be effective in preventing this. Moreover, these non-subsidized carriers could be limited in their service and pricing options by the regulatory process. A prolonged rate war is not unrealistic because Transit is subsidized.

It is also possible that Transit's fares could be set below reasonable levels because a publicly owned corporation is responsive to political as well as economic forces. For example, fares may be set low to encourage ridership even though the added passengers may mean added losses and larger subsidies. This would harm competing non-subsidized bus firms or competitors from other modes.

Since we are not exempting petitioners from our rate regulations, it follows that an exemption from our financial filing requirements is also not in the public interest since this information is used in our rate regulation, among other things.

Transit also seeks an exemption from our regulations governing increases, curtailment, or abandonment of service. It justifies such an exemption in order to minimize fare increases otherwise needed to offset reduced Federal subsidies. However, there is no assurance in the record that Transit would not abandon or curtail commuter service in order to protect the profitability of its other operations. Moreover, any reduction of its common carrier obligation could permit manipulation of subsidies and increase Transit's potential for destructive competition.

We, therefore, find an exemption from our rules governing (1) changes in fares; (2) financial filing requirements; and (3) increases, curtailments, or abandonments of service, not in the public interest.

Service Quality

Petitioners have also requested that their service standards be exempted from regulation. They state that we recently found their service to be "generally adequate" in No. 37095, *Goldzweig* v. *Transport of New Jersey* (not printed), served May 20, 1981. This characterization misstates that decision. In the decision by Division 1, served August 8, 1980, serious service deficiencies were found in the operations of Transport of New Jersey. These include the failure of temperature control systems, flapping and "stuck" windows, dirty buses, broken seat backs, and hot seats directly over the engine.[1] While the Division concluded that, as a matter of law, these deficiencies were insufficient in scope and gravity to support a finding that Transport's commuter operations were in violation of the safe and adequate

[1] We are considering proposed rules addressing commuter service standards in Ex Parte No. MC-95 (Sub-No. 3), Interstate Transportation of Passengers.

standard of 49 U.S.C. 11101(a), this conclusion should not be read as a finding that petitioners' service was "generally adequate." Indeed, the Division pointed out that the problems described were serious enough to "merit petitioners' close attention." There is nothing in the record to suggest that these conditions have been corrected. The public interest would, therefore, not be served by exempting petitioners' service standards from our regulation.

Insurance

Transit has also requested that we exempt it from our regulations governing insurance. This request is also found to be contrary to the public interest and could be a burden on interstate commerce. We base this finding on three considerations.

First, while New Jersey regulates insurance, it does so only for intrastate commerce. As certain of the transportation for which Transit seeks exemption is interstate, an exemption from insurance requirements could result in passengers not being protected over the entire interstate route traveled. Second, New Jersey could limit liability to an extent we would consider inadequate. Finally, Transit might not be able to self-insure if State and Federal subsidies were curtailed.

Other Matters

The questions raised in our Notice were premised upon a grant of the exemption either in whole or in part. Because we are denying the petition, we see no need to discuss these matters further.

Although comments were solicited as to the effect of the proposed exemption on small entities, none were received. Our denial of the exemption leaves all interested parties in the same position that existed prior to the request. In these circumstances we conclude that this decision has no effect on small entities.

We find:

That the public interest would not be served by the requested exemption; that the exemption would also unduly burden interstate commerce; and that the exemption would result in some transportation services or related matters, such as insurance, not being subject to regulation by any State or local agency (which is contrary to 49 U.S.C. 1608(f)(1)(C)).

This decision will not significantly affect the quality of the human environment, the conservation of resources, or small entities. The requested exemptions are denied in all respects and the proceeding is discontinued.

(49 U.S.C. 1608(f))

Decided: September 30, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Gresham, and Gilliam. Vice Chairman Clapp concurred with a separate expression. Commissioner Gresham concurs in the decision to deny the exemption petition as filed, but dissents to the majority's failure to consider less sweeping alternatives. He believes that a more precise definition of "mass transportation services," for example, would harmonize with the statutory intent and minimize harm to unsubsidized competing carriers.

James H. Bayne,

Acting Secretary.

Vice-Chairman Clapp, Concurring

I agree with the result reached in the decison primarily because of New Jersey Transit Corporation's dual role of regulator and competitor. I do not, however, agree with certain language in the decision which seems to presume that Transit will be inclined toward "destructive competition."

[FR Doc. 81-29394 Filed 10-8-81; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Ch. X

[Ex Parte No. 311 (Sub-No. 5)]

Fuel Surcharge Program—LTL Surcharge and New Surcharge for Household Goods Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed modifications of fuel surcharge program.

SUMMARY: Based on conditions imposed on the fold-in of existing surcharges in the final decision in Ex Parte No. 311 (Sub-No. 4), *Modification Of The Motor Carrier Fuel Surcharge Program,* the Commission finds the proposed modifications regarding the proper surcharge of owner-operator less-than-truckload (LTL) traffic and the establishment of a separate surcharge for household goods carriers are no longer necessary.

FOR FURTHER INFORMATION CONTACT: Lee Alexander, (202) 275-7597, Ted Kalick, (202) 275-6446.

SUPPLEMENTARY INFORMATION: In a notice in Ex Parte No. 311 (Sub-No. 5), 46 FR 43219, August 27, 1981, the Commission proposed certain modifications to the present fuel surcharge program. It was proposed that, with the exception of household goods carriers, carriers pay owner-operators the less-than-truckload surcharge (3.0-percent) on LTL traffic. Presently, all owner-operator traffic is ordered to be paid the higher 18-percent truckload surcharge whether truckload or LTL. In addition, a new separate fuel surcharge was proposed for household goods carriers (9.4-percent). The major purpose of these proposals was to eliminate perceived inequities in the present surcharge program. The reasons were stated in detail in the prior notice.

Several comments were received. All shipper interests were basically in favor of the proposals. Carrier responses were somewhat varied. With respect to lowering the surcharge on LTL owner-operator traffic, some carrier interests, such as Refrigerated Transport Co., Inc., and the National Association of Specialized Carriers, argue that the operating characteristics of their commodities distinguish them from LTL traffic generally, and to a lower surcharge on this traffic would penalize carriers and owner-operators unfairly. Household goods interests note the lack of increase in base rates in recent years. While admitting over-compensation to owner-operators with regard to the 18-percent fuel surcharge, these carriers note that the increased revenues aided their owner-operators in meeting increased expenses not covered by unsought or unreceived base-rate increases, and kept experienced owner-operators in the household goods industry. Most carriers object to tinkering with the fuel surcharge program just prior to the expected October 8, 1981, issuance of a final decision in Ex Parte No. 311 (Sub-No. 4), *Modification of the Fuel Surcharge Program,* notice served July 31, 1981, (45 FR 40221, August 7, 1981).

One of the major concerns prompting the Sub-No. 5 proceeding stemmed from the proposals in Ex Parte No. 311 (Sub-No. 4), *supra.* There, it was proposed that carriers be able to fold-in to their respective base rates the maximum allowable surcharge amounts on one-day's notice. While we originally felt this proposal had overall merit, the Commission feared that this would allow present inequities and overcompensation problems particularly in the LTL and household goods area to be permanently placed in the rate structure.

However, in the decision in Ex Parte No. 311 (Sub-No. 4), served and published concurrently with this notice, we ordered that all fold-ins be accomplished on 30 days' notice subject to protest and possible suspension. In addition, carriers shall submit a verified statement that the amount folded in is necessary to cover added actual fuel costs since January 1, 1979, and no more. These procedures will the benefit shippers with the right to protest possible fold-in windfalls. They will force carriers to limit their fold-ins according to their own fuel-cost history during the life of the surcharge program.

Additionally, these procedures will also avoid possible individual carrier and owner-operator hardship by a blanket Commission order reducing the surcharge on LTL owner-operator traffic and imposing a separate surcharge on household goods traffic. Further, these procedures would allow normal Commission review of possible discrepancies on a case-by-case basis.

Two shippers request the Commission to itemize those accessorial charges that qualify for the surcharge and those that do not qualify. The request is denied. Shippers who have questions in this area should follow the procedures discussed in the notice served August 27, 1981.

Accordingly, we find the procedures ordered in the decision in Ex Parte No. 311 (Sub-No. 4) eliminate the need for the proposals in Ex Parte No. 311 (Sub-No. 5).

It is ordered: The proposed modifications in Ex Parte No. 311 (Sub-No. 5) are withdrawn and the proceeding is discontinued.

This decision does not significantly affect either the quality of the human environment or the conservation of energy resources.

Dated: October 6, 1981.

By the Commission, Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham, and Gilliam.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-29496 Filed 10-8-81; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 46, No. 196
Friday, October 9, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Colorado-Ute Electric Association, Inc.; Intent To Hold a Public Scoping Meeting

Notice is hereby given that the Rural Electrification Administration (REA) will hold a public scoping meeting in connection with the environmental impacts of the proposed construction by Colorado-Ute Electric Association, Inc., (Colorado-Ute) P.O. Box 1149, Montrose, Colorado 81401, of a 230 kV transmission line and associated facilities in southern Colorado from the Comanche Generating Station near Pueblo, Colorado, or from the Boone Substation near Boone, Colorado, to Walsenburg, Colorado. One public scoping meeting concerning the proposed project was already held on June 17, 1981, at the Huerfano County Courthouse in Walsenburg, Colorado, at 8:00 p.m.

The public scoping meeting will be held on Tuesday, November 10, 1981, at the Holiday Inn, 4001 North Elizabeth Street, Pueblo, Colorado 81008, at 7:30 p.m. This public scoping meeting, to be chaired by representatives of REA, will be held in order to receive public input and comments. Issues to be discussed include, but are not limited to: (a) Need for the project, (b) determination of project scope and identification of significant environmental issues, (c) elimination of issues which are not significant from detailed study, (d) identification of other environmental review, consultation and study requirements so the lead and cooperating agencies can require other analyses and studies as input to the Environmental Impact Statement (EIS) and (e) identification of environmentally sensitive areas and/or potential transmission corridor alternatives. The public will be invited to critique specific alternative transmission corridors identified by Colorado-Ute, as well as to propose potential nonsite specific alternatives, including no action. A record will be made of the meeting and comments made will be addressed in the Draft EIS.

REA encourages the general public to attend this public information meeting and provide their input. Any person or group which desires to place its comments, questions or recommendations in writing, may do so either at the meeting or by submitting them to REA. Comments may be sent to the Director, Power Supply Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 0230, Washington, D.C. 20250. Requests for additional information or questions concerning the meeting may also be directed to Colorado-Ute at its address given above.

Financing assistance to Colorado-Ute will be subject to REA's arrival at a satisfactory conclusion with respect to environmental effects. Final action will be taken only after compliance with EIS procedures required by the National Environmental Policy Act of 1969.

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

Dated at Washington, D.C., this 6th day of October, 1981.

Jack Van Mark,

Acting Administrator.

[FR Doc. 81-29508 Filed 10-8-81; 8:45 am]

BILLING CODE 3410-15-M

Science and Education Administration

National Plant Genetic Resources Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: National Plant Genetic Resources Board.

Date: October 22-23, 1981.

Time and place: 9:00 a.m.-5:00 p.m. October 22, 9:00 a.m.-12:00 noon October 23, Room 3109-S, South Building, U.S. Department of Agriculture, Washington, D.C.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review matters that pertain to plant germplasm in the United States and possible impacts on related national and international programs; and discuss other initiatives of the Board.

Contact person: C. O. Grogan, Executive Secretary, National Plant Genetic Resources Board, Science and Education, U.S. Department of Agriculture, Room 6017-S, USDA South Building, Washington, D.C. 20250, telephone (202) 447-6195.

Done at Washington, D.C., this 30th day of September 1981.

Anson R. Bertrand,

Director, Science and Education.

[FR Doc. 81-29509 Filed 10-8-81; 8:45 am]

BILLING CODE 3410-03-M

Statistical Reporting Service; Discontinuance of White Corn Estimates

Notice is hereby given that the Statistical Reporting Service will discontinue all estimates of white corn acreage, yield and production beginning with estimates for the 1982 crop year.

Done at Washington, D.C. this 5th day of October, 1981.

W. E. Kibler,

Acting Administrator.

[FR Doc. 81-29379 Filed 10-8-81; 8:45 am]

BILLING CODE 3410-18-M

Statistical Reporting Service; Modification of Turkey Hatchery Report

Notice is hereby given that the Statistical Reporting Service will reduce the frequency of its *Turkey Hatchery* reports from weekly to monthly. Weekly reports will be discontinued effective November 12, 1981. Monthly hatchery data for turkeys will continue to be published in the *Eggs, Chickens and Turkeys* report issued on or about the 21st of each month.

Done at Washington, D.C. this 5th day of October, 1981.

W. E. Kibler,

Acting Administrator.

[FR Doc. 81-29380 Filed 10-8-81; 8:45 am]

BILLING CODE 3410-18-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 15-81]

Foreign-Trade Zone No. 54, Clinton County, New York; Application for Expansion

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Clinton County Area Development Corporation (CCADC) on behalf of Clinton County, New York, grantee of Foreign-Trade Zone No. 54, requesting authority to expand its zone project at the Clinton County Air Industrial Park, adjacent to the Champlain-Rouses Point Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 25, 1981. The applicant is authorized to make this proposal under Chapter 575 of the New York Laws of 1979, approved July 10, 1979.

On February 14, 1980, the Board authorized Clinton County, New York, to establish a foreign-trade zone project for the Plattsburgh-Champlain, New York, area (Board Order 153, 45 FR 12469). The project offers zone services in Plattsburgh at the Clinton County Air Industrial Park (Site 1), and in Champlain at a border-crossing warehouse (Site 2). CCADC, the zone administrator, is currently in the process of activating both zone sites. Champlain Warehouse and Distribution, Inc. has been designated to operate the public warehousing aspects of the project.

The applicant proposs to expend Site 1 from its present 22 acres to include the entire industrial park of 123 acres. The request is based on the need to accommodate prospective tenants and to have standby space for effective zone development. Several firms requiring separate facilities that could not be accommodated within the existing zone area, have indicated an interest in locating in the park.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman), International Trade Specialist, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110; and Colonel Walter M. Smith, Jr., District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, New York 10278.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before November 10, 1981.

A copy of the application is available for public inspection at each of the following locations:

Clinton County Area Development Corporation, 137 Margaret Street, Old Surrogates Building, Plattsburgh, New York 12901

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and E Streets NW., Room 2006, Washington, D.C. 20230

Dated: October 5, 1981.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 81-29367 Filed 10-8-81; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 179]

Resolution and Order Approving the Application of the Indianapolis Airport Authority for a Foreign-Trade Zone in Indianapolis, Ind.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.:

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Indianapolis Airport Authority, filed with the Foreign-Trade Zones Board (the Board) on February 6, 1981, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Indianapolis, within the Indianapolis Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant; To Establish, Operate, and Maintain a Foreign-Trade Zone in Indianapolis, Indiana

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Borad) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Indianapolis Airport Authority (the Grantee) has made application (filed February 6, 1981) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Indianapolis, within the Indianapolis Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 C.F.R. Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 72 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any other manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 28th day of September 1981, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John DaPonte,

Executive Secretary.

[FR Doc. 81-29364 Filed 10-8-81; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration Exporters' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Exporters' Textile Advisory Committee, which is comprised of 30 members involved in textile and apparel exporting, advises Department of Commerce officials concerning ways of increasing U.S. exports of textile and apparel products.

TIME AND PLACE: November 10, 1981 at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. (Public entrance to the building is on 14th Street, between Constitution Avenue and E Street, N.W.)

AGENDA: (1) Review of export data, (2) Report on conditions in the export market, (3) Recent foreign restrictions affecting textiles, (4) Other Business.

PUBLIC PARTICIPATION: A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 81-29461 Filed 10-8-81; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Officials of the Government of the People's Republic of China Authorized To Issue Export Visas for Certain Cotton, Wool and Man-Made Fiber Textile Products

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing two new officials of the Government of the People's Republic of China who are authorized to issue export visas for cotton, wool and man-made fiber textile products from China.

SUMMARY: The Government of the People's Republic of China has notified the United States Government that Huo Yugui and Qui Daren are now authorized to issue export visas for cotton, wool and man-made fiber textile products exported to the United States, in addition to those officials previously authorized.

EFFECTIVE DATE: September 25, 1981.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On August 5, 1980, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the Federal Register (45 FR 51872) which established a new export visa requirement for certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported to the United States. One of the requirements is that the visas must be signed by an official authorized by the Government of the People's Republic of China. The Government of the People's Republic of China has designated two new officials to issue export visas. A complete list of officials currently so authorized follows this notice.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of the People's Republic of China Authorized To Issue Export Visas for Cotton, Wool and Man-Made Fiber Textiles Exported to the United States

Chu Houchung	Qi Yiguang
Wang Chu	Wang Changjian
Fang Ziping	Huang Zenghua
Duang Juntian	
Pan Tong	Li Haoran
Gao Qingchang	Huo Yugui
Ren Yuheng	Qie Daren
Ren Hsiaohsuan	

[FR Doc. 81-29459 Filed 10-8-81; 8:45 am]

BILLING CODE 3510-25-M

Import Controls on Certain Cotton and Wool Apparel Products From Sri Lanka

October 7, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import controls on cotton trousers in Category 347 and on wool sweaters in Category 445/446, produced or manufactured in Sri Lanka and exported during the ninety-day period which began on August 25, 1981 and extends through November 22, 1981.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1981 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121) and October 5, 1981 (46 FR 48963))

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 7, 1980, as amended, between the Governments of the United States and Sri Lanka, consultations were requested by the United States on August 25, 1981 concerning imports into the United States of cotton and wool textile products in Categories 347 and 445/446 from Sri Lanka. Notice of the intention to hold these consultations was published in the Federal Register on September 15, 1981 (46 FR 45 792). Under is obligated to limit its exports to the United States of these products duirng the ninety-dayu consultation period which began on August 25, 1981 and

extends through November 22, 1981 to the following levels, in the event that no mutually satisfactory solution is reached during consultations:

Category	90-day level of restraint (dozen)
347	74,663
445/446	11,237

Consultations with the Government of Sri Lanka are anticipated, but inasmuch as a mutually satisfactory solution has not yet been reached, the Government of the United States has decided, in carrying out its responsibilities in implementing the aforementioned provisions of the bilateral agreement, to prohibit entry of imports of cotton and wool textile products in Categories 347 and 445/446 in excess of the ninety-day levels of restraint defined in the agreement. Should a satisfactory solution be reached in consultations with the Government of Sri Lanka, further notice will be published in the Federal Register.

EFFECTIVE DATE: October 14, 1981

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On May 1, 1981, there was published in the Federal Register (46 FR 24618) a letter dated April 27, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which establihsed levels of restraint for certain categories of cotton and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on May 1, 1981. The notice document which preceded this letter described the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Categories 347 and 445/446, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton and wool textile products in Categories 347 and 445/446, produced or manufactured in Sri Lanka and exported during the ninety-day period which began on August 25, 1981 and extends through November 22, 1981, in excess of he designated levels of restraint.

Paul T. O'Day,.

Chairman, Committee for the Implementation of Textile Agreements.

October 7, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 7, 1980, as amended, between the Governments of the United States and Sri Lanka, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 14, 1981 and for the ninety-day period which began on August 25, 1981 and extends through November 22, 1981, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 347 and 445/446, produced or manufactured in Sri Lanka and exported on and after August 25, 1981, in excess of the following levels of restraint:

Category	90-day level of restraint [1] (dozen)
347	74,663
445/446	11,237

[1] The levels or restraint have not been adjusted to reflect any imports after August 24, 1981.

Cotton and wool textile products in Categories 347 and 445/446 which have been exported to the United States prior to August 25, 1981 shall not be subject to this directive.

Cotton and wool textile products in Categories 347 and 445/446 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), and October 5, 1981 (46 FR 48963)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Sri Lanka and with respect to imports of cotton and wool textile products from Sri Lanka have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-29630 Filed 10-8-81; 9:44 am]
BILLING CODE 3510-25-M

COMMITTEE OF PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981 Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1981 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: October 9, 1981.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 26, 1981, August 14, 1981, and July 10, 1981, the Committee for Purchase From the Blnd and Other Severely Handicapped published notices (46 FR 33069, 46 FR 41130, and 46 FR 35719) of proposed additions to Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurement List 1981:

Class 7210

Mattress

7210-00-290-8300
7210-00-275-5873
7210-00-275-5874
7210-00-290-8298
7210-00-290-8297
7210-00-052-7327
7210-00-889-3733
7210-00-290-8299

SIC 7369

Commissary Shelf Stocking and Custodial Service, Hanscom Air Force Base, Massachusetts

SIC 7399

Repair of Air Cargo Pallet Top and Side Nets, McChord Air Force Base, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 81-29398 Filed 10-81-81; 8:45 am]

BILLING CODE 6820-33-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981 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 1981 a commodity to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 11, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

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 action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1981, November 12, 1980 (45 FR 74836):

Class 8440

Suspenders, Trouser, 8440-00-221-0852

SIC 7331

Mailing Service, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Washington, D.C.

Federal Election Commission, 1325 K Street, NW, Washington, D.C.

General Services Administration, National Archives and Records Service, 7th and Pennsylvania Avenue, NW, Washington, D.C.

International Communication Agency, 1717 H Street, NW, Washington, D.C.

U.S. Commission on Civil Rights, 1211 Vermont Avenue, NW, Washington, D.C.

U.S. Department of Agriculture, Foreign Agriculture Services, 14th and Constitution Avenue, Washington, D.C.

C. W. Fletcher,

Executive Director.

[FR Doc. 81-29399 Filed 10-8-81; 8:45 am]

BILLING CODE 6820-33-M

COUNCIL ON ENVIRONMENTAL QUALITY

Agency Implementation of CEQ's NEPA Regulations

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Extension of period for public comments on agencies' implementation of CEQ's NEPA Regulations (40 CFR Part 1500 *et seq.*).

SUMMARY: This notice extends the period for public comments on Federal agency implementation of CEQ's NEPA regulations from October 13, 1981 to November 13, 1981. The notice was previously announced August 14, 1981 at 46 FR 41131.

ADDRESS: Comments should be addressed to General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006. Attention: NEPA Regulations Oversight.

DATE: Comments should be received on or before November 13, 1981.

Nancy Nord,

General Counsel.

October 6, 1981.

[FR Doc. 81-29454 Filed 10-8-81; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Department of Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: October 29 and 30, 1981.

ADDRESS: 6525 Belcrest Rd., (Room 205), Hyattsville, Maryland.

FOR FURTHER INFORMATION CONTACT: Theodore H. Drews, Executive Director, 400 Maryland Avenue SW, (Presidential Bldg. 205), Washington, D.C. 20202. Telephone 301-436-7876.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93-380. The Council is established to review general policies for the operation of the National Center for Education Statistics and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes:

Introduction and swearing-in of three new Council members.

Introductory comments by the Assistant Secretary for Educational Research and Improvement, Chairman of the Council.

A report by the Administrator, National Center for Education Statistics on the program and activities of the National Center.

A report on the Center's longitudinal study, High School and Beyond, with special reference to recent studies of private schools based on these data.

A report on the Center's relationship with the Federal Education Data Acquisition Council staff.

A report on Center staffing patterns and organization.

A report projecting availability and application of Center resources in the coming year.

Such new business as the chairman or the membership may put before the Council.

Records are kept of all Council proceedings, and are available for public inspection at the office of the Executive Director, Advisory Council on

Education Statistics, 6525 Belcrest Rd. (Presidential Building, Room 205), Hyattsville, Maryland.

Dated: October 5, 1981.

Donald J. Senese,

Assistant Secretary, Educational Research and Improvement.

[FR Doc. 81-29465 Filed 10-8-81; 8:45 am]
BILLING CODE 4000-01-M

National Advisory Council on Bilingual Education

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES:

October 24, 1981—Orientation and Briefing 2:00 p.m.–7:00 p.m.
October 25, 1981—Business Meeting 9:00 a.m.–5:00 p.m.
October 26, 1981—Field Visit 8:00 a.m.–2:30 p.m.
October 26, 1981—Business Meeting 2:30 p.m.–5:00 p.m.
October 27, 1981—Public Hearings 9:00 a.m.–12:00n

ADDRESSES: The Orientation and Briefing on October 24, 1981 will be held in the Broadway Suite of the Roosevelt Hotel, Madison Avenue at 45th Street, New York, NY. The Business meeting on October 25, 1981 will also be in the Broadway Suite of the Roosevelt Hotel. The Field Visit on October 26, 1981 will begin at the New York City Board of Education, 110 Livingston Street, Brooklyn, NY and will end at Junior High School #184, Bronx, NY. The Business Meeting on October 26, 1981 will be held in the Riverside Suite of the Roosevelt Hotel. The Public Hearings on October 27, 1981, will be held at the Graduate Center, Room 815, City University of New York, 33 West 42nd Street, New York, NY.

FOR FURTHER INFORMATION CONTACT: Louis J. Serpa, Designated Federal Official, Room 421, Reporters Building, 400 Maryland Avenue, S.W., Washington, DC 20202 (202–245–2961).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

The meeting of the Council is open to the public. The proposed agenda includes the following:

October 24, 1981—

New members will be sworn-in and will receive an orientation. Following this, the Full Council will receive a briefing on activities that have taken place in the past six months.

October 25, 1981—

The agenda for the Business Meeting includes:

I. Introductions
II. Old Business
III. New Business
—Annual Report
—Plans for the Year
—Committee Structures
—Preparation for Public Hearings

October 26, 1981—

The Full Council will make a Field visit to the New York City Board of Education and Junior High School #184. Following the field visit the Full Council will convene to discuss unfinished business from the previous day.

October 27, 1981—

The Council will take testimony at Public Hearings from 9:00 a.m. to 12:00 noon on the following topics:

(1) Future Direction for Bilingual Education
(2) Teacher Accreditation Standards
(3) Law Regulations
(4) Block Grant Proposals

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis.

(2) Witnesses shall limit their testimony to twenty minutes.

(3) All testimony shall be tape recorded.

(4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, S.W., Washington, DC 20202 from the hours of 9:00 a.m. to 5:00 p.m.

Dated: October 6, 1981.

Gilbert Chavez,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 81-29363 Filed 10-8-81; 8:45 am]
BILLING CODE 4000-01-M

Performance Review Board; Notice of Membership

AGENCY: Department of Education.

ACTION: Notice of membership of the performance review board.

SUMMARY: The Civil Service Reform Act, Title 5, U.S.C., Subchapter II, Section 4312, Senior Executive Service performance appraisal systems, requires that each agency establish one or more Performance Review Boards (PRB). It is the function of the PRB to make recommendations to the appropriate appointing authority of the agency relating to the performance of senior executives in the agency.

FOR FURTHER INFORMATION CONTACT: Martha C. Brooks, Director, Executive Resources Division, Office of Personnel Resource Management, Office of Management, Department of Education, (Room 1085, FOB–6), 400 Maryland Avenue, SW, Washington, D.C. 20202, Telephone: (202) 472–3567.

SUPPLEMENTARY INFORMATION: This notice establishes a Performance Review Board (PRB) at the Department of Education to provide for consistency, stability, and objectivity in appraising the performance of career and noncareer executives in the Senior Executive Service (SES), General Schedule employees in positions in Grade 16, 17 and 18, and employees in equivalent level positions not included in the SES. This notice also meets the requirements of the Office of Personnel Management that each agency publish the schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which awards will be paid.

Structure of Performance Review Board

There shall be one PRB in the Department of Education. The number of members on the PRB will be 20.

The Under Secretary shall select a Chairperson for the PRB who is noncareer or someone who is otherwise ineligible for a performance award. The Director, Office of Personnel Resource Management will serve as the Executive Secretary to the PRB as a non-voting member and will provide administrative and operational support to the Board.

The Executive Secretary shall:

1. Assign panel members and individual appraisal documents to be reviewed, assuring that panel members are reasonably familiar with the organization, job content, and individual performance of the person(s) being appraised;

2. Insure that the appraisal process proceeds in an orderly and efficient manner;

3. Be concerned with rater and panel consistency;

4. Recommend appointment (and removal) of members to serve on PRB; and

5. Handle administrative functions.

The PRB may activate as many appraisal review panels as necessary to prove for efficient, equitable, and timely division of work in reviewing and validating performance appraisal documents.

Membership

Members of the Performance Review Board for the Department of Education, as approved by the Executive Resources Board and appointed by the Under Secretary are as follows:

Members From Department of Education

Thomas C. Anderson (Chairperson), Shirley Jackson, James Moore, Lois-ellin Datta, Howard Hjelm, Paul Royston, Wilbert Cheatham, Kristine Marcy, Michael Middleton, Albert Alford, John Seal, Ralph Olmo, George Archibald, Sven Groennings, and George Conn.

Members From Other Departments and Agencies

John Golden, Department of Commerce;

Syl McNinch, National Science Foundation;

William Kibler, Department of Agriculture;

Larry Rogers, Department of Labor; and

Wallace Busbee, Veterans Administration;

All appointees may serve a term of one year, and may be reappointed for subsequent terms.

Responsibilities of Performance Review Board

Title 5, U.S.C., Subchapter II, section 4314, Ratings for performance appraisals, requires the Performance Review Board to:

1. Review initial appraisals prepared by supervisors of senior executives;

2. Consider any written or other responses made by the excutive being appraised;

3. Conduct "such further review" as may be found necessary;

4. Make recommendations to the Secretary or Under Secretary who will make decisions on performance appraisal and performance awards (cash bonuses) payable to executives appraised as being fully successful.

The PRB may make recommendations to the Secretary and Under Secretary on matters such as:

1. Meritorious and distinguished ranks;

2. Pay rates;

3. Appraisals less than "fully satisfactory";

4. Rater and panel consistency; and

5. Problems associated with the performance appraisal system and its operations.

Performance Appraisal Period and Schedule for Awarding Senior Executive Service Bonuses

The Department of Education's first performance appraisal period for the Senior Executive Service ended June 30, 1981. The appraisal process will be completed by September 30, 1981. Recommendations will be sent to the Secretary and Under Secretary and decisions will be made on performance awards with bonus payouts scheduled by October 30, 1981.

Dated: September 17, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-29373 Filed 10-8-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Methodology for Determining Quantifiable Environmental Costs and Benefits; Public Comment Forums and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of proposed Methodology for Determining Quantifiable Environmental Costs and Benefits of Measures or Resources Proposed for Implementation or Acquisition, Notice of Public Comment Forums, and Opportunities for Public Review and Comment.

SUMMARY: The Pacific Northwest Electric Power Planning and Conservation Act (Regional Act), Pub. L. 96-501, enacted on December 5, 1980, requires that the determination of the incremental system cost of measures to be implemented or resources to be acquired by BPA include an estimate of the quantifiable environmental costs and benefits directly attributable to the measures or resources. This quantification is to be determined by a methodology developed by the Pacific Northwest Electric Power and Conservation Planning Council (Planning Council) as part of its adopted regional energy plan. In the absence of a plan, the Administrator must develop a methodology for determining quantifiable environmental costs and benefits. BPA had originally hoped that the proposed methodology would provide substantial guidance in the quantification of specific environmental costs and benefits. Upon examination of the literature and public comment, BPA finds that the state of the art is not sufficiently developed to prescribe specific technologies and methodologies for quantifying all environmental costs and benefits. Therefore, BPA is proposing as a methodology a procedure that it believes is most consistent with the directive in the Regional Act to incorporate quantifiable environmental costs and benefits as part of the incremental system cost. BPA requests public review and either oral or written comment on the proposed methodology.

DATES: BPA will hold two evening public forums to present to the public a brief explanation of the proposed methodology and to receive the views, opinions, and comments of the public. Registration for the forums will be at 7 p.m. and the meetings will begin at 7:30 p.m. The dates and locations are: Wednesday, November 4, 1981, the BPA Auditorium, 1002 NE Holladay, Portland, Oregon; and Thursday, November 5, 1981, Blakely Room, Northwest Court, Seattle Center, First North and Republican Street, Seattle, Washington.

Any interested party wishing to discuss the proposed methodology or wishing more information prior to the public forum may call the Public Involvement Coordinator. Written comments may be submitted through November 10, 1981.

ADDRESSES: Written comments not submitted at the forums should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Donna L. Geiger, Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212; the telephone number is (503) 234-3361, ext. 4261. BPA maintains toll-free lines for the use of persons within the region. Oregon callers outside of the Portland calling

area may use 1–800–452–8429; callers in Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California may use 1–800–547–6048. Messages and requests for information received after usual business hours (after 4:30 p.m. and before 7:30 a.m.) may be recorded on the toll-free lines. Additional information is also available from:

Mr. George Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97208, 503–234–3361, Extension 4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Mr. Ronald K. Rodewald, District Manager, Suite 117, 23 South Wenatchee, Wenatchee, Washington 98801, 509–662–4377, Extension 379.

Mr. Randall W. Hardy, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, Extension 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

I. Supplementary Information

The Regional Act requires that BPA acquire on a long-term basis, only cost-effective electric generating resources and conservation measures. BPA must determine the cost effectiveness of proposed resources and measures, and as part of this determination must estimate quantifiable environmental costs and benefits that are directly attributable to the measure or resource.

BPA issued in the Federal Register a Notice of Intent to Develop Guidelines and Methodology to Determine and Quantify Environmental Costs and Benefits (46 FR 22925, April 22, 1981). Interested individuals, agencies, and organizations were invited to comment on, among other things, the following:

(1) identification of the relevant categories of environmental costs and benefits associated with classes of resources specified in Section 4(e)(1) of the Regional Act appropriate for elaboration in the methodology;

(2) identification of environmental cost and benefits considered "directly attributable" to such measure or resource whose system cost is to be evaluated under the Regional Act;

(3) identification and assessment of environmental costs and benefits subject to quantification and alternative approaches thereto with consideration given to viable approaches previously applied to quantify impacts associated with measures or resources, project type and scale, capability or output, and site characteristics;

(4) identification and assessment of which costs and benefits, by project type and environmental impact, can be meaningfully converted to dollars;

(5) identification and assessment of alternative means to value costs and benefits, by project type and environmental impact; and

(6) documentation of prospective applications of the methodology and guidelines in resource-generic or project-specific evaluation and BPA decisionmaking under the Regional Act.

BPA received 18 written comments in response to the Notice of Intent including comments from State and Federal agencies, citizen organizations, utilities, and private individuals. Many respondents demonstrated an understanding of the complexity of the issues and an appreciation of the challenge facing BPA. In particular, concern was expressed about the ability to quantify all environmental costs and benefits in the same units, whether dollars or any other units. It also was recognized that some costs and benefits may not be quantifiable. At the same time respondents recognized that BPA must quantify and price those environmental costs and benfits that it can, and not ignore those costs and benfits that cannot be quantified in dollars.

The Environmental Protection Agency (EPA) concluded that only crude estimates of magnitude can be made for most categories of impacts and that meaningful estimates often depend upon site-specific information that is expensive to collect and often is unavailable. It also concluded that there is no consensus as to how to value in dollar terms many specific types of impacts even when the impacts can be meaningfully measured. In addition, many valuation techniques that have been used have inherent, serious weaknesses involving double counting, equity considerations, and the needs of future generations. However, EPA advised that a methodology which incorporated only those readily quantifiable impacts and ignored the rest would not accurately determine the most cost-effective projects.

EPA suggested that: (1) BPA calculate values only for impact categories that can be measured in absolute terms; (2) all assumptions and techniques be clearly stated; (3) sensitivity analyses be preformed on all major assumptions; (4) all values be presented as a range; and (5) up-to-date, site-specific information be used whenever possible. EPA recommended that BPA derive dollar values for only those impacts that can be measured through direct association with marketable (i.e., priceable) goods and services and mitigation costs, and include these costs in the total system costs. It also suggested that the decisionmaking process be structured so as to minimize the number of comparisons between dissimilar technologies, thus avoiding the problem of comparing resources that are very dissimilar in their impacts. In conclusion, EPA felt that the present problems with environmental costs and benefits quatnification require BPA to concentrate more on the decision process rather than on specific quantification methodologies.

The Natural Resources Defense Council (NRDC) also submitted lengthy comments. It concurred in the conclusion that difficulties in properly quantifying "external" costs of a resource and the absence of market mechanisms attuned to them have prevented the introduction of pricing practices into the market practices. However, NRDC felt BPA should compile at least an approximation of dollar values for the environmental costs of alternative resources. It referred to several methods of computing costs attributable to air pollution and loss of wild parkland, and stated that many environmental costs can only be assessed by reference to risks and probabilities. Included in this latter category would be the possible long-term, climatic changes resulting from carbon dioxide production, the risks of catastrophic accidents or sabotage at nuclear powerplants, and the increased risks of nuclear war or terrorism resulting from wider availability of weapons-grade material. According to NRDC, the high degree of uncertainty in calculating the costs of these potential impacts should not prevent BPA from making "reasonable" estimates. NRDC claims cost comparions will be distorted if BPA ignores these costs in its determination of life-cycle costs.

The Columbia River Inter-Tribal Fish Commission also submitted lengthy comments. Among other comments and recommendations, the Commission stated that some values are incommensurable and cannot be expressed in a dollar amount. The Commission cited, as an example, the treaty fishing rights of the four Columbia River tribes. The Commission stated,

however, that the impacts of proposed hydro facilities on the anadromous fisheries be treated as system costs of the proposed resources. The Commission advised that cost-benefit analysis was intended by Congress to be applied to electric resource decisions and not to decisions concerning the protection, mitigation, and enhancement of fish and wildlife resources.

An Assistant Professor of Economics from Willamette University in Salem, Oregon, urged BPA to attempt quantification of as many environmental variables as possible, though it was acknowledged that generally approved methodologies are not readily available for many variables. Direct survey techniques were highly recommended, particularly for their ability to highlight issues where property ritghts are in dispute. Sensitivity analysis (i.e, results calculated under a variety of assumptions) was recommended whenever assumptions may be made that are open to significant dispute. Decisionmakers can then choose the number representing the impact that corresponds to the most realistic assumptions. Finally, the commenter recommended the 1980 Water Resources Council's Principles and Standards for Water and Related Land Resources Planning as useful temporary guidelines.

The Portland office of the U.S. Fish and Wildlife Service recommended that BPA establish methods for environmental valuation that express values in tangibles other than dollars. This comment referred to what was termed a growing body of conceptual and empirical work indicating that the market often misallocates environmental resources. The Water Resources Council techniques specifically were not recommended for use because they rely on a "willingness-to-pay" approach.

Other points made by respondents included recommendations that (1) "environmental costs and benefits" be interpreted to include economic and social costs and benefits, such as jobs, rate effects on specific customer classes, outflow of money from the region, and impacts on inflation, as well as the social and family problems that may arise from these; (2) costs include those related to funding adequate numbers of fish and wildlife personnel to determine impacts and assess success of compensation or enhancement measures; (3) the additional demands for energy resulting from new powerplants be taken into account; (4) the effects of increased population levels resulting from readily available power be accounted for; and (5) the methodology expressly include consideration of nonquantifiable costs and benefits.

In addition to soliciting public comment, BPA hired a consultant to conduct a review of the relevant literature and other agencies' practices to assess the state of the art of environmental costs and benefits quantification. (Copies of the consultant's executive summary or full report may be obtained from BPA's Public Involvement Coordinator.) Since environmental goods generally are not traded in the market place, they usually have no readily identifiable price. Therefore, this study focused on identifying methodologies to impute prices in dollars for environmental costs and benefits using market data.

Fundamental to any evaluation of an environmental service is: (1) the identification and estimation of the change in the environment, and (2) the estimation of the resulting change in the system of events that humans value. While ultimately the latter could be expressed in dollars, significant problems arise in making estimations and in translating those estimates into dollars. These difficulties are presently the subject of intensive research in economic theory and other social, physical, and biological sciences. In addition to these theoretical problems, the consultant found that the practical applications of the theoretical approaches also have not achieved a level of refinement so as to be readily applicable. Among the problems encountered have been the difficulty in identifying the links between the changes in the environment and corresponding human values (e.g., changes in air-borne particulates and resultant impacts on health), the extensive amounts of data often needed to conduct the analyses, and the time and cost of the studies. Therefore, a methodology for quantifying environmental costs and benefits will be dependent upon the progress of theoretical studies and practical applications, and thus will be evolutionary in nature.

The consultant did identify four methodologies that impute values for environmental services in relationship to marketed goods or services that can be priced:

1. If an environmental service is a perfect substitute for some marketed good, then one measures the value of an impact on the service through the rate of substitution and the price of the marketed good.

2. If the service is a consumption good and is consumed in conjunction with another marketed good, then one measures the value of an impact on the service through the value of the shift in demand for the marketed good.

3. If the service is an input to the production of a marketed good, then one measures the value of an impact on the service through changes in profits, rents, wages, or interest payments, and

4. If the service varies spatially, then one measures the value of an impact on the service by determining how spatial differences in the service affect land prices.

Applications of these methodologies to produce sound and meaningful estimates of environmental costs and benefits are very rigourous and demanding. In addition, the consultant warns that these methodologies: 1) cannot be applied consistently to all environmental costs and benefits, 2) are not sufficiently advanced to enable BPA to rigorously price all environmental impacts, and 3) are not mutually exclusive in terms of their application to environmental impacts. Additionally, there is no present inventory of sound applications of these methodologies on which a resource evaluator could rely.

BPA had originally hoped that it would be possible to quantify the entire spectrum of environmental costs and benefits in dollar terms. However, based on the public comments, the consultant's report, and BPA's own expertise, BPA believes that it is presently neither practicable nor usually possible to price, or even quantify, all environmental costs and benefits. BPA agrees with the majority of the respondents' comments that all costs and benefits should be considered in evaluating a resource to be acquired or a measure to be implemented. Yet, crude estimates of dollar values for all environmental costs and benefits is not the only, nor necessarily the best, method for entering these costs and benefits into the incremental system cost. Therefore, the central concern becomes how best to incorporate both priced and nonpriced environmental costs and benefits into an evaluation of a resource or measure. This conclusion was stated explicitly by the Environmental Protection Agency (letter from EPA to the Administrator dated May 27, 1981, with attachment) and implied by others in the responses to the Notice of Intent.

In light of these conclusions, BPA is proposing a procedure that will incorporate both priced and quantifiable, but nonpriced, environmental costs and benefits within the incremental system cost of a proposed measure or resource. The procedure will result in three categories of environmental costs and benefits: 1)

those to which a dollar value can be assigned, 2) those to which a dollar value cannot readily be assigned but that can be quantified using another unit of measure, and 3) those that cannot be priced or quantified but can be described. When pricing environmental costs and benefits, BPA will seek to utilize one of the four methodologies identified by the consultant. The priced and the quantified environmental costs and benefits will be included in the determination of incremental system cost. Those nonquantifiable environmental costs and benefits of the proposed measure or resource will be described and considered consistent with section 4(e)(2) of the Regional Act and the National Environmental Policy Act.

This procdedure also provides a mechanism to assure public examination of and comment on the identification, quantification, and pricing of environmental costs and benefits for each proposed measure of resource. In addition, the proposed proceure provides a mechanism that allows BPA to adopt specific quantification and pricing methodologies and techniques as BPA determines that the economic analyses become practicable and as BPA gains experience with these analyses. In this manner, BPA believes it can fully incorporate environmental costs and benefits, whether priced or not, within the analysis of a proposed measure or resource.

II. Opportunities for Public Review and Comment:

This Notice of Proposed Methodology is for the purpose of gaining public comment on the proposed methodology for Determining Quantifiable Environmental Costs and Benefits. BPA will conduct two public forums on the proposed methodology: Wednesday, November 4, 1981, the BPA Auditorium, 1002 NE. Holladay, Portland, Oregon; and Thursday, November 5, 1981, Blakely Room, Northwest Court, Seattle Center, First North and Republican Street, Seattle, Washington. The format of these forums will be: opening remarks and brief description of the proposed methodology by BPA staff, clarifying questions from the public and BPA staff response, and oral public comments. The hearing will be transcribed.

Written comments will be accepted at the public forums or may be submitted to Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212.

If interested parties have questions about the proposal or with the staff before the comment forums, they should contact the office of the Public Involvement Coordinator.

Following the close of the comment period, BPA will evaluate comments and, where appropriate, incorporate them into a final Methodology for Determining the Quantification of Environmental Costs and Benefits. The final methodology is expected to be published in December 1981.

III. Proposed Methodology for Quantifying Environmental Costs and Benefits

1. Authority

Section 3(4)(B) of the Regional Act provides that the determination of the incremental system cost of measures to be implemented or resources to be acquired will include an estimate of all quantifiable environmental costs and benefits directly attributable to the measure or resource. These environmental costs and benefits are to be determined by a methodology developed by the Planning Council as part of its adopted regional energy plan. In the absence of this plan, the Administrator must develop such a methodology.

2. Purpose and Scope

The proposed methodology is designed to result in estimated quantifications of environmental costs and benefits directly attributable to a specific measure or resource. These quantifications will be included in the incremental system cost for each measure or resource evaluated on a case-by-case basis, employing dollar values to the maximum extent practicable. Evaluations of incremental system cost will permit the Administrator to forecast whether implementation of a measure or acquisition of a resource will meet or reduce the electric power load obligations placed on the Administrator at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource. Once adopted, the following procedure will be used to evaluate: (1) conservation and direct-application renewable measures and resources, and (2) generation resources that BPA proposes to acquire under long-term purchase agreements. Relevant authorities provided in the Regional Act include the following sections (see appendix for text):

Section 3(4) (A), (B), (C), (D)
Section 4(d)(2)
Section 4(e)(1)
Section 6(a)(1), (A), (B), (C), (D)
Section 6(b)(1), (2), (3)
Section 6(f)(1), (A), (B) (i), (ii), (iii)
Section 6(f)(2), (3), (4)
Section 6(h)(1)(B)

3. Definitions

a. *Administrator.* Administrator of the Bonneville Power Administration.

b. *BPA.* Bonneville Power Administration.

c. *Regional Act.* Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501.

d. *Planning Council.* Pacific Northwest Electric Power and Conservation Planning Council.

e. *Evaluation Official.* The Assistant Administrator for Power Management, or his/her designee. The Assistant Administrator may designate as the official responsible for the evaluation, the head of a work unit assigned responsibility for an evaluation undertaken pursuant to this methodology, or another employee.

f. *Environmental Costs and Benefits.* Effects valued by humans resulting from a change in the environment.

g. *Directly Attributable Environmental Costs and Benefits.* Individual, direct effects that result from implementation of the proposal and occur at the same time and place of the action, or are reasonably foreseeable at the time of the evaluation.

h. *Price.* A market-generated dollar value or a dollar value imputed from market activities.

i. *Quantifiable.* Capable in practice of being determind, expressed, or measured in amount or number.

j. *Incremental System Cost.* Increase in the system cost, where the system cost of a measure or resource includes all direct costs over its effective life.

4. Application and Amendment of This Metholology

The proposed methodology is a procedure that shall be in effect from the date of its adoption until the Planning Council has adopted a plan that includes a methodology to determine on a case-by-case basis the quantifiable environmntal costs and benefits directly attributable to a measure that might be proposed to be implemented or a resource that might be proposed to be acquired by BPA.

As experience is obtained through application of this procure, and as increased knowledge becomes available from others, it may be necessary to amend the procedure from time-to-time. When revisions constitute substantial amendment of this procedure, BPA will make these amendments only after notice and the opportuntiy for public comment. BPA reserves the right to evidence minor amendments of no substantial effect by providing notice of

the amendment pursuant to 5 U.S.C. 552(a)(1).

Periodically, as BPA gains experience with specific quantification methodologies or techniques pursuant to this methodology, BPA will publish in the Federal Register, for public review and comment, a summary of the specific methodologies and techniques found to be most applicable to the quantification of environmental costs and benefits.

5. Procedure for Determination of the Environmental Costs and Benefits Element of the Incremental System Cost

(a) The Evaluation Official shall determine the environmental costs and benefits that are directly attributable to each measure or resource proposed for BPA acquisition or implementation.

(b) The Evaluation Official will list identified costs and benefits in the following categories:

(1) Environmental costs and benefits for which a generally accepted price is known;

(2) Environmental costs and benefits for which no generally accepted price is known, but to which a price or range of prices may be imputed using generally accepted specific methodologies and techniques;

(3) Environmental costs and benefits for which no generally accepted price is known or can be estimated utilizing generally accepted, specific methodologies or techniques, but for which some other quantitative value or values can be assigned;

(4) Other identified environmental costs and benefits for which no quantitative value can be assigned. These will be described and considered cosistent with section 4(e)(2) of the Regional Act and the National Environmental Policy Act.

(c) Prices or other quantification values will be assigned in the following manner:

(1) For environmental costs and benefits for which a generally accepted price is known, that price will be assigned.

(2) For environmental costs and benefits identified as paragraph (b)(2) above, the Evaluation Official may elect based on the available knowledge, experience, or other expertise, to undertake studies to quantify the price of environmental costs and benefits of a measure or resource. The decision to undertake studies will be based on the Evaluation Official's consideration of the relative magnitude of the measure or resource, the associated environmental effect, and the cost of the studies. The quantification will be displayed in the environmental costs and benefits evaluation.

(3) For environmental costs and benefits identified as paragraph (b)(3) above, the Evaluation Official will determine the appropriate units for quantifying those costs and benefits for which no price can be assigned. This quantification will be displayed in the environmental costs and benfits evaluation.

(4) When appropriate, the estimated values shall be expressed as a range.

(d) Not less than 30 days before the Administrator makes a final decision on any measure proposed to be implemented or resource proposed to be acquired by BPA, the Evaluation Official shall prepare, and there shall be published in the Federal Register for comment, a summary of the environmental costs and benefits for the measure or resource under analysis. BPA will furnish any requested, nonproprietary information on the directly attributable environmental costs and benefits for the measure or resource under analysis. A summary of comments received and a staff evaluation thereof shall become part of the Evaluation Official's recommendation to the Administrator.

(e) Prior to the final decision on a measure to be implemented or a resource to be acquired, the Evaluation Official may revise the quantification of directly attributable environmental costs and benefits to incorporate new information identified. Such revisions will assure that at the time the Administrator makes a final decision with respect to any measure proposed to be implemented or any resource proposed to be acquired, the estimated quantification most accurately reflects information then known. This will enable the Administrator to forecast that the measure or acquisition will meet or reduce the electric power demand of the consumers of BPA's customers at an estimated incremental system cost no greater than that of the least cost similarly reliable and available alternative measure or resources.

Dated: October 5, 1981.

Peter T. Johnson,
Administrator.

Appendix

Section 3(4)

(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure of resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resouce.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource."

Section 4(d)(2) Following adoption of the plan and any amendment thereto, all actions of the Administrator pursuant to section 6 of this Act shall be consistent with the plan and any amendment thereto, except as otherwise specifically provided in this Act.

Section 4(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost-effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

Section 6(a)(1) The Administrator shall acquire such resources through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan, or if no plan is in effect with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c) of this section. Such conservation measures and such resources may include, but are not limited to—

(A) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application,

(B) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation

objectives adopted by individual States or subdivisions thereof,

(C) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(D) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

Section 6(b)(1) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan, as determined by the Administrator.

Section 6(b)(2) The Administrator may acquire resources (other than major resources) under this Act which are not consistent with the plan, but which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

Section 6(b)(3) If no plan is in effect, the Administrator may acquire resources under this Act which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section (4)(e)(2) of this Act.

Section 6(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B) of this paragraph, such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

Section 6(f)(2) The Administrator may exercise the authority of this subsection only after he determines that the failure to do so would result in inequitable hardship to the consumers of such sponsors. The Administrator may provide reimbursement under this subsection only for expenses incurred after the date of the enactment of this Act.

Section 6(f)(3) Any agreement under paragraph (1) of this subsection shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

Section 6(f)(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

Section 6(h)(1)

(B) resources constructed, completed, or acquired after the effective date of this Act by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not inconsistent with the criteria of section 4(e)(1) and the consideration of section 4(e)(2) of this Act."

[FR Doc. 81-29523 Filed 10-8-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Saber Refining Co. (a Wholly Owned Subsidiary of Saber Energy Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Saber Refining Company, 1700 Houston Natural Gas Building, 1200 Travis Street, Houston, Texas 77002. This Proposed Remedial Order charges Saber Refining Company with pricing violations in the amount of $4,109,454, connected with the sale of motor gasoline during the time period February 1976 through December 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone 214/767/7745. On or before October 23, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR Section 205.193.

Issued in Dallas, Texas, on the 25th day of September 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-29371 Filed 10-8-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5055-000]

Richard E. Akin; Renotice of Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity[1]

September 30, 1981.

Take notice that on July 2, 1981, Richard E. Akin (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5055) would be located on Hangtown Creek in El Dorado County, California. Correspondence with the Applicant should be directed to: Mr. Jack F. Hannaford, Sierra Hydrotech, P.O. Box 169, Placerville, California 95667.

Project Description—The power generated by the proposed project would be sold to Pacific Gas and Electric Company.

Purpose of Project—The proposed project would consist of: (1) A 6-foot high concrete-masonry diversion structure; (2) a 963-foot long, 18-inch diameter steel penstock; (3) a powerhouse with total installed capacity of 165 kW; and (4) a 1,200-foot long transmission line interconnecting with an existing Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy output would be 0.38 million kWh.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit 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

[1] This notice supersedes the notice issued on September 17, 1981, erroneously describing the application for Project No. 5055-000 as an application for Exemption of Small Conduit Hydroelectric Facility under Section 30 of the Federal Power Act (16 U.S.C. Section 823(a)).

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.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 21, 1981, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 21, 1981.

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 "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those 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, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street NE., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29428 Filed 10-8-81; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. TA81-2-20-003]

Algonquin Gas Transmission Co.; Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

October 5, 1981.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 22, 1981, tendered for filing Substitute 56th Revised Sheet No. 10 and Revised Substitute 56th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that Substitute 56th Revised Sheet No. 10 is being filed to modify Algonquin Gas' rates to reflect a downward revision in the underlying rates of its pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"). Such reduction was directed by the Commission's letter order dated August 19, 1981, which accepted Algonquin Gas' 56th Revised Sheet No. 10, effective September 1, 1981, but required such modification.

Algonquin Gas proposed the effective date of Substitute 56th Revised Sheet No. 10 to be September 1, 1981.

Algonquin Gas further states that Revised Substitute 56th Revised Sheet No. 10 is being filed to track rates filed by Texas Eastern which reinstate amounts attributable to Texas Eastern's purchase of gas from Northwest Pipeline Corporation at such time as deliveries commence thereunder and which have been excluded from Texas Eastern's rates in its downward revision. Texas Eastern has proposed that such rates become effective on the first day of the month following the date of first delivery to Texas Eastern from Northwest Pipeline Corporation.

Algonquin Gas requests that its rates under Revised Substitute 56th Revised Sheet No. 10 become effective the same date as the underlying rates of Texas Eastern.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

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, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Oct. 20, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29400 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. TA82-1-20-000]

Algonquin Gas Transmission Co.; Tariff Filing Under Purchased Feedstock Adjustment Clause

October 5, 1981.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 15, 1981, tendered for filing 14th Revised Sheet No. 10-A and Original Sheet No. 20-H.2 pursuant to its Rate Schedule SNG-1 Purchased Feedstock Adjustment Clause ("PFAC"), as contained in its FERC Gas Tariff, First Revised Volume No. 1, adjusting the applicable rate to provide for recovery of the actual cost feedstock. The adjustments are filed to be effective as of October 16, 1981.

Algonquin Gas notes that a copy of this filing is being served upon all affected parties and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1981. Protests will be considered by the

Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29401 Filed 10-8-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ER81-199-000]

Central Telephone & Utilities Corp.; Order Granting Joint Motion To Waive Notice Requirements and Permit Collection of Interim Settlement Rates

October 5, 1981.

By order issued February 27, 1981, in this docket, the Commission, among other things, accepted Central Telephone and Utilities Corporation's (Central) proposed rates for filing (as modified by the order) and suspended them for five months, to become effective on August 1, 1981, subject to refund. On August 28, 1981, Central, its REA Cooperative Customers,[1] the Kansas Municipal Group,[2] Midwest Energy, Inc., and Kansas Electric Cooperative, Inc. filed a joint motion for waiver of the notice requirements and approval of interim rates to become effective on August 1, 1981, in lieu of the originally filed rates.[3] The parties state that a settlement in principle, including the lower settlement rates, has been reached and that a final settlement agreement which would resolve all outstanding issues is being drafted for submission to the Commission.

According to the parties, the intervenors wish to avoid paying the higher filed rates and Central hopes to avoid the "costly and time consuming procedure of issuing refund checks" should the Commission approve the final settlement agreement. Thus, the parties state that they have agreed to request that the interim settlement rates become effective on August 1, 1981, on a temporary basis, pending (1) the anticipated filing of a final settlement agreement, (2) the execution of an ancillary agreement [4] between Central and CMS Electric Cooperative Association, Inc. (CMS) by September 30, 1981, and (3) Commission approval of the final settlement agreement in its entirety. In the event that (1) the parties are unable to concur on the anticipated settlement agreement, (2) the agreement between Central and CMS has not been executed by September 30, 1981, or (3) the Commission disapproves the final settlement agreement in whole or in part, the parties have further agreed that the originally filed rates will become effective, subject to refund, with a surcharge [5] to be added to subsequent bills of each customer for a period of time equivalent to the period during which the settlement rates were in effect.

Discussion

We find that the reasons advanced by the parties constituted good cause to grant the motion. Moreover, all intervenors have joined in the request for approval of the interim rate proposal and the staff concurs in the motion. Therefore, we shall authorize the collection of the interim settlement rates in lieu of the originally filed rates pending (1) the anticipated filing of a final settlement agreement, (2) the execution of the contemplated agreement between Central and CMS by September 30, 1981, and (3) final Commission approval of the settlement agreement in its entirety. If these events do not occur as expected by the parties, the alternative billing provisions described in the August 28 motion shall apply.

By granting the instant motion, the Commission does not intend to express any opinion as to the merits of any settlement proposal which may be submitted to the Commission for consideration.

The Commission orders:

(A) The request for waiver of the notice requirements is granted in order to effectuate the collection of the interim settlement rates.

(B) Central is hereby authorized to collect the interim settlement rates as described in the August 28 motion, subject to refund, as of August 1, 1981, in lieu of its originally filed rates, pending a Commission ruling on the final settlement agreement which is expected to be filed in this docket. In the event that (1) the parties are unable to concur on a final settlement agreement, (2) the contemplated agreement between Central and CMS is not executed by September 30, 1981, or (3) the Commission disapproves the final settlement agreement, Central may thereafter collect its originally filed rates together with a surcharge (also subject to refund) to recover any undercollection (*i.e.*, the difference between the filed rates and the interim settlement rates) for a period of time equivalent to the period of time that the interim settlement rates are in effect, with interest calculated in accordance with § 35.19a(a)(2)(iii) of the regulations.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29402 Filed 10-8-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ER81-199-000]

Central Telephone & Utilities Corp.; Order Granting Joint Motion To Waive Notice Requirements and Permit Collection of Interim Settlement Rates

October 5, 1981.

By order issued February 27, 1981, in this docket, the Commission, among other things, accepted Central Telephone and Utilities Corporation's (Central) proposed rates for filing (as modified by the order) and suspended them for five months, to become effective on August 1, 1981, subject to refund. On August 28, 1981, Central, its REA Cooperative Customers,[1] the Kansas Municipal Group,[2] Midwest Energy, Inc., and Kansas Electric

[1] Ark Valley Electric Cooperative Association, Inc.; CMS Electric Cooperative Association, Inc.; C&W Rural Electric Cooperative Association, Inc.; Jewell-Mitchell Cooperative Electric Company, Inc.; N.C.K. Electric Cooperative, Inc.; Ninnescah Rural Electric Cooperative Association, Inc.; Norton-Decatur Cooperative Electric Company, Inc.; Smoky Hill Electic Cooperative Association, Inc.; Sumner-Cowley Electric Cooperative, Inc.; and Victory Electric Cooperative Association, Inc.

[2] Cawker City, Cimarron, Coats, Glasgo, Glen Elder, Holyrood, Isabel, Jamestown, Lucas, Luray, Mankato, Montezuma, Tipton, Anthony, Beloit, Hoisington, Kingman, Pratt, Russell, and Washington, Kansas.

[3] The parties state that the Commission staff concurs in the joint motion.

[4] The agreement is to provide for additional deliveries of power and energy by Central to CMS at its Coldwater delivery point.

[5] The parties state that the surcharge (also subject to refund) will be designed to enable Central to recover the difference in revenues collected under the settlement rates and the revenues which would have been collected under the filed rates for the period of time when the settlement rates were in effect, together with interest on the unpaid amount of the difference calculated consistent with § 35.19a(a)(2)(iii) of the Commission's regulations.

[1] Ark Valley Electric Cooperative Association, Inc.; CMS Electric Cooperative Association, Inc.; C&W Rural Electric Cooperative Association, Inc.; Jewell-Mitchell Cooperative Electric Company, Inc.; N.C.K. Electric Cooperative, Inc.; Ninnescah Rural Electric Cooperative Association, Inc.; Norton-Decatur Cooperative Electric Company, Inc.; Smoky Hill Electric Cooperative Association, Inc.; Summer-Cowley Electric Cooperative, Inc.; and Victory Electric Cooperative Association, Inc.

[2] Cawker City, Cimarron, Coats, Glasgo, Glen Elder, Holyrood, Isabel, Jamestown, Lucas, Luray, Mankato, Montezuma, Tipton, Anthony, Beloit, Hoisington, Kingman, Pratt, Russell, and Washington, Kansas.

Cooperative, Inc. filed a joint motion for waiver of the notice requirements and approval of interim rates to become effective on August 1, 1981, in lieu of the originally filed rates.[3] The parties state that a settlement in principle, including the lower settlement rates, has been reached and that a final settlement agreement which would resolve all outstanding issues is being drafted for submission to the Commission.

According to the parties, the intervenors wish to avoid paying the higher rates and Central hopes to avoid the "costly and time consuming procedure of issuing refund checks" should the Commission approve the final settlement agreeement. Thus, the parties state that they have agreed to request that the interim settlement rates become effective on August 1, 1981, on an temporary basis, pending (1) the anticipated filing of a final settlement agreement, (2) the execution of an ancillary agreement [4] between Central and CMS Electric Cooperative Association, Inc. (CMS) by September 30, 1981, and (3) Commission approval of the final settlement agreement in its entirety. In the event that (1) the parties are unable to concur on the anticipated settlement agreement, (2) the agreement between Central and CMS has not been executed by September 30, 1981; or (3) the Commission disapproves the final settlement agreement in whole or in part, the parties have further agreed that the originally filed rates will become effective, subject to refund, with a surcharge [5] to be added to subsequent bills of each customer for a period of time equivalent to the period during which the settlement rates were in effect.

Dicussion

We find that the reasons advanced by the parties constitute good cause to grant the motion. Moreover, all intervenors have joined in the request for approval of the interim rate proposal and the staff concurrs in the motion. Therefore, we shall authorize the collection of the interim settlement rates in lieu of the originally filed rates pending (1) the anticipated filing of a final settlement agreement, (2) the execution of the contemplated agreement between Central and CMS by September 30, 1981, and (3) final Commission approval of the settlement agreement in its entirety. If these events do not occur as expected by the parties, the alternatives billing provisions described in the August 28, motion shall apply.

By granting the instant motion, the Commission does not intent to express any opinion as to the merits of any settlement proposal which may be submitted to the Commission for consideration.

The Commission orders:

(A) The request for waiver of the notice requirements is granted in order to effectuate the collection of the interim settlement rates.

(B) Central is hereby authorized to collect the interim settlement rates as described in the August 28 motion, subject to refund, as of August 1, 1981, in lieu of its originally filed rates, pending a Commission ruling on the final settlement agreement which is expected to be filed in this docket. In the event that (1) the parties are unable to concur on a final settlement agreement, (2) the contemplated agreement between Central and CMS is not executed by September 30, 1981, or (3) the Commission disapproves the final settlement agreement, Central may thereafter collect its originally filed rates together with a surcharge (also subject to refund) to recover any undercollection (*i.e.*, the difference between the filed rates and the interim settlement rates) for a period of time equivalent to the period of time that the interim settlement rates are in effect, with interest calculated in accordance with § 35.19a(a)(2)(iii) of the regulations.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29429 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[3] The parties state that the Commission staff concurs in the joint motion.

[4] The agreement is to provide for additional deliveries of power and energy by Central to CMS at its Coldwater delivery point.

[5] The parties state that the surcharge (also subject to refund) will be designed to enable Central to recover the difference in revenues collected under the settlement rates and the revenues which would have been collected under the filed rates for the period of time when the settlement rates were in effect, together with interest on the unpaid amount of the difference calculated consistent with § 35.19a(a)(2)(iii) of the Commission's regulations.

[Docket No. CP81-501-000]

Cities Services Gas Co.; Application

October 5, 1981.

Take notice that on September 4, 1981, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP81-501-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon and reclaim an existing town bordering station and measuring and regulating facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon and reclaim the Keyes town border station and measuring and appurtenant facilities which now enable Applicant to make sales of gas to the City Utilities of Springfield (City Utilities) for resale to 14 mainline customers in the Springfield, Missouri, area.

It is asserted that City Utilities has advised Applicant that it is installing new distribution lines in the area and would be able to serve these 14 customers from its own distribution system rather than from Applicant's main line. It is also advised that due to this rearrangement of its system, the Keyes tap is no longer necessary and may be reclaimed. Applicant asserts that no service to any customers would be terminated.

Any person desiring to be heard or to make a protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29432 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-525-000]

Columbia Gas Transmission Corp.; Application

October 5, 1981.

Take notice that on September 18, 1981, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP81-525-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term sale of natural gas to Bridgeline Gas Distribution Company (Bridgeline) for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas sales contract dated August 21, 1981, Applicant proposes to sell up to 115,000 Mcf of natural gas per day on a best-efforts basis to Bridgeline for a term of two years from the date of first delivery. It is asserted that Applicant would deliver the gas to Bridgeline at Texaco, Inc.'s existing extraction plant located near Paradis, Louisiana, at a mutually agreeable point or points in Pointe Coupee Parish, Louisiana, where Applicant purchases gas in the Moore-Sams Field and the Morganza Field, or at any other point including a mutually agreeable exchange of gas involving a third party to which the parties agree.

It is asserted that Bridgeline would pay for the gas purchased the higher of Applicant's Zone 2 SR Rate in effect at the time of the purchase or the price determined by the Commission pursuant to Section 102 of the Natural Gas Policy Act of 1978 at the time of purchase.

Applicant asserts that the volumes it proposes to sell are in excess of its current market requirements due to an increase in supply, a slower rate of growth, and conservation by existing customers. Applicant further asserts that its obligation to existing customers supercedes its obligation to sell gas to Bridgeline.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29433 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RP81-83-001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 5, 1981.

Take notice that Columbia Gas Tranmission Corporation (Columbia) on September 21, 1981, tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective November 1, 1981:

Substitute Seventh Revised Sheet No. 19
Substitute Fifth Revised Sheet No. 28
Substitute Fifth Revised Sheet No. 29

Columbia states that Substitute Seventh Revised Sheet No. 19 and Substitute Fifth Revised Sheet No. 28 are being filed in accordance with the express terms of Ordering Paragraph (H) of the Commission's Order issued July 31, 1981, in Docket No. RP81-83-000. Said Ordering Paragraph (H) states that "Prior to November 1, 1981, Columbia Gas shall file Substitute Sheet Nos. 19 and 28 to become effective November 1, 1981, reflecting elimination of the language discussed in the body of the order." It is further stated that Substitute Fifth Revised Sheet No. 29 is being tendered to reflect elimination of a portion of such language which also appeared on Fifth Revised Sheet No. 29, filed on July 1, 1981.

Columbia further states that since it is herein including Substitute Fifth Revised Sheet No. 29 to become effective November 1, 1981, it is respectfully requested that the effective date for Fifth Revised Sheet No. 29, filed on July 1, 1981, be changed from November 1, 1981 to January 1, 1982.

Copies of the filing were served upon the Company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 20, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29403 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RP80-146-003]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 5, 1981.

Take notice that on September 25, 1981, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Seventy-Sixth Revised Sheet No. 16
Twenty-Fourth Revised Sheet No. 16A
Sixth Revised Sheet No. 16B
Twentieth Revised Sheet No. 64

Original Volume No. 2

Third Revised Sheet No. 693

Said tariff sheets bear an issue date of September 25, 1981 and an effective date of November 1, 1981.

Columbia states that the subject filing is being made pursuant to Article XVI of the Stipulation and Agreement in Docket No. RP78-19, *et al.*, which was approved by Commission letter order issued July 3, 1979. Said Article provides that Columbia shall take action by November 1, 1981 to convert the rates in all of its sales zones to a dekatherm basis. Accordingly the tariff sheets submitted by Columbia reflect (i) the conversion of Columbia's Zone 1, 3, 4 and 5 rates from an Mcf to a dry dekaterm basis and (ii) the conversion of Columbia's Zone 2, 6 and 7 rates from a wet dekatherm basis to a dry dekatherm basis. The filing also reflects the conversion of the rate for Columbia's transportation service for Equitable Gas Company from an Mcf basis to a dry dekatherm basis.

In addition, Columbia is filing Twentieth Revised Sheet No. 64. Columbia states that Seventeenth Revised Sheet No. 64 was included in its July 1, 1981 dekatherm filing, but did not reflect Columbia's current base average rates of purchase gas cost. It further states that Nineteenth Revised Sheet No. 64 was included in Columbia's revised PGA filing of September 15, 1981, effective September 1, 1981. While this latter sheet reflected Columbia's current base average rates of purchased gas cost, it did not reflect the language related to Columbia's dekatherm conversion, since it was proposed to be effective prior to November 1, 1981. Accordingly, Twentieth Revised Sheet No. 64 was filed by Columbia to reflect the language related to the company's dekatherm conversion, as well as its current base average rates of purchased gas cost.

Copies of the entire filing were served upon each of Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.18 and 1.10 of the Commission's rules of practice and procedure (18 CFR, 1.8 and 1.10). All such petitions or protests should be filed on or before October 20, 1981. 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 persons wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29404 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. TA81-2-21-004 (PGA81-2a, IPR81-2 and AP81-2)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 5, 1981.

Take notice that Columbia Gas Transmission Corporation (Columbia) on September 15, 1981, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Seventy-fifth Revised Sheet No. 16
Twenty-third Revised Sheet No. 16A
Nineteenth Revised Sheet No. 64

Columbia states that the foregoing tariff sheets, to be effective September 1, 1981, are being filed in compliance with Ordering Paragraphs (E) and (F) of the Commission's Order issued August 31, 1981, directing Columbia to (1) Eliminate any unpaid accruals and interest thereon from the calculation of its rates within 15 days of the date of issuance of such Order and (2) Reflect the downward modification of pipeline rates tracked in its original filing of July 31, 1981. The foregoing revisions result in a reduction of $754,058 in Columbia's Unrecovered Gas Purchased Account balance at June 30, 1981 together with a reduction of $31,885,433 in its Gas Purchased Cost to be recovered over the six month period ending February 28, 1982. In addition, Columbia states that the rate change proposed herein reflects Columbia's reduced rates filed September 4, 1981, to be effective August 4, 1981 in Docket No. RP76-94 *et al.*

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 20, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29405 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-517-000]

Columbia Gas Transmission Corp.; Application

October 5, 1981.

Take notice that on September 17, 1981, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP81-517-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation, of 63 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc., 6 taps for residential service, 1 tap for commercial service, Estimated annual usage of 1,440 Mcf.

(2) Columbia Gas of Ohio, Inc., 31 taps for residential service, 2 taps for commercial service, 2 taps for industrial service, Estimated annual usage of 13,214 Mcf.

(3) Columbia Gas of Pennsylvania, Inc., 11 taps for residential service, Estimated annual usage of 1,650 Mcf.

(4) Columbia Gas of West Virginia, Inc., 10 taps for residential service, Estimated annual usage of 1,500 Mcf.

It is estimated that the total cost of the interconnections proposed herein is $19,000 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29440 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-519-000]

Consolidated Gas Supply Corp.; Application

October 5, 1981.

Take notice that on September 17, 1981, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP81-519-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term sale of natural gas to Newzane Gas Company (Newzane) and the construction and operation of facilities necessary therefor, all as more fully set forth in the application which is on file with the commission and open to public inspection.

Applicant proposes to sell up to 5,000 dekatherms equivalent of natural gas per day to Newzane pursuant to a limited-term surplus gas sales agreement dated July 7, 1981. It is asserted that the sale which is to be made on an interruptible basis would commence on November 1, 1981, and terminate on October 31, 1986.

Newzane, it is stated, would pay a rate equivalent to that specified in Applicant's Rate Schedule SCQ, FERC Gas Tariff, Volume No. 1.

Deliveries would occur at an interconnection to be established between the existing facilities of Applicant and Newzane in Licking County, Ohio, where Applicant's existing Line No. TL-400 crosses an existing pipeline owned and operated by Newzane, it is asserted. Applicant states that it would construct and operate the necessary tap, measuring, regulating and related and appurtenant facilities at an estimated cost of $88,068 which would be reimbursed by Newzane.

Applicant states that the source of the gas proposed to be sold is from general system supply. It is explained that Newzane is a small gas distributor in Columbus, Ohio, and would use the proposed gas to diversify its supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29441 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ER81-775-000

Connecticut Light & Power Co.; Filing

October 2, 1981.

The filing Company submits the following:

Take notice that on September 23, 1981, the Connecticut Light and Power Company (CL&P) and the Hartford Electric Light Company (HELCO) filed 13 unit contracts with the Connecticut Municipal Electric Energy Cooperative (CMEEC), a public corporation organized under the laws of the State of Connecticut, which provides electric service to the municipal electric systems of the City of Groton, City of Norwich, and Borough of Jewett City.

The 13 contracts relate to life-of-unit interests in 29 generating units owned by CL&P and 5 generating units owned by HELCO. These contracts implement the arrangements between CL&P, HELCO and CMEEC and which were described in a Memorandum of Understanding filed with the Commission on October 31, 1981 (Docket No. ER81-80-000). Together with other arrangements between the parties, the filed unit contracts are intended to permit CMEEC to function as an independent electric utility. CL&P's "R-4" rate schedule terminates upon the effectiveness of the filed unit contracts.

CL&P, HELCO and CMEEC have requested that the Commission waive its notice requirements and permit the filed unit contracts to become effective as of October 1, 1981.

CL&P states that copies of the unit contracts and transmittal materials have been mailed to all customers served under its "R-4" rate, each of whom had been sent a copy of the Memorandum of Understanding when that document was filed with the Commission.

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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29414 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ER81-776-000]

Connecticut Light and Power Co.; Filing

October 1, 1981.

The filing Company submits the following:

Take notice that on September 23, 1981, The Connecticut Light and Power Company ("CL&P") filed an Exchange Agreement dated as of September 15, 1981, between The Connnecticut Light and Power Company, The Hartford Electric Light Company, and the Connecticut Municipal Electric Energy Cooperative ("CMEEC"), a public corporation organized under the laws of the State of Connecticut, which provides electric service to the municipal electric systems of the City of Groton, City of Norwich, and Borough of Jewett City. A certificate of concurrence was filed by The Hartford Electric Light Company.

The Exchange Agreement is a long-term contract which supersedes an initial interim contract between The Connecticut Light and Power Company, The Hartford Electric Light Company and CMEEC and which provided for an exchange of the same amount of gas turbine generating capacity. The Exchange Agreement provides for the continued exchange by CMEEC of a 15,926 kw unit contract entitlement from the Norwich system gas turbine generating unit for 15,926 kw in entitlements in eight specific internal combustion generating units of The Connecticut Light and Power Company and The Hartford Electric Light Company. The parties state that they have entered into the Exchange Agreement in order to improve the operating characteristics of their respective electric systems and to reduce their respective system risks.

The parties to the Exchange Agreement have requested that the Commission permit the Exchange Agreement to become effective as of December 1, 1981.

Any person desiring to be heard or to make any protest with reference to the Exchange Agreement should on or before October 19, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29415 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ER81-775-000]

Connecticut Light and Power Co.; Filing

October 1, 1981.

The filing Company submits the following:

Take notice that on September 23, 1981, the Connecticut Light and Power Company (CL&P) and the Hartford Electric Light Company (HELCO) filed 13 unit contracts with the Connecticut Municipal Electric Energy Cooperative (CMEEC), a public corporation organized under the laws of the State of Connecticut, which provides electric service to the municipal electric systems of the City of Groton, City of Norwich, and Borough of Jewett City.

The 13 contracts relate to life-of-unit interests in 29 generating units owned by CL&P and 5 generating units owned by HELCO. These contracts implement the arrangements between CL&P, HELCO and CMEEC and which were described in a Memorandum of Understanding filed with the Commission on October 31, 1980. (Docket No. ER81-80-000). Together with other arrangements between the parties, the filed unit contracts are intended to permit CMEEC to function as an independent electric utility. CL&P's "R-4" rate schedule terminates upon the effectiveness of the filed unit contracts.

CL&P, HELCO and CMEEC have requested that the Commission waive its notice requirements and permit the filed unit contracts to become effective as of October 1, 1981.

CL&P states that copies of the unit contracts and transmittal materials have been mailed to all customers served under its "R-4" rate, each of whom had been sent a copy of the Memorandum of Understanding when that document was filed with the Commission.

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 §§ 1. 8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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. 81-29416 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-496-000]

Delhi Gas Pipeline Corp. and Houston Pipe Line Co.; Petition for Declaratory Order

October 5, 1981.

Take notice that on August 28, 1981, Delhi Gas Pipeline Corporation (Delhi), Fidelity Union Tower, Dallas, Texas 75201, and Houston Pipe Line Corporation (HPL), 1200 Travis, Houston, Texas 77001, filed in Docket No. CP81-496-000 a joint petition, as supplemented September 1, 1981, pursuant to § 1.7(c) of the Commission's rules of practice and procedure (18 CFR 1.7(c)) for an order declaring that the transportation of natural gas across state lines by an interstate pipeline on behalf of an intrastate pipeline pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) does not render either the sending or receiving intrastate pipeline jurisdictional, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is submitted that Delhi is an intrastate pipeline company transportating and selling natural gas primarily in Texas and Oklahoma and that HPL is an intrastate pipeline company transporting and selling natural gas principally within Texas. It is further submitted that both Delhi and HPL are regulated by the Railroad Commission of Texas.

Pursuant to an agreement dated August 26, 1981, Delhi proposes to sell for a term of two years on an interruptible basis any surplus gas it may have from time to time in Oklahoma to HPL in Texas for

consumption within Texas and pursuant to Section 311(a) of the NGPA to employ one or more interestate pipeline companies to transport such gas by displacement or exchange from Delhi's Oklahoma facilities to Delhi's Texas Facilities or for the account of Delhi in Texas. Petitioners state that Delhi would deliver the gas to an interstate pipeline transporter in Oklahoma which would subsequently redeliver on a self-implementing basis pursuant to § 284.102(a) of the Commission's regulations an equivalent quantity to Delhi or for its account in Texas. It is asserted that title to such surplus gas would pass to HPL upon delivery at certain existing points of delivery in Texas and therefore such sale should be interpreted as an intrastate matter arising only after the non-jurisdictional transportation of Delhi's gas from Oklahoma to Texas.

It is submitted that pursuant to an agreement dated September 1, 1980, Delhi would charge HPL a commodity gas price equal to the NGPA Section 102 price plus severance taxes, plus an additional charge of 30.0 cents per million Btu to cover the Texas transportation rate. It is further submitted that HPL would reimburse Delhi for the actual fees charges Delhi by the interstate pipelines for transportation of the gas from Oklahoma to Texas.

Petitioners assert that the proposed transaction pursuant to Section 311(a) of the NGPA would not render either Delhi or HPL natural gas companies subject to the jurisdiction of the Commission.

Therefore, Petitioners specifically request that the Commission issue a declaratory order stating that the proposed interstate transportation can be performed on a self-implementing basis on behalf of Delhi pursuant to § 284.102(a) of the Commission's regulations, that as a result of such transaction neither Delhi nor HPL would become natural gas companies under the Natural Gas Act, and that the Natural Gas Act and the jurisdiction of the Commission thereunder would not apply to such transaction or to the transportation and sale or resale of the gas by Delhi to HPL wholly within the state of Texas in a manner not otherwise subject to the Commission's jurisdiction.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 23 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29442 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-499-000]

El Paso Natural Gas Co.; Application

October 5, 1981.

Take notice that on September 4, 1981, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP81-499-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities and the modification of an existing facility to permit the delivery of additional quantities of natural gas to Arizona Public Service Company (APS) in Yuma County, Arizona, all as more fully set forth in the spplication which is on file with the Commission and open to public inspection.

It is submitted that pursuant to an agreement dated August 15, 1970, Applicant presently delivers natural gas to APS for resale in the city of Yuma, Arizona, (city of Yuma) at six points of delivery along Applicant's existing Yuma and Yuma loop pipelines. It is further submitted that APS has requested Applicant to provide natural gas service to the northwest area of the City of Yuma at a new point of delivery, the Yuma West meter station. In order to effectuate such delivery, Applicant proposes to construct and operate a 2⅜-inch O.D. tap and valve assembly and a combination meter station consisting of one 4½-inch O.D. standard orifice meter run and one 500B 250 psig case positive displacement meter at a point on the existing 12¾-inch O.D. segment of Applicant's Yuma loop pipeline. Such meter facility, it is stated, would have a maximum design capacity of 358 Mcf per hour at a proposed operating delivery pressure of 250 psig.

Applicant states that APS has also requested that Applicant provide natural gas service at a point located on Applicant's 30-inch O.D. San Juan crossover pipeline in Yuma County, Arizona, for resale to serve the irrigation requirements of Mr. Bill J. Davis and Mr. Marion Wolfe. In order to provide such service Applicant proposes to construct and operate a one-inch tap valve facility at a point on the San Juan crossover pipeline with estimated annual and peak day delivery capabilities during the third full year of operation of 112,000 Mcf and 480 Mcf per day, respectively.

Applicant further states that in 1963 it constructed a 500B 250 psig case positive displacement meter station facility to measure volumes of natural gas sold to APS for resale and distribution in Somerton, Arizona, and that Applicant currently sells natural gas to APS for resale in Somerton pursuant to the aforementioned August 15, 1970, agreement. It is submitted that APS has requested an incrase in the existing delivery pressure at the Somerton meter station from 70 psig to 200 psig and Applicant, therefore, proposes to replace the existing regulators with two one-inch Fisher type regulators.

It is asserted that the estimated total cost of constructing and modifying the above described facilities is $74,795 which would be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if

the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29443 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ER81-773-000]

Florida Power & Light Co., Filing

October 2, 1981.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FP&L) on September 21, 1981, tendered for filing documents entitled "Exhibit I to Service Agreement For Interchange Transmission Service Implementing Specific Transactions Under Service Schedules A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service) of Contracts for Interchange Service." This filing is proposed to amend FERC Electric Tariff Original Volume II (Sheet Nos. 1-19).

FP&L states that under the Exhibit I FP&L will transmit power and energy for Fort Pierce Utilities Authority (Ft. Pierce) as is required by Fort Pierce in the implementation of its interchange agreement with Orlando Utilities Commission.

FP&L requests that waiver of the Commission's regulations be granted and that the proposed Exhibit be made effective immediately.

FP&L states that copies of the filing were served on the Director of Utilities of Fort Pierce Utilities Authority.

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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29417 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RP81-72-000; Opinion No. 131]

Gas Research Institute; Opinion and Order Amending and Approving Gas Research Institute's 1982 Research and Development Program and Related Five-Year Plan for 1982-86

September 28, 1981.

Introduction

Before us is the application of the Gas Research Institute (GRI) for advance approval[1] of its 1982 Research and Development Program and related five-year plan for 1982-1986. For each year since 1978, we have approved—with modifications—GRI's annual research and development program and related five-year plan.[2]

Proposed Budget and Funding For 1982

GRI is asking [3] that we approve a funding requirement of $91,449,650 which would be raised through a funding unit of 7.2 mills per Mcf to be collected by its members[4] during 1982 as a surcharge on the sale and transportation by these members of funding services of 12,743 Bcf of natural gas.[5] The remaining $8,385,000 of GRI 1982 operating budget of $99,834,650 is derived from patent licenses, settlements of contracts, sales of research equipment, and interest income (all of which total an estimated $5,901,000) and unexpended and uncommitted funds ($2,484,000) that were collected under earlier approved programs.

GRI's proposed 1982 budget of $99,834,650 provides for contract research at a total cost of $83,725,000 divided as follows among GRI's objectives:

Supply Options	$31,955,000
Efficient Utilization	38,975,000
Enhanced Service	7,870,000
Fundamental Research	[6] 4,925,000

[6] GRI has also submitted the following estimates of anticipated coordinated funding during 1982 by the Federal government and industry. These estimates of coordinated funding include both "cofunding," where project costs are shared to varying degrees, and "cooperative funding," where complementary activities are undertaken by different organizations, but GRI has not broken these figures down to indicate the extent of each.

Contract support totals $16,109,650 broken down as follows:

Technical Project Development	$5,264,000
Planning	1,487,000
Technical Communications	898,000
General Operating Expenses	8,460,650

GRI objective	Government and industry coordinated funding
Supply Options	$32,306,000
Efficient Utilization	33,816,000
Enhanced Service	6,950,000
Fundamental Research	2,779,000
Total	75,747,000

Anticipated coordinated funding for 1982 is comprised of approximately $37.9 million each from government and

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[1] Pursuant to 18 CFR 154.38(d)(5).

[2] See Opinion No. 96, "Opinion and Order Amending and Approving Gas Research Institute's 1981 Research and Development Program and Related Five-Year Plan for 1981-1985," Docket No. RP80-108, issued September 30, 1980; Opinion No. 64, "Opinion and Order Amending and Approving Gas Research Institute's 1980 Research and Development Program and Related Five-Year Plan for 1980-1984," Docket No. RP79-75, issued October 2, 1979, *aff'd sub nom. Public Utilities Commission of the State of Colorado* v. *FERC*, No. 80-1118 (D.C. Cir. August 24, 1981), petition for rehearing filed September 11, 1981; Opinion No. 30, "Opinion and Order Approving the Gas Research Institute's 1979 Research and Development Program," Docket No. RP78-76, issued September 21, 1978; Opinion No. 11, "Opinion and Order Approving the Initial Research, Development and Demonstration Program of Gas Research Institute," Docket No. RM77-14, issued March 22, 1978. In these opinions we discussed in considerable detail GRI's structure, operations, purposes, and the statutory and regulatory authority under which it operates.

[3] GRI's original request was slightly different from that set forth here. In its application, filed June 1, 1981, at 5-6, GRI asked for approval of a total budget of $100,050,000 of which $92,937,000 would have been collected through a funding unit of 7.3 mills per Mcf applied to funding services of 12,757 Bcf of natural gas. In its Reply Comments, filed August 31, 1981, GRI agreed to incorporate corrections and revisions recommended by the staff in its report on GRI's application. See Staff Report, filed July 31, 1981, at 47-48, 52.

[4] Appendix A to Exhibit 1 of GRI's application shows GRI had 195 members as of April 2, 1981—29 interstate pipeline companies, 139 distribution companies, and 27 municipal utilities. There are also three associate (foreign) members. This is an increase of five members over last year.

[5] Funding services are composed of:

(a) 10,809,070.4 MMcf in four categories of gas (sales for resale, sales to other pipelines, transportation deliveries, and miscellaneous) expected to be sold and transported by member interstate pipelines in 1982, which is 100 percent of all four categories;

(b) 431,037.9 MMcf of anticipated 1982 mainline industrial sales made by GRI's member interstate pipeline companies, exclusive of sales for electric generation, which is 70 percent of the total of such sales; and

(c) 1,503,342.5 MMcf of expected intrastate gas volumes, which is 50 percent of the total intrastate volumes reported by GRI members having such volumes subject to the funding formula.

See Schedules 1 through 4 of Exhibit 4 to GRI's Application and the Staff's Report, at 49-52, for details of how these volumes were calculated.

industry. The following table shows the history of GRI's coordinated funding:

COORDINATED FUNDING

[In thousands of dollars]

Program year	GRI R. & D. budget	Government coordinated funding	Industry coodinated funding
1978	$27,838	$48,133	$2,083
1979	35,858	52,823	8,750
1980	49,315	66,744	15,374
1981 (est.)	68,500	64,872	31,508
1982 (est.)	83,725	37,844	37,903

The table reveals steadily increasing amounts of industry coordinated funding. On the other hand, government coordinated funding is now expected to decrease, reflecting current government policy to fund only long-term, high-risk energy R. & D.

How GRI's 1982 Program Differs From Prior Years

GRI's 1982 program and its 1982–1986 plan are similar to those approved by the Commission in prior years. Approximately 80 percent of the projects are identical to and continuations of projects started in earlier years. And approximately 90 percent of the funding for 1982 will go to project previously approved by the Commission.[7] But GRI has made several revisions in the structure and operation of the program and has adjusted the direction of research under the program to reflect what it has learned in prior years and what it now believes are the more urgent needs in gas research and development.

GRI has altered the structure of its program by increasing the number of strategic objectives toward which research is directed. Strategic objectives are those broad objectives which set the general technical direction of research under each of GRI's three overall research obvjectives—supply options, efficient utilization, and enhanced service.[8] GRI's advisory board[9] recommended that three additional broad areas of research be included among GRI's strategic objectives: development of decentralized gas supply options, development of new gas-fueled industrial process systems, and development of low cost retrofit conservation technologies. They also recommended that the environmental elements associated with GRI's overall objectives be explicitly stated as strategic objectives.

GRI has made further refinements in its Project Appraisal Methodology (PAM).[10] The staff described these in its report[11] and indicated that it is satisfied with these refinements but recommends that GRI, in the future, provide documentation of instances where GRI's Appraisal and Evaluation Panel overrules PAM rankings.[12] Last year we discussed in detail our conception of what PAM should be and what the staff's role should be in monitoring GRI's implementation of it.[13] We are satisfied that GRI's refinements to PAM for 1982 are appropriate but agree with the staff that GRI should provide the documentation staff has recommended. Furthermore, we are satisfied that this year the staff has fulfilled its proper role in reviewing the PAM process.

GRI has also improved its Project Information Tracking System (PITS). It was instituted by GRI in 1980 with respect to GRI's 1979 projects in response to the Commission's direction that GRI submit detailed contract information each year.[14] PITS is a standardized, computerized form. For all contracts and subcontracts awarded by GRI in 1980, PITS, with this year's application, contains an abbreviated statement of scope, the contractor, type of contract, fee, procurement selection mechanism, period of performance, exceptions to standard GRI contract provisions, 1980 GRI funding (budgeted v. actual), 1980 coordinated funding, and prior history and funding. As the staff has indicated,[15] the presentation of information regarding ongoing projects is much clearer in this year's application than in last year's.

GRI's total budget for 1981 has increased by almost 25 percent over 1981, as illustrated in the following table, in thousands of dollars:[16]

Activity	Approved 1981	Proposed 1982	Dollar change	Percent change
I. Contract Research Development	$68,500	$83,725	$15,225	22.2
1.0 Supply	27,250	26,405	(845)	(3.1)
2.0 Economics and System Research	3,290	3,475	185	5.6
3.0 Environment, Safety and Distribution	7,230	10,570	3,340	46.2
4.0 Efficient Utilization	24,800	36,025	11,225	45.3
5.0 Basic Research	5,930	7,250	1,320	22.3
II. Administrative and General	12,000	*16,110	*4,110	*34.3
A. Technical Project Management	2,994	5,264	2,270	75.8
B. Planning and Analysis	1,117	1,487	370	33.1
C. Public Communications	681	898	217	31.9
D. General Operating Expenses	7,208	*8,461	*1,253	*17.4
Total GRI Budget	80,500	*99,835	*19,335	*24.0

Supply (1.0) is the only program area with a decline—3.1 percent—in funding from 1981 to 1982. Efficient Utilization (4.0) will increase the most in absolute terms and, for the first time, will receive the largest share of GRI's R&D budget—43.1 percent[17]

The $15.2 million increase in GRI's R&D budget from 1981 to 1982 is primarily due to increased funding of $11.6 million in three project areas—Methane from Biomass (Project Area 1.3), Fuel Cells (Project Area 4.3), and Industrial Utilization (Project Area 4.4).

Recent Successes in GRI Projects

This year—for the first time—GRI has separately documented, and filed as Exhibit No. 3 to its application, a volume entitled "Research and Development Results—1980" in which it describes in detail by project area the results during 1980 of its research projects. GRI described as its most significant

[7] See GRI's Reply Comments, at 1.

[8] GRI's hierarchy of objectives is explained in Opinion No. 64, at 10 n. 25.

[9] There are four: the Advisory Council, composed of persons outside the gas industry representing scientific, academic, engineering, economic, consumer, regulatory, labor, industrial and environmental interests who advise GRI on broad matters involving the public interest; the Research Coordination Panel, made up of research and development experts from outside the gas industry, who help GRI coordinate its R. & D. efforts with those of the Federal government and industry; the Industry Technical Advisory Committee, composed of technical experts within the gas industry who advise GRI's board and staff on gas technology requirements and the usefulness of anticipated results to gas industry operations; and the Municipal Gas System Advisory Committee, made up of representatives of publicly-owned municipal gas systems, who present the views of their consumers.

[10] PAM is a scoring model used to create a forced priority ranking of candidate R&D project areas. It was first implemented in developing GRI's 1980 program. See Opinion Nos. 64, at 13–14, and 96, at 4.

[11] Staff Report, at 39.

[12] *Id.*, at 31.

[13] See Opinion No. 96, at 12–15.

[14] Opinion No. 64, Ordering Paragraph E(2), at 42.

[15] Staff Report, at 32.

[16] Excerpted from Staff Report, at 11, Table II A–2, and amended where marked with an asterisk to reflect staff revisions to GRI's originally proposed budget.

[17] GRI indicates that this change emphasis reflects both the more favorable climate for gas supply research due to phased decontrol and GRI's adoption of a "least-consumer-cost" strategy. It also reflects the views of GRI's internal and external advisors, the Energy Research Advisory Board, the Commission, and the Commission's staff that this objective represents the most efficient and effective use of the ratepayers' funds and constitutes the area in which significant benefits are most assured in the near-term. See GRI's application, at 15.

accomplishments during 1980 the following:

(a) In the Efficient Utilization program area, a new, high-efficiency pulse combustion furnace which operates at 95 percent efficiency has been developed and field-tested under GRI funding by AGA (American Gas Association) Laboratories and Lennox Industries, Inc. Lennox has announced plans to begin limited production of the furnace. When it does, GRI will begin receiving royalty payments for each furnace sold.

(b) In the same program area, the Vulcan-Hart Corporation introduced and has now expanded its line of high-efficiency, forced-convection commercial cooking ovens, which are a direct result of research conducted at the AGA Laboratories. This research was initiated by AGA and completed under GRI funding. These new ovens offer users a cost-competitive cooking appliance which uses up to 54 percent less gas while performing the same tasks as a standard model. Cooking time is also reduced using this new oven.

(c) Vulcan-Hart has also begun production of a high-efficiency deep fat fryer for commercial application. The unit to be produced is a modification of a concept jointly developed by GRI, several commercial appliance manufacturers, and AGA Laboratories. This unit operates with an efficiency of between 65 and 70 percent while using 35 percent less gas than older models.

(d) An advanced technology ladle heater was developed for use in the iron and steel industries. These industries routinely use large, refractory-brick-lined ladles to receive molten metals from production furnaces at temperatures of about 3,000° F. To minimize thermal shock and damage due to instantaneous contact with the hot metals, ladles are preheated to high temperatures. The existing method for preheating the ladles indiscriminately directs gas flames into the ladle mouth and is very inefficient. To remedy this situation, GRI and the Southern California Gas Company cofunded an effort by the Cadre Corporation. A ladle was devised which uses 50 to 82 percent less natural gas than conventional ladle heaters. Tests have indicated that, for a typical 60-ton ladle, annual gas consumption could be reduced from approximately 77,000 Mcf per year to 14,000 Mcf per year. The Cadre Corporation has estimated that 26 of these ladles will be installed by the end of 1981, which will save the iron and steel industry $5.8 million per year. In an analysis made by Battelle Columbus Laboratories, it was estimated that total savings could amount to between 0.1 and 0.15 quadrillion Btus—valued at $1 billion—per year when this technology is fully implemented. GRI has already received almost $25,000 in royalties and will continue to receive royalties on every ladle sold.

(e) GRI-funded research at Battelle-Columbus Laboratories has resulted in the development of quality control tests which can be applied to polyethylene pipe. A number of gas utilities have already adopted these tests to verify the quality of pipe prior to its installation, thus reducing the incidence of costly-to-repair leaks.

(f) Physical property data for methane and calculation techniques for LNG transfer have been developed which will aid in development of designs for methane handling and in gas measurement accuracy.

GRI has also itemized many advances made in on-going projects.[18]

Staff's Recommendations; GRI's Response; Commission's Decision

The Commission staff filed a detailed report on GRI's 1982 program and related five-year plan. The staff concluded that "GRI has substantially complied with the Commission's definition of RD&D; the five guidelines contained in Order No. 566, the 18-point Stipulation and Agreement contained in Opinion No. 11, and the appropriate ordering paragraphs of Opinion No. 96."[19]

Staff made a series of 13 recommendations with respect to GRI's 1982 program and related five-year plan. With respect to certain of staff's recommendations, GRI has agreed in its reply comments on those recommendations to make the program changes suggested.[20] We agree with and adopt these recommendations and, in the absence of any objections by GRI, see no need to discuss them further, except to the extent we indicate otherwise in our note below describing them. We will order implementation of and compliance with these recommendations later in this opinion. The contested recommendations are discussed separately below.

[18] See GRI's Application at 24–31, and Exh. No. 3 to GRI's Application.

[19] Staff Report, at 82.

[20] The recommendations upon which staff and GRI agree are:

(a) Staff's recommendation No. 3, insofar as it recommends a number of minor adjustments in the calculation of GRI's 1982 funding unit, the result of which is to reduce the funding unit for 1982 from 7.3 mills to 7.2 mills per Mcf (discussed in n. 3, *supra*, and accompanying text);

(b) Staff's recommendation No. 4, that GRI's proposed contingency fund for A&G expenses be reduced from GRI's proposed $1 million to $500,000, that GRI's records should identify and reflect any such transactions, and that such expenditures should be financed with cash on hand until they are recovered in the next year's budget authorization;

(c) Staff's recommendation No. 5, recommending the adoption of the proposed GRI amendment to Stipulation 6, whereby the reprogramming limit at the project area level would increase from 10 percent or $100,000 to 10 percent or $500,000 and reprogramming would also be allowed at the subprogram level up to 10 percent or $500,000;

(d) Staff's recommendation No. 6, that in all instances where the PAM ranking is overruled, GRI should be able to provide documentation supporting the decisions (discussed in n. 12, *supra*, and accompanying text);

(e) Staff's recommendation No. 7, that, in light of the significant variations between budgeted amounts for A&G expenses and actual A&G expenditures by line item, whenever there is a departure from the budgeted line item in excess of $50,000, GRI records should identify and reflect any such deviations;

(f) Staff's recommendation No. 10, that GRI list separately funding from business corporations which supply private money for specific projects, that it identify those instances where services in kind are contributed by a cofunder in lieu of money, and that GRI provide sufficient data in future applications to allow those studying its submissions to ascertain readily whether GRI is the initiator of the cofunded R&D projects or is merely helping to finance the projects of others.

GRI has objected with varying degrees of intensity to several of the staff's recommendations. It has specific objections to these recommendations which we will discuss below. But it also sees certain common threads woven among the several offensive recommendations. GRI says that despite prior statements by this Commission to the contrary,[21] the staff is attempting to substitute its own technical judgment for that of GRI and to usurp GRI's managerial discretion. GRI also says staff is using its own unduly restrictive interpretation of the Commission's RD&D regulations—which interpretation has been rejected by both the Federal Power Commission in its Notice of Proposed Rulemaking [22] which led to the issuance of Order No. 566 [23] and by this Commission in its past decisions [24] on GRI's annual applications. GRI further states that these staff recommendations also ignore the fact that the Commission and the Energy Research Advisory Board (ERAB)[25] of the Department of Energy have previously approved most of the same projects about which the staff is now complaining.

We agree with GRI that the staff has, in certain instances which we will identify, *infra*, been overzealous in its scrutiny of GRI's activities. We have consistently stated that we view our function with respect to GRI's annual applications as that of a reviewing body, not that of an active participant in the formulation of the details of GRI's programs. In Opinion No. 30,[26] we indicated that we agreed with the statement of our predecessor, the Federal Power Commission, in its proposed rulemaking which led to the issuance by the FPC of Order No. 566, that R&D expenditures would be deemed reasonable if such expenditures "* * * supported a comprehensive and integrated energy R&D program meeting the needs of the company and/or the industry to serve ratepayers and the general public." [27] And we agreed with the FPC in rejecting a method of review which would examine the technical structure of each project to determine whether it meets the definition of research and development and has a reasonable chance of benefiting ratepayers.[28] In Opinion No. 64, we indicated that we expected GRI to show prudence and austerity in managing the funds entrusted to it and to demonstrate due regard for the gas consumer who is bearing the cost of GRI's program.[29] But, in reviewing annually the GRI program under these criteria, we are unwilling, absent compelling reason, to involve ourselves in GRI's internal management decisions.[30] Within this context, we have and will continue to review GRI's annual applications for compliance with our R&D regulations [31] and our previous decisions. With this broad statement of purpose we now turn to consideration of the individual contested recommendations remaining in this case.

Staff Recommendation No. 1 (GRI's Role in Commercialization and Promotional Activities)

Staff recommended that additional briefing be ordered with respect to this issue. The Commission authorized interested parties to submit additional briefs by September 17, 1981.[32] Additional briefs were filed by GRI on September 17, 1981, and by the Commission staff on September 18, 1981.[33] Having shown good cause for filing its comments one day late, we will grant staff's motion to accept them out of time.

The staff says that the near-term commercial aspects of GRI's program and its emphasis on promotional activities are departures from the established scope of GRI's activities. It is concerned about GRI's proposal to create a new Commercialization Division to assist the R&D divisions in enhancing the commercialization prospects of their near-term R&D. This proposed division is intended to have a lead role in contacts with manufacturers and will conduct market assessments and develop commercialization strategies for individual projects.

Staff says that many of GRI's projects, particularly in the unconventional natural gas subprogram area (which comprises 12.7 percent of GRI's proposed 1982 R&D budget) and in the Efficient Utilization program area (which comprises 43 percent of GRI's proposed 1982 R&D budget) are near term in their scope and intent. Especially with respect to GRI's fuel cell project area under its Efficient Utilization program area, where GRI proposes to spend $11.3 million in 1982 and $49.6 million through 1986, and where GRI sees commercialization by 1984 or 1985, staff sees an intent by GRI to enter the near-term commercial marketplace by using ratepayer funds to promote the commercial marketability of products. Staff says such activities violate GRI's own agreement in 1978 to avoid demonstration type projects and the Commission's explicit exclusion in its R&D regulations of ratepayer funding for promotional activities.

The public service commissions of California, Idaho, Michigan and Wisconsin have filed comments generally supporting the position taken by staff.

In its additional comments filed on September 18, 1981, the staff has further detailed its argument regarding near-term commercialization as it applies to GRI's phosphoric acid fuel cell project

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to GRI's Application.

[19] Staff Report, at 82.

[20] The recommendations upon which staff and GRI agree are:

(a) Staff's recommendation No. 3, insofar as it recommends a number of minor adjustments in the calculation of GRI's 1982 funding unit, the result of which is to reduce the funding unit for 1982 from 7.3 mills to 7.2 mills per Mcf (discussed in n. 3, *supra*, and accompanying text);

(b) Staff's recommendation No. 4, that GRI's proposed contingency fund for A&G expenses be reduced from GRI's proposed $1 million to $500,000, that GRI's records should identify and reflect any such transactions, and that such expenditures should be financed with cash on hand until they are recovered in the next year's budget authorization;

(c) Staff's recommendation No. 5, recommending the adoption of the proposed GRI amendment to Stipulation 6, whereby the reprogramming limit at the project area level would increase from 10 percent or $100,000 to 10 percent or $500,000 and reprogramming would also be allowed at the subprogram level up to 10 percent or $500,000;

(d) Staff's recommendation No. 6, that in all instances where the PAM ranking is overruled, GRI should be able to provide documentation supporting the decisions (discussed in n. 12, *supra*, and accompanying text);

(e) Staff's recommendation No. 7, that, in light of the significant variations between budgeted amounts for A&G expenses and actual A&G expenditures by line item, whenever there is a departure from the budgeted line item in excess of $50,000, GRI records should identify and reflect any such deviations;

(f) Staff's recommendation No. 10, that GRI list separately funding from business corporations which supply private money for specific projects, that it identify those instances where services in kind are contributed by a cofunder in lieu of money, and that GRI provide sufficient data in future applications to allow those studying its submissions to ascertain readily whether GRI is the initiator of the cofunded R&D projects or is merely helping to finance the projects of others.

[21] *E.g.*, Opinion No. 96, at 14–15.

[22] "Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment," Docket No. RM76–17, issued June 17, 1976, at 3–4.

[23] "Order Prescribing Changes in Accounting and Rate Treatment for Research, Development and Demonstration Expenditures," Docket No. RM76–17, issued June 3, 1977, amending 18 CFR Parts 35, 101, 141, 154, 201, 260.

[24] *E.g.*, Opinion No. 30, at 24–25.

[25] ERAB filed comments, at the Commission's request, in connection with both GRI's 1980 and 1981 applications. See Opinion Nos. 64, at 37–40, and 96, at 16.

[26] At 24–25.

[27] RM76–17, Notice of Proposed Rulemaking, *supra*, n. 22, at 3–4.

[28] Opinion No. 30, at 24–25.

[29] Opinion No. 64, at 34.

[30] Opinion No. 96, at 14–15.

[31] *Supra*, n. 1.

area. The staff indicates that GRI's plan to build and field test 45 fuel cell units (in addition to three units being financed by DOE) goes beyond what may be classified as "demonstration" under the Commission's RD&D regulations. And it questions whether the several million dollars of ratepayer funds necessary to build and test these 45 fuel cell units are being wisely spent at this stage of GRI's progress in its fuel cell project area.

GRI argues that staff is wrong in characterizing GRI's near-term R&D as "hardware and commercial promotion." GRI says that it has paid extremely close attention to the demarcation between commercial activities and R&D activities conducted in a manner such that their results are readily adaptable by others to commercial use. GRI says that if the Commission adopted staff's position, it would effectively "gut" GRI's entire mission, not only by precluding GRI from carrying on further near-term R&D activities, but also causing the very considerable funds already spent on near-term R&D activities pursuant to previously Commission approved programs to be wasted.

The Interstate Natural Gas Association of America (INGAA), a non-profit national trade association, whose membership comprises virtually all the major interstate natural gas transmission companies subject to Commission jurisdiction, has petitioned out of time to intervene and has submitted comments supporting GRI's position on this issue.

Consistent with our earlier statements in this opinion, we do not believe either that GRI's proposed creation of a commercialization division constitutes a marked change of emphasis in its program or that GRI's concerns with the ultimate commercial aspects of its projects are inconsistent with GRI's purposes. Rather, we view GRI's proposals in this area as a natural development in the evolution of its program.

Guideline 4 of our R&D regulations requires "evidence that the project or program is well conceived and has a reasonable chance of benefiting the ratepayer *in a reasonable period of* time * * *." (Emphasis added.)[34] Stipulation 8 of Opinion No. 11, provides that "[a]n objective of future programming and funding shall be to move high priority new technology into use for the benefit of pipeline gas ratepayers *in the shortest practical time.*" (Emphasis added.)[35] The Commission's definition of RD&D includes "* * * expenditures incurred by natural gas companies either directly or through another * * * organization (such as research institute * * *) * * * for the implementation or development of new and/or existing concepts until technically feasible and *commercially feasible operations* are verified." (Emphasis added.)[36] It was never our intention to preclude commercialization activities by GRI,[37] which are the culmination of R&D activities and the point where ratepayers actually benefit through the practical application of these activities. Accordingly, we reject staff's analysis regarding GRI's role in commercialization and promotional activities.

But we are concerned about the extent of GRI's financial commitment under its fuel cell project area. In Opinion No. 96,[38] we instructed the staff to monitor GRI's projects as they might be moving toward near-term commercialization. We are satisfied that GRI's field tests of its fuel cells fall within our definition of "demonstration" in that the concept being tested has not yet been proven to be technically and commercially feasible. Such test are not "promotion" as that term is used in our regulations. But we are concerned that staff takes the view that the testing of so many units is premature. We will trust to GRI's expertise in this instance, but remind GRI that our staff is obligated to present us with its concerns and that GRI is obligated to administer wisely the ratepayer funds with which it is entrusted. We also expect GRI to make its best efforts to ensure a patent licensing agreement favorable to ratepayers.[39]

Furthermore, we reject the staff's concern with the effect upon GRI's program of the DOE's withdrawal from near-term R&D research. There is no reasonable basis for saying that because the DOE intends to do so, so should GRI. GRI is not a government entity, it is the agent of its members in conducting R&D on behalf of the regulated gas industry.[40] The Department of Energy agrees that GRI represents the private sector and that GRI and the private sector in general must, in view of the DOE's withdrawal from near-term energy R&D, fund more—not less—of these activities.[41] We agree.

Staff's Recommendation No. 2 (Insofar as it Recommends That Two Projects Be Transferred From GRI's R&D Budget to Its Planning Budget) and Recommendation No. 13 (That 21 Projects in GRI's Economics and System Research Program Area Be Transferred From GRI's R&D Budget to Its Planning Budget)

Staff says that two projects in GRI's Efficient Utilization program area—Building Energy Performance Studies and Energy Cogeneration Assessment [42]—and 21 projects in GRI's Economics Systems Research (ESR) program area [43] should be moved from GRI's R&D budget to its Planning budget because they represent "general surveys establishing a data base to be used to make a decision as to where and how much R&D is required in those areas." [44] Most of these projects are not new. We have previously approved all but five of these projects for inclusion under GRI's R&D budget. They "serve to develop information that will support and direct the technical program" [45] and are, therefore, properly a part of GRI's contract R&D budget.

Staff's Recommendation No. 8 (GRI's Formulation of a Salary Strategy)

GRI has submitted a report [46] on its salary structure prepared by Hay Associates, Inc., a firm of management consultants. Staff says the report fails to make sufficient comparisons between GRI and government research organizations such as the Solar Energy Research Institute, National Science Foundation, and Synthetic Fuels Corporation. We reject the staff's comparisons. We will, however, continue to review GRI's salary structure.

Staff Recommendation No. 9 (Concerning the Appropriateness of the Intrastate Funding Formula Mechanism)

Last year we indicated that we expected GRI to work intensely during 1981 on expanding its intrastate funding base and we directed staff to review GRI's success in broadening that base and to report to the Commission in connection with GRI's application for 1982 funding. We are satisfied this year

[34] 18 CFR 154.38(d)(5)(iii)(d).

[35] Opinion No. 11, at 21.

[36] 18 CFR Part 201, Definition 28.B.

[37] Opinion No. 64, at 29–30. See also Opinion No. 96, at 11.

[38] At 11, n. 38.

[39] See Additional Comments of GRI, filed September 17, 1981, at 9.

[40] *Public Utilities Commission of the State of Colorado* v. *FERC*, No. 80–1118 (D.C. Cir. August 24, 1981), slip op. at 8. See also Opinion No. 64, at 15.

[41] See letter of June 17, 1981, from Raymond G. Romatowski, Acting Under Secretary, DOE, to Chairman Butler, filed in this docket. See also letter of September 9, 1981, from Hon. Don Fuqua, Chairman, Committee on Science and Technology, U.S. House of Representatives, to Chairman Butler, filed in this docket on September 15, 1981.

[42] See Exhibit 1 to GRI's application, at 239, 245.

[43] *Id.*, at 215–221.

[44] Staff Report, at 22.

[45] Opinion No. 30, at 25.

[46] That report was filed with the Commission on April 23, 1981, and is included in the record of this docket, along with GRI's workpapers.

both that GRI has made progress toward expanding its intrastate funding base and that staff's analysis of those efforts has been complete.[47] GRI reports encouraging developments in Texas, West Virginia, and Utah, and approval of the Louisiana Office of Conservation for contract amendments between intrastate pipelines and their direct industrial customers for support of the GRI program. GRI should continue its efforts in these states and elsewhere and report its progress again next year.

Staff's Recommendation Nos. 11 and 12 (GRI's Technical Project Management Staff; Sole Source Contracts; Project Evaluation)

The staff has repeated and expanded its comments of last year [48] that GRI's technical project management (TPM) staff is too small in relation to the size of the R&D budget it must oversee. Staff says this shortage will continue in 1982 as GRI's R&D budget will increase faster than GRI can hire sufficient personnel to manage it. Staff believes that GRI's lack of staff directly impacts on its contracting methods (*i.e.*, the incidence of sole source contracts), its project evaluations in connection with contract close-out, its spending profile, and its internal planning functions. To correct these problems the staff recommends that GRI consider a short-term pause in its growth to permit GRI to achieve more effective project management, control, and accountability for spending ratepayers' money.[49]

GRI is aghast at such conclusions and recommendations. GRI says that since it agreed last year to give priority status to hiring TPM staff,[50] it has made considerable progress, and that staff is premature in judging that progress by what GRI has accomplished in less than one year. Furthermore, it disputes the assumptions and conclusions in the staff's analysis insofar as staff uses them to demonstrate what it sees as a severe manpower problem among GRI's TPM staff which makes it impossible for GRI to monitor its R&D projects efficiently.[51] GRI argues further that its sole source contracts, although the number has increased since last year, are not excessive nor are they a reflection of inadequate TPM staff, that its contract close-out and benefit audits are not adversely affected by inadquate TPM staff, and that its spending of funds beyond the year allocated reflects neither poor management nor inadequate staff.

The staff is correct, and GRI agrees, that its TPM staff is still too small and needs to be further increased. But GRI is correct in characterizing staff's condemnation as premature. We agree with the staff that adequate TPM oversight of GRI's projects is essential to ensure efficient use of ratepayer funds. During the last year GRI has made progress toward increasing its TPM staff adequately. We think GRI should be given additional time to increase further its TPM staff to the recommended size. We believe GRI has, during the past year, given its best efforts toward this end. Furthermore, while we agree with staff that excessive sole source contracts are not in the ratepayers' best interests and that thorough contract close-out and benefit audits are essential to ensure efficient use of ratepayers' funds, we do not believe that the staff has established that the present level of GRI's activities in these areas is deficient or necessarily related to the size of its TPM staff. Accordingly, we will not implement the staff's recommendation that GRI pause in its growth at the present time. But we will order GRI to continue its best efforts to increase its TPM staff and to report, in next year's application, the results of its efforts. We will also order GRI to report fully on the incidence of and justification for sole source contracts in effect at the time of next year's application.

The Commission Orders

(A) GRI's application for advance approval of its 1982 R&D program and related 1982–86 five-year R&D plan is hereby granted subject to the terms and conditions of this opinion and order.

(B) A 1982 funding requirement of $91,449,650 is just and reasonable and, effective January 1, 1982, until December 31, 1982, without regard to purchased gas adjustment clause effective dates, jurisdictional members of GRI may collect an R&D funding unit of 7.2 mills per Mcf, such funding unit to be applied to program funding services of 12,743 Bcf, consisting of sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI, and to ultimate consumers.

(C) A jurisdictional member of GRI may collect the GRI funding unit only if it files, if it has not already done so, an RD&D cost adjustment provision which complies with § 154.38(d)(5)(v) of the Commission's regulations and which contains a provision clearly indicating that the cost adjustment clause is applicable only to payments to GRI, that collections of the GRI funding unit by means of it shall be remitted to GRI within 30 days of receipt, and that such collections shall be made only from persons receiving program funding services. Such an RD&D cost adjustment provision may be placed into effect upon not less than 30 days notice and it will be allowed to take effect without suspension, reduction or refund.

(D) Stipulation 6 of the September 30, 1977 Stipulation and Agreement approved in Opinion No. 11, as amended in Opinion Nos. 64 and 96, shall be further amended to read as follows:

Stipulation 6: GRI shall for this and all future annual programs and applications comply with the following:

(1) Expenditures shall not exceed any project area budget by more than 10 percent of budgeted limits or $500,000, whichever is greater, at the project area level. (A project area is defined as a collection of projects aimed at achieving a single stated R&D goal.)

(2) Expenditures shall not exceed any subprogram budget by more than 10 percent of budgeted limits or $500,000, whichever is greater, at the subprogram level for shifts between subprograms within a program area.

(3) Limit the summation of individual project area reprogramming shifts in (1) and (2) above to 5 percent of the program's R&D contract research budget.

(4) Document each project area shift which was made in the previous year's program, with a full explanation of what significant new information and/or other factors, such as DOE cofunding changes, etc., caused the reprogramming.

(5) Document each individual project sponsored in the previous year's program which was not funded, giving a detailed explanation of why the project was dropped.

(6) Document each individual new project funded with the previous year's program funds which was not included in the previous year's program, giving a detailed explanation of why the project was added.

(7) For all future annual programs, keep expenditures within budgeted limits for the designated program area unless appropriate reprogramming within the fixed program budget is authorized by the Commission in response to a written request from GRI. Any such request filed by GRI shall indicate in detail what factors necessitate and justify the reprogramming.

(E) In its next annual application, GRI shall:

[47] See GRI's application at 17–19; Staff Report, at 35–36, 38, 50–52.

[48] See Opinion No. 96, at 12.

[49] Staff Report, at 57.

[50] Opinion No. 96, at 12.

[51] GRI's Reply Comments, at 28–29.

(1) Describe fully its efforts with respect to the inclusion of members' intrastate volumes in its funding services and the results of these efforts;

(2) Describe any further refinements to its planning process;

(3) Report on its efforts during the year to increase its TPM staff; and

(4) Report on the current status and extent of its sole source contracts.

(F) In its next application GRI shall continue to comply with Ordering Paragraphs (E) and (M) of Opinion No. 30 and Ordering Paragraphs (E)(2) and (F)(2), (3), and (4) of Opinion No. 64.

(G) All parties listed in the service list submitted as part of GRI's application, as well as the United States Department of Energy and the Interstate Natural Gas Association of America, are permitted to intervene subject to the rules and regulations of the Commission; *Provided, however,* That the participation of the said parties shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene, if such were submitted, and provided further that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(H) For good cause shown, the staff's additional comments, filed September 18, 1981, are accepted for filing.

(I) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29406 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ER81-750-000]

Iowa Power and Light Co.; Filing

October 2, 1981.

The filing Company submits the following:

Take notice that on September 21, 1981, Iowa Power and Light Company tendered for filing revisions to its Rate Schedule No. 811 to increase rates for wholesale for resale service to the Cities of Carlisle and Neola, Iowa.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29418 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ER81-777-000]

Kansas Gas and Electric Co.; Proposed Tariff Change

October 2, 1981.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company (KG&E) on September 23, 1981, tendered for filing an Interim Transmission Agreement and Service Schedule A between KG&E and Kansas Electric Power Cooperative, Inc. (KEPCo).

KG&E states that the filing for Peaking Power Service provides for electric power and accompanying energy to be supplied to KEPCo as this power and accompanying energy is make available to KG&E from The Empire District Electric Company.

KG&E requests waiver of the Commission's notice requirements in order to allow an effective date of August 1, 1981.

Copies of the filing were served upon KEPCo and the Utilities Division of the Kansas Corporation Commission.

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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29419 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02M

[Docket No. ER81-772-000]

Kansas Gas and Electric Co.; Filing

October 2, 1981.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company (KG&E) on September 21, 1981, tendered for filing a proposed change in its FPC Electric Service Tariff No. 142. The proposed Amendment adds a new delivery point.

The Amendment is necessary to provide services to Delivery Point No. 7.

KG&E states that copies of this filing were served upon The Sekan Electric Cooperative Association, Inc.

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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1981. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29420 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RA81-73-000]

Kern County Refinery, Inc.; Filing of Petition for Review

October 2, 1981.

Take notice that Kern County Refinery, Inc. on September 10, 1981 filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 16, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE.,

Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 16, 1981, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–29421 Filed 10–8–81; 8:45 am]

BILLING CODE 6717–02–M

[Docket No. TA81–2–25–003]

Mississippi River Transmission Corp.; Rate Change Filing

October 5, 1981.

Take notice that on September 17, 1981 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Substitute Seventy-Ninth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1, to be effective September 1, 1981.

The filing is being submitted pursuant to a Commission order in the captioned docket issued August 31, 1981 which accepted for filing rate change adjustments made by Mississippi pursuant to the Purchased Gas Adjustment (PGA) provision of its tariff. Such order conditioned approval upon Mississippi refiling its PGA to reflect any rate modifications made by its pipeline suppliers, and to provide additional information supporting the Producer and Deferred Surcharge Adjustments.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–29407 Filed 10–8–81; 8:45 am]

BILLING CODE 6717–02–M

[Docket No. ER81–771–000]

Montaup Electric Co.; Filing

October 2, 1981.

The Filing Company submits the following:

Take notice that Montaup Electric Company ("Montaup") on September 22, 1981 tendered for filing an Exhibit A to a transmission service agreement between Montaup and Newport Electric Corporation ("Newport").

The exhibit provides for transmission of electric power by Montaup for Newport from several generating units of Northeast Utilities. The effective period for the transmission service is from November 1, 1981 through October 31, 1985.

Montaup requests waiver of the Commission's 60-day notice requirement in order to allow an effective date of November 1, 1981.

Copies of this filing have been served on Newport and the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Any person wishing 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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1981. 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. 81–29422 Filed 10–8–81; 8:45 am]

BILLING CODE 6717–02–M

[Docket No. CP81–518–000]

Mountain Fuel Supply Co.; Application

October 5, 1981.

Take notice that on September 17, 1981, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP81–518–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities to be installed at or near Applicant's South Baxter Compressor Station, Sweetwater County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to install and operate one 3-inch tap on its Main Line No. 28, approximately 1,800 feet of 3½-inch O.D. pipeline extending from Main Line No. 28 to South Baxter, and miscellaneous related facilities including a horizontal separator and a 3-inch skid-mounted meter run.

It is asserted that the proposed facilities would be used to increase the deliverability and long-term recoverability of natural gas from the Jackknife Springs wells in the Jackknife Springs-Brady field and improve the efficiency and reliability of South Baxter. It is explained that gas from the Jackknife Springs-Brady field currently flows through Applicant's Main Line No. 28 directly into Main Line No. 22 and must produce against the pressure of Main Line No. 22. It is further stated that the operating pressure of these wells has been constantly decreasing which has resulted in a decline in production. To increase production, Applicant proposes to isolate Main Line No. 28 from Main Line No. 22 and connect Main Line No. 28 with Compressor Plant 1.

Applicant further proposes to install a horizontal separator and 3-inch skid-mounted meter run near the tap on Main Line No. 28 which would improve the overall efficency and reliability of South Baxter. It is further asserted that due to the utilization of Compressor Plant 1 as a two-stage compession facility Compressor Plant 2 would no longer be necessary and would be removed and retired from service.

The total estimated cost for the proposed facilities is $100,767 which would be financed through funds on hand and/or short-term borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Reguatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29102 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-494-000]

Natural Gas Pipeline Company of America; Application

October 5, 1981.

Take notice that on August 31, 1981, Natural Gas Pipeline Company of America (Applicant), 122 South Michgan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-494-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term sale for resale of natural gas to Bridgeline Gas Distribution Company (Bridgeline) on a interruptible basis, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a gas sales agreement between Applicant and Bridgeline dated June 29, 1981, Applicant would sell up to a maximum of 36,300,000 Mcf of gas on a best effort basis to Bridgeline for a limited term of 363 days commencing on the date of first deliveries.

Pursuant to the aforesaid agreement Applicant states that it would deliver the gas to United Gas Pipeline Company (United) for Bridgeline's account at seven existing delivery points in Louisiana, offshore Louisiana and Texas, and may deliver to Riverway Gas Pipeline Company (Riverway) at a proposed interconnection in Louisiana. Applicant asserts that under the terms of a transportation agreement dated August 21, 1981, between Bridgeline and United, United would deliver the gas to Riverway for Bridgeline's account. It is further asserted that pursuant to a transportation agreement between Bridgeline and Riverway dated August 25, 1981, Riverway would transport the gas from United to Bridgeline.

It is stated that Applicant would charge Bridgeline for each million Btu of gas sold a rate equal to the average of the rates effective under Applicant's currently effective Rate Schedules E-1, G-1 and WS-1, each minus the GRI surcharge, as set forth in the currently effective Sheet No. 5 of Applicant's F.E.R.C. Gas Tariff, Third Revised Volume No. 1. It is stated that pursuant to Applicant's pending PGA rate adjustment to be effective September 1, 1981, the composite rate would be approximately $2.87 per million Btu and Applicant's average cost of gas would be approximately $2.06 per million Btu. Applicant proposes to defer the issue of the disposition of revenues from the sale to its pending rate case in Docket No. RP81-49.

Applicant asserts that its gas supply is sufficient to make this sale to Bridgeline without impairing or reducing service to its present customers. It is further asserted that the proposed sale is part of Applicant's ongoing effort to deal with its current excess deliverability situation.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29445 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RA81-76-000]

Navajo Refining Co.; Filing of Petition for Review

October 2, 1981.

Take notice that Navajo Refining Company on September 24, 1981 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 16, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E.,

Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 16, 1981, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29423 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. TA81-2-27-000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

October 5, 1981.

Take notice that North Penn Gas Company (North Penn) on September 14, 1981, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective September 1, 1981.

The change of rates contained in this filing reflects an increase of 0.884¢ to the rates contained in Sixty-Seventh Revised Sheet No. PGA-1 filed on July 31, 1981, for effectiveness September 1, 1981 and approved by a letter order of the Federal Energy Regulatory Commission (Commission) dated August 28, 1981 at Docket No. TA81-2-27-000 (PGA81-2 and IPR81-2).

The sole purpose of this filing is to reflect the increase in rates filed by Tennessee Gas Pipeline Company (Tennessee) on August 28, 1981 for effectiveness August 1, 1981. Tennessee states in its August 28, 1981 filing that the sole purpose of its filing was to eliminate the Surcharge for Amortizing the Unrecovered Louisiana First Use Tax effective August 1, 1981. North Penn was unaware of, and did not receive notification of, Tennessee's increase in rates until August 31, 1981, and therefore could not have anticipated nor incorporated this change in its semi-annual PGA filing made on July 31, 1981.

North Penn, requests, for cause as stated, that Substitute Sixty-Seventh Revised Sheet No. PGA-1 be accepted effective September 1, 1981.

While North Penn believes that no waiver of the Commission's rules and regulations are necessary, North Penn respectfully requests a waiver of any of the Commission's rules and regulations as may be required in order to permit Substitute Sixty-Seventh Revised Sheet No. PGA-1 to become effective September 1, 1981 as requested.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested state commission.

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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Oct. 20, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29408 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-509-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

October 5, 1981.

Take notice that on September 11, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-509-000 an application pursuant to Section 7 of the Natural Gas Act and § 157.7(g) of the regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for the 12-month period commencing the date of the order and operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abaodoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant requests waiver of the cost limitations under § 157.7(g) which presently provide for a total limitation of $3,000,000 with no single project to exceed $500,000. Applicant proposes a total cost not to exceed $6,900,000 with no single project to exceed $1,150,000. Applicant contends that the present dollar limitations fail to recognize the inflationary trends in the costs required to construct compression facilities. Applicant asserts that it would finance the facilities proposed herein out of cash on hand and from funds generated through operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29446 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-510-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

October 5, 1981.

Take notice that on September 11, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-510-000 an application pursuant to Section 7 of the Natural Gas Act and § 157.7(c) and § 157.7(e) of the regulations thereunder (18 CFR 157.7(c) and 157.7(e)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1982, and operation of facilities to make miscellaneous rearrangements on its system and for permission and approval to abandon, during the calendar year 1982, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of the budget-application pursuant to § 157.7(c) is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the transportation and sales service presently rendered by Applicant. Applicant requests waiver of the total cost limitation of $300,000. Applicant proposes a total cost limit not to exceed $510,000 contending that the dollar limitation prescribed by § 157.7(c) fails to recognize the inflationary trends in the costs required to rearrange facilities. Such costs, it is asserted, would be financed out of cash on hand and from funds generated through operations.

The stated purpose of the budget-application pursuant to § 157.7(e) of the Commission's Regulations is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29447 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-511-000]

Northern Natural Gas Co., Division of InterNorth Inc.; Application

October 5, 1981.

Take notice that on September 11, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-511-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon service by transfer of certain leasehold interests in the Sherard Field, Blaine and Chouteau Counties, Montana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that Applicant has transferred and sold all of its rights, title and interest in certain properties located in Blaine and Chouteau Counties, Montana, to John O. Brown effective April 1, 1979; hence, Applicant proposes herein to abandon service from these properties. It is explained that actual deliveries of gas to Applicant would remain unchanged as Applicant would continue to receive the gas pursuant to a gas purchase contract with John O. Brown dated August 15, 1978.

Brown, it is stated, would participate with the operator and with other interest owners of the subject acreage in the further development of such acreage. Applicant states that it has determined not to participate in such further development giving rise to the assignment and transfer to Brown. It is submitted that there would be no interruption, reduction or termination of gas service presently provided to Applicant's customers as a result of the proposed abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this

application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29448 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RP81-140-000]

Northern States Power Co. (Minnesota); Proposed Changes in FERC Gas Tariff

October 5, 1981.

Take notice that Northern States Power Company (Minnesota) ("NSP-Minn"), on September 25, 1981, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional services rendered by NSP-Minn to Northern Natural Gas Company, Division of InterNorth, Inc. ("Northern"), by approximately $110,000, annually, based on service volumes and costs for the twelve months ended December 31, 1980, as adjusted for the Test Period.

NSP-Minn states that it and Northern have entered into a new contract and a contract amendment which, *inter alia,* revise the demand charge for certain services rendered by NSP-Minn to Northern pursuant to an existing agreement dated December 17, 1975. Under the 1975 agreement NSP-Minn liquefies, stores, vaporizes and redelivers up to 1 million Mcf of natural gas for Northern, and charges Northern a demand charge of $1.50 for each Mcf which Northern has the right to have liquefied and a service charge of $.62 for each Mcf which NSP-Minn actually vaporizes for Northern. Under the new contract and amendment, dated, respectively, March 11, 1981 and September 17, 1981, the new demand charge is $1.61 per Mcf and the service charge remains at $.62 per Mcf.

NSP-Minn states that the principal reasons for the proposed rate increase are increased costs of operations, including increased capital costs.

The Company states that a copy of the filing has been mailed to Northern, the only customer affected by the proposed increase.

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, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before October 15, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29409 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket Nos. CP81-484-000 and CP81-484-001]

Northwest Pipeline Corp.; Application

October 5, 1981.

Take notice that on August 26, 1981, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP81-484-000 an application as supplemented September 10, 1981, in Docket No. CP81-484-001 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a mainline tap and a meter station and the reallocation of natural gas service to Intermoutain Gas Company (Intermountain), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate a measuring and regulating station with appurtenances to be designated as the Bruneau Meter Station and a tap on Applicant's 16-inch O.D. Reno lateral in Elmore County, Idaho. It is stated that Intermountain requested that Applicant provide a mainline tap and meter station to supply natural gas service to the City of Bruneau, Idaho. It is further stated that the maximum daily delivery requirements would be 228 Mcf (2,400 therms) with an annual requirement of 83,220 Mcf.

The estimated cost of the proposed construction is $33,700 to be reimbursed by Intermountain.

Applicant also proposes to reallocate natural gas service currently being sold and delivered under Applicant's ODL-1 service agreement with Intermountain so as to provide for the natural gas sale at the delivery point whose construction and operation is proposed herein. Applicant submits that it would transfer 2,400 therms from the Mountain Home Air Force Base to the proposed Bruneau Meter Station. Applicant also asserts that Intermountain's presently authorized maximum daily delivery obligation under the ODL-1 service agreement would be maintained. The proposed reallocation of maximum daily delivery obligation for Intermountain is as follows:

Delivery points	ODL-service agreement (therms)	
	Presently effective	Proposed
Bruneau Meter Station	0	2,400
Mountain Home Air Force Base	5,700	3,300

It is asserted that the proposed service would be used to provide natural gas service to a school and several residential and small commercial consumers in Bruneau, Idaho.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition

for leave to intervene is timely, filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29449 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP78-15-002]

Northwest Pipeline Corp.; Petition To Amend

October 5, 1981.

Take notice that on March 20, 1981, Northwest Pipeline Corporation (Petitioner), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-15-002 a petition to amend the order issued June 27, 1979, in the instant docket pursuant to Section 7 of the Natural Gas Act so as to authorize the construction and operation of a sale tap in lieu of a meter station to provide service to Northwest Natural Gas Company (Northwest Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued August 14, 1978, in Docket No. CP78-15 it was authorized to construct and operate a new point of delivery in the vicinity of Dallesport, Washington, and to reallocate service to Northwest Natural. Petitioner further states it received permission and approval to abandon an existing measuring station serving the area of Dalles, Oregon. By order issued June 27, 1979, the Commission authorized Petitioner's request to eliminate the abandonment of the Dalles meter station and authorized the construction and operation of the Dallesport meter station.

Petitioner proposes herein to construct and operate the Dallesport sales tap in lieu of the Dallesport meter station due to a decrease in peak day requirements for the Dallesport delivery point. The decrease, it is explained, is caused by Dow Chemical Company's decision to locate outside of the Dallesport area.

Petitioner, therefore, requests approval to construct and operate one 4-inch manifold with one 2-inch by-pass located on its Dalles Lateral in Klickitat County, Washington. Petitioner states that the total cost of constructing the sales tap is $23,235 which would be reimbursed by Northwest Natural.

It is asserted that the volumes of gas sold and delivered at the Dallesport sales tap would be from quantities heretofore authorized for sale to Northwest Natural under Petitioner's Rate Schedule ODL-1.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29450 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket Nos. CP79-277-007 and CP76-389]

Northwest Pipeline Corp.; Amendment

October 5, 1981.

Take notice that on September 18, 1981, Northwest Pipeline Corporation (Northwest), 315 East 200 South Street, Salt Lake City, Utah 84111, filed in Docket Nos. CP79-277-007 and CP76-389 pursuant to Section 7(c) of the Natural Gas Act an amendment to its petition to amend filed April 24, 1981, in the instant dockets so as to delete the request for authority to increase the level of cushion gas required for injection in the Clay Basin Storage Field, Daggett County, Utah, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northwest states that it proposed in its petition to amend filed April 24, 1981, in the instant dockets to increase by 11,000,000 Mcf the volume of cushion gas to be injected in the Clay Basin Storage Field. Northwest herein deletes such request because Mountain Fuel Resources Inc. (Resources) has advised Northwest that the facilities proposed by Resources would provide the level of service requires by Northwest to assure deliveries of expanded winter service and would provide for the contemplated contract demand protection without the injection of the additional cushion gas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29451 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-523-000]

Panhandle Eastern Pipe Line Co.; Application

October 5, 1981.

Take notice that on September 19, 1981, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-523-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional point of delivery to Citizens Gas and Coke Utility—Indianapolis, Indiana (Citizens), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas sales contract dated September 15, 1981, Applicant proposes to construct and operate a new delivery point to Citizens at the discharge side of the Zionsville Compressor Station, Marion County, Indiana, at 2 Gate. It is stated that Citizens has recently completed an engineering study of its existing transmission system in Marion County which indicated unacceptable low pressures on its system may develop during peak day conditions. To alleviate this problem and due to Marion County's growth, Citizens has requested the additional delivery point, it is stated.

Applicant estimates that the facilities required at the new point of delivery would cost $525,000 which would be

financed from funds available to the Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29431 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP69-328-000]

Panhandle Eastern Pipe Line Co.; Petition To Amend

October 5, 1981.

Take notice that on September 8, 1981, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP69-328-000 a petition to amend the order issued August 27, 1969, [1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in deliveries of gas to Johns-Manville Sales Corporation (Johns-Manville), an existing interruptible industrial customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to increase its maximum daily contract obligation from the present volume of 8,000 Mcf per day to 13,000 Mcf per day pursuant to an amendment dated March 16, 1981, to the industrial gas sales contract between Petitioner and Johns-Manville. Petitioner submits that the increased deliveries would not cause any change in the base period data of Johns-Manville as included in Petitioner's FERC Gas Tariff, Original Volume 1A.

Petitioner states that Johns-Manville uses natural gas in the production of fiberglas insulation at its plant in Defiance, Ohio, and in order to facilitate plans for increased production Johns-Manville has requested the proposed increase in the volumes of gas delivered by Petitioner.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29435 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-489-000]

Panhandle Eastern Pipe Line Co.; Application

October 5, 1981.

Take notice that on August 28, 1981, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-489-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of and continued operation of facilities and the transportation of gas required to make sales of natural gas pursuant to obligations contained in right-of-way easements either directly or for resale through gas distribution companies served by Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to continue to operate the facilities including gas taps presently being used to serve both direct customers and right-of-way customers of Applicant's resale customers. Applicant further seeks authority to honor additional requests for right-of-way service provided for in existing easements both directly and through resale customers.

Applicant specifically proposes the following:

(1) The construction and operation of the facilities installed on Applicant's pipeline system which constitute the points of delivery to resale customers Town Gas Company, Indiana Gas Company, Inc. and Columbia Gas Transmission Corporation.

(2) The construction and operation of the facilities installed on Applicant's pipeline system which enable Applicant to make direct sales of natural gas to right-of-way customers and the transportation therefor.

(3) The construction and operation of the facilities necessary to make the following eight direct sales of natural gas to right-of-way customers of Applicant:

State	County	Customer	Use
Oklahoma	Texas	Lucille Schoonover	Irrigation.
Oklahoma	Woods	Darrel F. Byrd	Domestic.
Oklahoma	Woodward.	Dorothy W. Barney	Domestic.
Kansas	Franklin	Eddy R. Stifter	Domestic.
Kansas	Kiowa	David K. Lewis	Irrigation.
Kansas	Meade	Roy Marrs	Irrigation and domestic.
Missouri	Audrain	Francis H. Meyer	Domestic.
Missouri	Pike	G. A. Harlinger	Domestic.

(4) The construction and operation of gas taps and facilities needed to provide service to new direct or indirect right-of-way customers on Applicant's system from now until the end of 1981 or the effective date of blanket authorization for such service pursuant to the pending Commission rulemaking proposal.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Applicant states that of the sales made for domestic uses it estimates the average volumes of natural gas sold in these transactions is approximately 150 Mcf per year. It is further estimated with respect to the agricultural fuel sales that each sale averages 3,750 Mcf of natural gas per year.

Applicant states that although the cost of installation varies the approximate cost per domestic tap is $1,500, per irrigation tap $3,250 and per new delivery point $1,500. Such costs, it is asserted, are financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance wth the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29436 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-524-000]

Panhandle Eastern Pipe Line Co.; Application

October 5, 1981.

Take notice that on September 18, 1981, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-524-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline, compressor and appurtenant facilities to be located in Edwards, Kiowa and Pratt Counties, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to establish a new Wellsford Compressor Station in Pratt County, Kansas, to replace an existing Wellsford Compressor Station which is unable to handle projected volumes of gas. The Wellsford Compressor Station, it is stated, would be equipped with three 700-class horsepower compressors. Applicant further proposes to construct and operate 3 miles of 10-inch pipeline and 7.7 miles of 8-inch pipeline in Edwards, Kiowa and Pratt Counties, Kansas, to transport existing and additional gas supplies for Edwards, Stafford, Kiowa and Pratt Counties to the Wellsford Compressor Station.

Applicant explains that it has entered into approximately 30 gas purchase and sales agreements in the Wellsford area and that there are approximately 113 wells attached to the existing Wellsford system with an estimated 142 wells to be drilled over the next five years. It is stated that the proposed facilities would have a daily design volume capability of 15,600 Mcf with a maximum capability of 22,300 Mcf per day which would enable Applicant to transport its gas reserves from the Wellsford area to its interstate market.

Applicant estimates the cost of the proposed facilities to be $4,454,000 which would be financed from funds available to the Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29437 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-530-000]

Public Service Commission of Kentucky; Order Disclaiming Jurisdiction

October 1, 1981.

On September 15, 1981 the Public Service Commission of Kentucky (PSCK) filed in Docket No. CP81-530-000 a request for a determination concerning the jurisdictional status of certain transmission and sales of natural gas in the State of Kentucky, as more fully set forth in the request and supporting documents.[1]

[1] The PSCK's request is in the form of a letter to the Chairman of the Commission rather than being styled as a petition for a declaratory order pursuant to § 1.8 of the Commission's rules of practice and procedure. We have determined to treat the letter as though it were a petition filed pursuant to § 1.8 and to waive the form of pleading requirements of § 1.15 and § 1.16 of the regulations. Our normal procedure would be to publish notice of such a petition and allow time for intervention. In view of the emergency situation created by the discontinuance of gas service, we have determined to forego that procedure. Copies of this order will be served on Capitol, Columbia and the PSCK, and petitions for intervention will be entertained in conjunction with any petition for rehearing that may be filed.

The facts are as follows. The Capitol Oil and Gas Company (Capitol) operates a natural gas field gathering system in Kentucky which is connected to an interstate pipeline owned by Columbia Gas Transmission Corporation (Columbia), a jurisdictional pipeline company. Capitol purchased the gathering system in December 1971 from Holly Creek Gas Transmission Company (Holly). Capitol and Columbia have a gas purchase contract under the terms of which Capitol sells to Columbia all of its gas from certain wells in Wolfe, Lee and Breathitt Counties, Kentucky.

Prior to Capitol's purchase of Holly's facilities, a group of some thirty customers of Holly in Daysboro, Kentucky (the Daysboro customers) installed at their own expense a line some six miles in length connecting Daysboro to the Holly facilities (the Daysboro line). This line wa activated in November of 1971.

On February 21, 1978 Capitol was issued a certificate of public convenience and necessity by the PSCK requiring the sale of natural gas to retail customers whether or not those customers are qualified to request service pursuant to Kentucky Revised Statutes 278.485 (KRS 278.485).[2] KRS 278.485 provides that owners of property located within one-half mile of a wellhead or gathering pipeline can demand natural gas service, subject only to terms prescribed by the PSCK. Among the customers then being served by Capitol were the Daysboro customers. While Holly had also served the Daysboro customers, it apparently never applied for a certificate from the PSCK.

A dispute has since arisen between Capitol and the Daysboro customers concerning the safety of the line from Capitol's system to Daysboro. The Kentucky Department of Energy (KDOE) states[3] that Capitol alleges the Daysboro line is unsafe and that Capitol's insurance carrier has indicated it will cancel Capitol's coverage for that reason. The KDOE further states that some of the Daysboro customers, based on a report by a PSCK inspector, maintain that the Daysboro line is in substantial compliance with PSCK standards. As a result of this dispute, Capitol terminated service to the Daysboro customers on August 25, 1981.

It is, of course, not in this Commission's province to determine the merits of the dispute between Capitol and the Daysboro customers. We are called upon here to determine whether jurisdiction over Capitol's sales and transmission of gas rests with this Commission or with the PSCK. The PSCK's request for such a determination is based on the holding of the United States Court of Appeals for the Sixth Circuit in *Public Service Commission of Kentucky* v. *F.E.R.C.*, 610 F.2d 439 (1979) that KRS 278.485 does not permit the PSCK to order service from gathering lines where the gas being transported therein is in interstate commerce.[4] The PSCK states that Capitol contends the gas it sells to Columbia is in interstate commerce because it is ultimately resold in another state by virtue of the connection between Capitol's system and the Columbia line.

If this were indeed the case, Capitol would be correct. Transportation of gas through Capitol's system and any sales for resale therefrom would be subject to F.E.R.C. jurisdiction. In addition, the Commission has what is effectively a veto power over direct sales where such sales require jurisdictional transportation.[5]

The law in this area has been reasonably established. In *California* v. *Lo-Vaca Gathering Company (Lo-Vaca)*, 379 U.S. 366 (1965), the Supreme Court held that the sale of any gas which crosses a state line at any stage of its movement from-wellhead to ultimate consumption is in interstate commerce. The journey in interstate commerce begins at the well head[6] even though some of that gas is sold in the state of production.[7]

The Commission has recently applied *Lo-Vaca* in other cases involving producer sales and has further refined the principle enunciated therein. In F.P.C. Opinion No. 777,[8] the Commission held that it does not have jurisdiction under the Natural Gas Act over producers who sell gas to an interstate pipeline, which commingles the gas with gas produced in other states and resells the commingled stream in the producing state so that none of the the producers' gas leaves the state of origin. It was found "that the interstate pipeline ended in the state from which the subject producer sales were made. There was no possibility that any of the gas produced from the state would flow to another state."[9] Opinion No. 777 was applied later in *United Gas Pipeline Company and Certain Producer Respondents*, Docket No. CP76-238, order issued January 17, 1980. In that case, certain producers sold gas to United Gas Pipeline Company (United), which gas entered United's interstate system. However, United's system is designed such that certain segments of it are "locked-in", that is, the gas entering those segments is prevented by mechanical devices from escaping into other parts of the system where it could be commingled with gas leaving the state. The producers' gas in question entered these "locked-in" segments. In light of that factual determination and the decision in Opinion No. 777, the Commission determined that the producer sales to United were non-jurisdictional. In the course of *United* the Commission stated.

> Opinion No. 777 * * * establishes that gas which does not leave the state of its production is non-jurisdictional even if it is commingled with gas from another state and resold as part of a jurisdictional transaction.[10]

Applying the law set forth above to the facts of this case, it is clear that the facts of this case are distinguishable from those in *P.S.C.K.* v. *F.E.R.C.* and that this Commission does not have jurisdiction over Capital's transportation of gas through Capitol's facilities or its sales to the Daysboro customers under the Natural Gas Act. In *P.S.C.K.* v. *F.E.R.C.*, the gathering lines in question were owned and operated by Kentucky-West Virginia Gas Company (Kentucky-West), a jurisdictional pipeline. Those lines were used to transport gas from the well head to Kentucky-West's interstate transmission facilities for resale in other states, albeit there might be some direct or other sales from those lines to Kentucky customers. Under the *Lo-Vaca* physical flow of the gas test, the gas in those lines was indisputably in interstate commerce.

In this instance, Capitol's gas does enter the Columbia system but, due to the facilities configuration of the Columbia system, it cannot leave the state of origin. Capitol's gas flows into Columbia's Line KZ, which is a low pressure line operating at between 170 and 220 psig. It serves three small towns in Kentucky and does not leave that state. The volume of gas used by those towns is greater than the flow of

[2] Case No. 6741.

[3] The KDOE wrote to the Chairman of the Commission in a letter dated August 28, 1981 outlining the facts of this matter.

[4] Accord, *Backus* v. *Panhandle Eastern Pipe Line Co.*, 558 F.2d 1373 (10th Cir. 1973).

[5] Louisiana Power and Light Co. v. *United Gas Pipe Line Co.*, 458 F.2d 326 (5th Cir. 1972), rev'd on other grounds, 406 U.S. 621 (1972).

[6] *Phillips Petroleum Company* v. *Wisconsin*, 347 U.S. 672 (1954).

[7] Deep South Oil Company v. *F.P.C.*, 247 F.2d 882, 888 (5th Circuit, 1957).

[8] *Colorado Interstate Gas Company*, Docket Nos. CP75-323 and CP75-300, Opinion No. 777, Opinion and Order Affirming Initial Decision, issued September 30, 1978.

[9] See discussion in *Columbia Gas Transmission Company and National Fuel Gas Supply Corporation*, Docket No. CP77-363, order issued May 9, 1979, mimeo at p. 6.

[10] *3United Gas Pipeline Co. and Certain Producer Respondents, supra*, mimeo at p. 3.

Kentucky production into Line KZ (including Capitol's). The deficiency in volumes is made up by deliveries into Line KZ from a main line of Columbia's affiliate, Columbia Gulf Transmission Company (Columbia Gulf). Columbia Gulf's system operates at pressures between 800 and 1000 psig. Thus, none of Capitol's gas can leave Kentucky.[11] It is clear from these facts and the decisions in Opinion No. 777 and *United* that Capitol's transportation and sale of gas is non-jurisdictional under the Natural Gas Act. [12]

The Commission finds:

(1) Capitol's transportation and sales of gas are not subject to the Commission's jurisdiction under the Natural Gas Act.

(2) Good cause exists to waive the provisions §§ 1.15 and 1.16 of the regulations.

The Commission orders:

The form of pleading requirements of §§ 1.15 and 1.16 of the Commission's regulations is waived with regard to PSCK's petition.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-29424 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ER81-659-000]

Public Service Company of New Hampshire; Order Accepting for Filing and Suspending Revised Rates, Granting Intervention, and Establishing Procedures

October 5, 1981.

On August 7, 1981, Public Service Company of New Hampshire (PSNH) submitted for filing a supplement to service agreements with six of its wholesale customers.[1] The revised rates for firm power service to these customers would increase annual revenues by approximately $4,300,350 (6%) based on a calendar 1982 test period. PSNH has requested that the proposed rates become effective on October 6, 1981.

Public notice of the filing was issued on August 12, 1981, with responses due on or before September 4, 1981. On September 4, 1981, Concord Electric Company and Exeter and Hampton Electric Company filed separate petitions to intervene. In addition, the New Hampshire Electric Cooperative, Inc., the Towns of Ashland, and Wolfeboro, and the Village Precinct of New Hampton, New Hampshire filed a joint petition to intervene.

The intervenors contend that the proposed rates have not been shown to be just and reasonable, are not cost-based and are improperly designed. The intervenors therefore request a hearing. The joint petitioners request a one day suspension.

Discussion

The Commission finds that participation in this proceeding by each of the intervenors is in the public interest. Therefore, the petition to intervene will be granted.

In view of the matters raised by the intervenors, we find that PSNH's revised rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

In a number of suspension orders,[2] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.

Such circumtances have been presented here. While the matters raised by the intervenors warrant further inquiry at hearing, our preliminary review suggests that the proposed rates may not produce excessive revenues. Under these circumstances, we believe that a nominal suspension and a refund obligation will adequately protect the affected customers pending a hearing. Furthermore, the only intervenors that have addressed the question of suspension have expressly requested that the rates be suspended for one day. Accordingly, we shall suspend the rates for one day to become effective, subject to refund, on October 7, 1981.

The Commission orders:

(A) PSNH's revised rates are hereby accepted for filing and are suspended for one day from sixty days after filing, to become effective, subject to refund, on October 7, 1981.

(B) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the justness and reasonableness of PSNH's rates.

(C) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act: *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petitions to interevene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(D) The Commission staff shall serve top sheets in this proceeding on or before October 7, 1981.

(E) A presiding administrative law judge to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's rules of practice and procedure.

(F) The Secretary shall promptly publish this order in the Federal Register.

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[11] Letter to R.A. Oswald, Columbia Gas System Corporation from James P. Holland, Columbia Gas Transmission Corporation, dated September 28, 1981, filed with the Secretary of the Commission September 30, 1981.

[2] We note, however, that, depending on the factual circumstances, Capitol's sales to the Daysboro customers may be "first sales", as that term is defined in the Natural Gas Policy Act of 1978 (NGPA). If that is the case, the pricing provisions of NGPA Title I apply.

[1] *See* Attachment A for rate schedule designations and customer identification.

[2] *E.g., Boston Edison Co.,* Docket No. ER80-508 (August 29, 1980) (five month suspension); *Alabama Power Co.,* Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.,* Docket No. ER80-488 (August 22, 1980) (one day suspension).

By the Commission.
Kenneth F. Plumb,
Secretary.

ATTACHMENT A.—PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Docket No. ER81-659-000

Item: General Rate Increase for Six Wholesale Customers

Filed: August 7, 1981

Customer	Designations		Superseded supplement No.
	FERC rate schedule	Supplement No.	
(1) Concord Electric Company.	24	12	11.
(2) Town of Ashland	28	12	11.
(3) The New Hampton Village Precinct.	29	12	11.
(4) Exeter and Hampton Electric Company.	35	12	11.
(5) Town of Wolfeboro.	72	12	11.
(6) New Hampshire Electric Cooperative.	71	13	12.
(7) New Hampshire Electric Cooperative.	50	10th revised sheet No. 1 to exhibit B.	9th revised sheet No. 1 to exhibit B.

[FR Doc. 81-29410 Filed 10-8-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. RP81-139-000]

Raton Natural Gas Co.; Change in Rates

October 5, 1981.

Take notice that Raton Natural Gas Company (Raton) on September 23, 1981, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Twenty-sixth Revised Sheet No. 3a. The change in rate is for jurisdictional sales and service.

Raton states that the instant minor change in rates is designed to enable Raton to recover increases in operating costs, increased return and related income tax requirements. The proposed rates would increase revenues by $11,054.

Copies of Raton's filing are on file with the Commission and are available for public inspection. In addition, copies have been served on Raton's Jurisdictional Customer and the New Mexico Public Service Commission.

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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1981. 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.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-29411 Filed 10-8-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. CP81-527-000]

Sea Robin Pipeline Co.; Application

October 5, 1981.

Take notice that on September 21, 1981, Sea Robin Pipeline Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-527-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon four surplus compressors presently installed at East Cameron Area Block 270, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Pennzoil Producing Company (Pennzoil) is the operator of East Cameron Block 270 and that Applicant owns an undivided 60 percent interest in the eight compressor leases and in the appurtenant facilities located at Block 270 with the remaining 40 percent interest owned by Mobil Oil Exploration & Producing Southeast Inc. (Mobil). Pennzoil, it is asserted, has informed Applicant and Mobil that the need for single stage compression on Block 270 has diminished to the point where four of the eight compressor units are no longer needed. Applicant, therefore, requests authorization to abandon the four units which Applicant and Mobil would remove from Block 270.

Applicant explains that in order to eliminate the lease obligation to pay $8,977 rental per compressor per month on the four surplus compressors pending receipt of abandonment authorization, Applicant and Mobil elected to exercise the purchase option applicable to each of the four surplus compressors.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-29438 Filed 10-8-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. RA81-75-000]

Southwestern Refining Co., Inc.; Filing of Petition for Review

October 2, 1981.

Take notice that Southwestern Refining Co., Inc. on September 25, 1981 filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 16, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity

to participate in the prior proceedings before the secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 16, 1981, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29425 Filed 10-8-81 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RP81-103-000]

State of Michigan and Michigan Public Service Commission; Complaint

October 2, 1981.

Take notice that on August 6, 1981, the State of Michigan and its Public Service Commission (Michigan) tendered for filing a petition for order to show cause, request for immediate suspension and demand for evidentiary hearing against Trunkline Gas Company (Trunkline).

Michigan states as follows: (1) That Section 1 of the Natural Gas Act does not grant the Commission jurisdiction to compel a non-jurisdictional local gas distribution company to take or pay for a minimum volume of gas, through a tariff for a jurisdictional company that sells gas to the local company; (2) that the minimum annual bill provision in Trunkline's tariff is inconsistent with the Natural Gas Act, because it inhibits competitive market allocation of resources and leads to artificially high prices to the consumers; moreover the take-or-pay provision in the minimum annual bill prevents gas distribution utilities from seeking lower priced gas elsewhere and creates artificial market forces that drive up gas prices beyond the real deregulated market price; (3) that the minimum annual bill provision is set at an arbitrary level with no economic justification and is unjust and unreasonable; (4) that the annual bill provision is inconsistent with deregulation under the Natural Gas Policy Act of 1978; (5) that the annual bill provision is inconsistent with the purposes of the National Energy Conversation Act of 1978; (6) that the take-or-pay requirement is outmoded due to the change in circumstances in the marketplace.

Michigan requests that the Commission: (1) Investigate and conduct an evidentiary hearing into the matters complained of; (2) order Trunkline to show cause why the minimum annual bill requirement in its tariff Rate Schedule P-2 should not be eliminated; (3) immediately suspend the minimum annual bill provision of Trunkline's tariff, and all charges or payments thereunder, pending an evidentiary hearing, or at a minimum declare that all charges or payments made under the minimum annual bill provision from the date of this complaint shall be collected subject to full refund pending completion of hearings and issuance of a final commission order in this proceeding; (4) eliminate the minimum annual bill requirement or, alternatively, modify the minimum annual bill requirement by setting a fixed rate at a specified dollar level.

Copies of this filing were served upon Trunkline and Consumers Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29426 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-478-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

October 5, 1981.

Take notice that on August 24, 1981, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-478-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Michigan Wisconsin Pipe Line Company (Mich Wis), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to the terms of a gas transportation agreement dated July 15, 1981, it would receive natural gas for the account of Mich Wis in West Cameron Area Block 601, offshore Louisiana, and deliver such gas for the account of Mich Wis at a point on Applicant's Louisiana Coastal line at Applicant's Mile Post 509 + 3.75 miles near Egan, Louisiana. It is indicated that Applicant would deliver up to 10,000 Mcf of natural gas per day and that Applicant would have the right but not the obligation to accept volumes in excess of 10,000 Mcf per day which may be tendered by Mich Wis.

Applicant proposes to charge Mich Wis a volume charge of 7.28 cents per Mcf with a provision for a minimum monthly bill. Mich Wis would also provide to Applicant volumes of natural gas equal to 1.93 percent of the volumes received for transportation to compensate for Applicant's fuel and use requirements.

Applicant asserts that the proposed transportation service would not pre-empt the pipeline capacity needed for or have any impact on any existing firm service being rendered by Applicant nor Applicant's need for capacity for its own use because the proposed service would be rendered only when in Applicant's sole opinion its operating conditions permit. Further, it is maintained that the proposed service would be beneficial to Mich Wis since it would provide the means for Mich Wis to receive a gas supply into its system without Mich Wis having to construct and operate facilities duplicative to those of Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29434 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-512-000]

Texas Eastern Transmission Corp. et al; Application

October 5, 1981.

Take notice that on September 11, 1981, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-512-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline facilities in the Vermilion area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to construct and operate the following facilities and own the interests indicated for the attachment of gas to be purchased by Applicants in the Vermilion area, offshore Louisiana, Blocks 369, 370 and 386:

	Ownership percentage		
	Texas Eastern	Transco	Natural
20.7 miles of 12-inch pipeline (A Platform (V369) to EC312)	43.129	43.29	13.581
1.87 miles of 6-inch pipeline (B Platform V386) to A Platform (V369)	76.193	0	23.807
3.03 miles of 6-inch pipeline (C Platform (V370) to A Platform (V369))	0	100	0

It is asserted that such facilities would by means of a subsea tie-in connect the three blocks to Texas Eastern's existing system in East Cameron Block 312.

Applicants state that the proposed facilities would cost $18,341,000 which would be divided among Applicants according to their percentage ownership with Texas Eastern operating the facilities. The proposed facilities, it is explained, would be financed initially through revolving credit arrangements, short-term loans and funds on hand with permanent financing undertaken as part of Applicants' respective overall long-term financing programs at later dates.

It is stated that Texas Eastern has contracted with Marathon Oil Company, Louisiana Land Offshore Exploration Company, Aminoil USA, Inc. and Amerada Hess Corporation to purchase 75 percent and 77 percent, respectively, of the gas produced in Vermilion Block 369 and Vermilion Block 386, that Natural would purchase 25 percent and 23 percent, respectively, of the gas produced in Vermilion Block 369 and Vermilion Block 386, and that Transco has contracted with Shell Oil Company for 100 percent interest in Vermilion Block 370. Applicants estimate that approximately 39,900,000 Mcf of recoverable proved gas reserves would be available from the area for delivery through the proposed facilities and that total deliverability from such area is expected to be approximately 31,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the National Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29439 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. CP81-359-001]

United Gas Pipe Line Co. and Transcontinental Gas Pipe Line Corp.; Petition To Amend

October 5, 1981.

Take notice that on September 14, 1981, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP81-359-001 a joint petition to amend the order issued October 28, 1980, in said docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Transco to own and operate jointly with United certain offshore pipeline and related facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued October 28, 1980, authorized United to construct, own and operate 5.3 miles of 10-inch pipeline and related facilities to connect high Island Area, South Addition, Block A-443, offshore Texas, to a sub-sea tap on the 30-inch West Leg of High Island Offshore System in High Island Area, East Addition, Block A-283.

It is asserted that Transco has contracted to purchase 40 percent interest of Mobil Producing Texas & New Mexico Inc. and 20 percent interest

of Diamond Shamrock Corporation in Block A–443 leaving United with the 40 percent interest of Union Oil Company of California.

It is submitted that in order to assist Transco in effectuating receipt of its gas supplies in Block A–443, United has agreed to permit Transco to share in the ownership and operation of the facilities which United was previously authorized to construct and operate pursuant to a pipeline ownership, design, construction and installation agreement dated August 26, 1981, between United and Transco. Hence Applicants request herein authorization for Transco to own and operate 60 percent of the facilities authorized by order issued October 28, 1980, in Docket No. CP81–359.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29430 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. ER81-753-000]

Washington Water Power Co.; Filing

October 2, 1981.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (PP&L) on September 22, 1981, tendered for filing a Certificate of Concurrence with the Washington Water Power Company's (WWP) filing of a Transmission Agreement dated and executed on October 31, 1980 by PP&L, between WWP and PP&L which applies to the exchange of transmission services between the parties.

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 §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29427 Filed 10-8-81; 8:45 am]

BILLING CODE 6717-02-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 1, 1981.

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-A W YENNE		RECEIVED: 09/11/81 JA: OH							
8148840		3416922123		107	RT	ARMSTRONG #2	CANAAN	50.0	COLUMBIA GAS TRAN
-ATLAS ENERGY GROUP INC		RECEIVED: 09/11/81 JA: OH							
8148684		3415520235		107	RT	JOHNSON DURIG NO 1	HOWLAND	65.0	COLUMBIA GAS TRAN
8148685		3415520288		107	RT	JOHNSON NO 2	HOWLAND	26.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION		RECEIVED: 09/11/81 JA: OH							
8148688		3415521198		107	TF	BARTH-FISH UNIT #1	VIENNA	3.8	EAST OHIO GAS CO
8148691		3415521659		103		CRAIN-LATZO UNIT #2	BROCKFIELD	0.0	COLUMBIA GAS TRAN
8148691		3415521659		107	TF	CRAIN-LATZO UNIT #2	BROCKFIELD	0.0	COLUMBIA GAS TRAN
8148687		3411925662		103		GOFF #1	UNION	0.0	COLUMBIA GAS TRAN
8148687		3411925662		107	TF	GOFF #1	UNION	0.0	COLUMBIA GAS TRAN
8148690		3415521275		107	TF	J CREW #1	LIBERTY	8.5	EAST OHIO GAS CO
8148689		3415521221		107	TF	JOHN & MARY ONEILL UNIT #1	VIENNA	20.2	EAST OHIO GAS CO.
8148686		3411925631		103		PROUTY #2	RICH HILL	0.0	COLUMBIA GAS TRAN
8148686		3411925631		107	TF	PROUTY #2	RICH HILL	0.0	COLUMBIA GAS TRAN
-C W RIGGS INC		RECEIVED: 09/11/81 JA: OH							
8148790		3416725345		107	DV	DALE LEISTER #1	NEWPORT FIELD	7.0	
8148791		3416725686		107	DV	EDGAR - HEARN #1	NEWPORT FIELD	9.1	
8148792		3416725804		107	DV	HERB GEARHART #2	DART FIELD	8.0	
8148794		3416726136		107	DV	THOMAS & RODNEY SEEVERS UNIT #2	NEWPORT FIELD	8.8	
8148793		3416726098		107	DV	USA - SMITH #1	RENO FIELD	7.3	
8148795		3416726146		107	DV	USA - TICE - HAUGHT #2	DART FIELD	9.1	
8148796		3416726215		107	DV	USA FULMER #3-B	RENO	3.7	COLUMBIA GAS TRAN
-CIRCLE PETROLEUM INC		RECEIVED: 09/11/81 JA: OH							
8148692		3416724662		107	DV	ROSENBUSCH #1	NEWPORT	80.0	COLUMBIA GAS TRAN
8148693		3416726532		107	DV	ROSENBUSCH #4	NEWPORT	80.0	COLUMBIA GAS TRAN
-CLINTON OIL CO		RECEIVED: 09/11/81 JA: OH							
8148698		3413322443		103		FARMETTE UNIT #2-553	ROOTSTOWN	100.0	
8148698		3413322443		107	TF	FARMETTE UNIT #2-553	ROOTSTOWN	100.0	
8148695		3411924949		103		M SCHWEITZER #5	CASS	100.0	COLUMBIA GAS TRAN
8148695		3411924949		107	TF	M SCHWEITZER #5	CASS	100.0	COLUMBIA GAS TRAN
8148696		3412724960		103		MASON-WILKISON #1-562	CLAYTON	50.0	
8148696		3412724960		107	TF	MASON-WILKISON #1-562	CLAYTON	50.0	
8148697		3413322426		103		R & C ECHELBERRY #1-558	MANTUA	100.0	
8148697		3413322426		107	TF	R & C ECHELBERRY #1-558	MANTUA	100.0	
8148694		3411925336		103		R THOMAS #1-514	CASS	75.0	
8148694		3411925336		107	TF	R THOMAS #1-514	CASS	75.0	
-DORAN & ASSOCIATES INC		RECEIVED: 09/11/81 JA: OH							
8148702		3412725175		103		EFFIE ELLIOTT #1	MADISON	12.0	NATIONAL GAS & OI
8148702		3412725175		107	TF	EFFIE ELLIOTT #1	MADISON	12.0	NATIONAL GAS & OI
8148699		3407522970		103		JAMES MORELAND #1	PRAIRIE	12.0	COLUMBIA GAS TRAN
8148699		3407522970		107	TF	JAMES MORELAND #1	PRAIRIE	12.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8148701		3412725104		103		NILE BOLYARD #1	PLEASANT	12.0	COLUMBIA GAS TRAN
8148701		3412725104		107-TF		NILE BOLYARD #1	PLEASANT	12.0	COLUMBIA GAS TRAN
8148700		3411925624		103		RALPH MYERS #1	WAYNE	12.0	NATIONAL GAS & OI
8148700		3411925624		107-TF		RALPH MYERS #1	WAYNE	12.0	NATIONAL GAS & OI
-ENNEY OILFIELD RENTAL CO				RECEIVED: 09/11/81 JA: OH					
8148705		3411922812		107-RT		CLARABELLE TRACEY #1	NORWICH	6.6	COLUMBIA GAS TRAN
8148704		3411922749		107-RT		HARRY HIESTAND #1	NORWICH	5.0	COLUMBIA GAS TRAN
8148706		3411922822		107-RT		JOHN BIRD #2	NORWICH	5.5	COLUMBIA GAS TRAN
8148703		3411922731		107-RT		RONALD CLARK #2	NORWICH	7.5	COLUMBIA GAS TRAN
-FORTUNE GAS AND OIL INC				RECEIVED: 09/11/81 JA: OH					
8148711		3411924688		107-RT		MARGARET BREWER #1	BLUE ROCK	30.0	EAST OHIO GAS CO
8148710		3411924647		107-RT		MURL E WALLACE #2	BLUE ROCK	30.0	EAST OHIO GAS CO
8148707		3411521827		107-RT		RICHARDSON #5	BLOOM	30.0	EAST OHIO GAS CO
8148708		3411521828		107-RT		RICHARDSON #6	BLOOM	30.0	EAST OHIO GAS CO
8148709		3411521852		107-TF		ROBERTS #2	BLOOM	30.0	EAST OHIO GAS CO
-FRONTIER PETROLEUM LTD				RECEIVED: 09/11/81 JA: OH					
8148712		3411122292		107-DV		DONALD HOWELL #2	WASHINGTON	12.0	COLUMBIA GAS TRAN
8148713		3411122293		107-DV		USA #3	WASHINGTON	15.0	COLUMBIA GAS TRAN
-GASEARCH INC				RECEIVED: 09/11/81 JA: OH					
8148714		3415516260		103		NOOSE #1	MESOPOTAMIA	20.0	COLUMBIA GAS TRAN
8148714		3415516260		107-TF		NOOSE #1	MESOPOTAMIA	20.0	COLUMBIA GAS TRAN
-GEORGE M GERNHARDT				RECEIVED: 09/11/81 JA: OH					
8148715		3408924152		103		HENDERSON-CURTIS #1	FALLSBURY	6.0	
-HADDAD & BROOKS INC				RECEIVED: 09/11/81 JA: OH					
8148716		3412122351		107-DV		G AND V WILLIAMS #1	ELK	30.0	
-I R D CORP				RECEIVED: 09/11/81 JA: OH					
8148717		3415521711		103		SULEK #1	BLOOMFIELD	200.0	
8148717		3415521711		107-TF		SULEK #1	BLOOMFIELD	200.0	
-IRVIN PRODUCING COMPANY				RECEIVED: 09/11/81 JA: OH					
8148718		3411925702		103		GALIGHER-DICKERSON #1	WAYNE	10.0	NATIONAL GAS & OI
8148718		3411925702		107-TF		GALIGHER-DICKERSON #1	WAYNE	10.0	NATIONAL GAS & OI
8148719		3411925721		103		OSBORN #1	HOPEWELL	10.0	NATIONAL GAS & OI
81487196		3411925721	D	107-TF		OSBORN #1	HOPEWELL	10.0	NATIONAL GAS & OI
-JACK ENTERPRISES				RECEIVED: 09/11/81 JA: OH					
8148728		3411122306		107-DV		H-0003 (S FORNI) #1	SWITZERLAND	20.0	COLUMBIA GAS TRAN
8148727		3411122259		107-DV		H-0006 (C FRANKHAUSER) #1	SWITZERLAND	20.0	COLUMBIA GAS TRAN
8148724		3411122289		107-DV		H-0015 (C BIGLER) #1	SWITZERLAND	20.0	COLUMBIA GAS TRAN
8148725		3411122297		107-DV		H-0018 (M NIPPERT) #3	SWITZERLAND	20.0	COLUMBIA GAS TRAN
8148723		3411122262		107-DV		H-0019 (N FISHER) #1	SWITZERLAND	20.0	COLUMBIA GAS TRAN
8148726		3411122298		107-DV		H-0024 (M FRANKHAUSER) #1	SWITZERLAND	20.0	COLUMBIA GAS TRAN
8148720		3411122039		107-DV		H-0032 (F HENDERSHOT) #1	SWITZERLAND	20.0	COLUMBIA GAS TRAN
8148721		3411122041		107-DV		H-0113 (F BAKER #1)	CENTER	20.0	COLUMBIA GAS TRAN
8148722		3411122049		107-DV		H-0143 (W FREITAG) #1	CENTER	20.0	COLUMBIA GAS TRAN
-JANCO LTD PART 79-3				RECEIVED: 09/11/81 JA: OH					
8148736		3415521469		107-TF		#2 DAN YODER	MESOPOTAMIA	698.0	COLUMBIA GAS TRAN
-JANCO LTD PART 80-3				RECEIVED: 09/11/81 JA: OH					
8148729		3415520826		107-TF		#1 BALOGH-BARNHART UNIT	FARMINGTON	890.0	COLUMBIA GAS TRAN
8148735		3415521418		107-TF		#2 BALOGH-BARNHART UNIT	FARMINGTON	925.0	COLUMBIA GAS TRAN
-JANCO LTD PARTNERSHIP 1979-1				RECEIVED: 09/11/81 JA: OH					
8148732		3415521184		107-TF		WINDSOR FORD #3 A	MESOPOTAMIA	300.0	COLUMBIA GAS TRAN
8148731		3415521183		107-TF		WINDSOR FORD #4-A	MESOPOTAMIA	285.0	COLUMBIA GAS TRAN
8148730		3415521182		107-TF		WINDSOR FORD #5A	MESOPOTAMIA	300.0	COLUMBIA GAS TRAN
-JANCO LTD PARTNERSHIP 1979-2				RECEIVED: 09/11/81 JA: OH					

JD NO	JA INT	API NO	C	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8148734		3415521237			107-TF	GOLDBERG FARMS INC #1	MESOPOTAMIA	450.0	COLUMBIA GAS TRAN
8148733		3415521236			107-TF	GOLDBERG FARMS INC #2	MESOPOTAMIA	0.0	COLUMBIA GAS TRAN
-JANCO LTD PARTNERSHIP	80-7					RECEIVED: 09/11/81 JA: OH			
8148739		3415521682			107-TF	#1 MARGARET SVOBODA	FARMINGTON	25.0	COLUMBIA GAS TRAN
8148740		3415521683			107-TF	#1 SAXION UNIT	FARMINGTON	25.0	COLUMBIA GAS TRAN
-JANCO LTD PARTNERSHIP	80-8					RECEIVED: 09/11/81 JA: OH			
8148737		3415521680			107-TF	#1 ELAINE A WEINBERG	FARMINGTON	21.0	COLUMBIA GAS TRAN
8148738		3415521681			107-TF	#2 ELAINE A WEINBERG	FARMINGTON	26.0	COLUMBIA GAS TRAN
-NUCORP ENERGY COMPANY						RECEIVED: 09/11/81 JA: OH			
8148747		3413321564			107-RT	B & R BELL NO 1	NELSON	12.0	EAST OHIO GAS CO
8148745		3413321562			107-RT	CARL E BELL NO 1	NELSON	12.0	EAST OHIO GAS CO
8148748		3413321566			107-RT	CARL E BELL NO 2	NELSON	12.0	EAST OHIO GAS CO
8148751		3413321664			107-TF	COLLINS NO 1	NELSON	12.0	EAST OHIO GAS CO
8148752		3413321665			107-RT	COLLINS NO 2	NELSON	12.0	EAST OHIO GAS CO
8148746		3413321563			107-RT	H & E BELL UNIT NO 1	NELSON	10.0	EAST OHIO GAS CO
8148742		3413321534			107-RT	H BELL NO 1	NELSON	10.0	EAST OHIO GAS CO
8148741		3413321533			107-RT	H BELL NO 2	NELSON	10.0	EAST OHIO GAS CO
8148743		3413321535			107-RT	H BELL NO 3	NELSON	10.0	EAST OHIO GAS CO
8148744		3413321536			107-RT	H BELL NO 4	NELSON	10.0	EAST OHIO GAS CO
8148750		3413321658			107-TF	HAHN NO 1	NELSON	14.0	EAST OHIO GAS CO
8148749		3413321657			107-TF	HAHN NO 2	NELSON	14.0	EAST OHIO GAS CO
8148754		3413321950			107-TF	JONES NO 5	FREEDOM	14.0	ANCHOR HOCKING CO
8148753		3413321949			107-TF	JONES NO 6	FREEDOM	14.0	ANCHOR HOCKING CO
8148756		3413321953			107-TF	JONES NO 7	FREEDOM	14.0	ANCHOR HOCKING CO
8148755		3413321952			107-TF	JONES NO 8	FREEDOM	14.0	ANCHOR HOCKING CO
8148757		3413321554			107-TF	LAPPERT NO 5	NELSON	14.0	EAST OHIO GAS CO
-OHIO OIL & GAS CO						RECEIVED: 09/11/81 JA: OH			
8148765		3415521776			102-2	BORTMAS 1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148765		3415521776			107-TF	BORTMAS 1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148758		3415521211			102-2	CADONIC #2	FOWLER	20.0	COLUMBIA GAS TRAN
8148758		3415521211			107-TF	CADONIC #2	FOWLER	20.0	COLUMBIA GAS TRAN
8148763		3415521767			102-2	GOODHART #1	FOWLER	20.0	COLUMBIA GAS TRAN
8148763		3415521767			107-TF	GOODHART #1	FOWLER	20.0	COLUMBIA GAS TRAN
8148768		3415521795			102-2	HALEY #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148768		3415521795			107-TF	HALEY #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148767		3415521782			102-2	HUMPHREY #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148767		3415521782			107-TF	HUMPHREY #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148761		3415521751			102-2	JOHNSON #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148761		3415521751			107-TF	JOHNSON #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148766		3415521777			102-2	PIEJKO #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148766		3415521777			107-TF	PIEJKO #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148759		3415521266			102-2	PRENTICE #1	FOWLER	20.0	COLUMBIA GAS TRAN
8148759		3415521266			107-TF	PRENTICE #1	FOWLER	20.0	COLUMBIA GAS TRAN
8148760		3415521653			102-2	RHODES #1	FOWLER	20.0	COLUMBIA GAS TRAN
8148760		3415521653			107-TF	RHODES #1	FOWLER	20.0	COLUMBIA GAS TRAN
8148770		3415521825			102-2	RUTLEDGE #1	FOWLER	20.0	COLUMBIA GAS TRAN
8148770		3415521825			107-TF	RUTLEDGE #1	FOWLER	20.0	COLUMBIA GAS TRAN
8148769		3415521796			102-2	RUTLEDGE #2	FOWLER	20.0	COLUMBIA GAS TRAN
8148769		3415521796			107-TF	RUTLEDGE #2	FOWLER	20.0	COLUMBIA GAS TRAN
8148764		3415521770			102-2	SUMMERS 6	JOHNSTON	20.0	COLUMBIA GAS TRAN
8148764		3415521770			107-TF	SUMMERS 6	JOHNSTON	20.0	COLUMBIA GAS TRAN
-OHIO PARTNERS OIL CO						RECEIVED: 09/11/81 JA: OH			
8148771		3400921968			103	BLACK DIAMOND COAL #2	BERN	20.0	ATHENS CO GAS CO
8148771		3400921968			107-TF	BLACK DIAMOND COAL #2	BERN	20.0	ATHENS CO GAS CO

JOB NO	JA SRT	API NO	C	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8148773		3415521649		103		MILLER-MISENKO UNIT #1	BRISTOL	20.0	
8148773		3415521649		107-TF		MILLER-MISENKO UNIT #1	BRISTOL	20.0	
8148772		3415521494		103		YOUNGSTOWN AIRPORT #13	VIENNA	20.0	COLUMBIA GAS TRAN
8148772		3415521494		107-TF		YOUNGSTOWN AIRPORT #13	VIENNA	20.0	COLUMBIA GAS TRAN
-OHIO TITAN ENERGY CO LTD PTSHP 79-6				RECEIVED: 09/11/81 JA: OH					
8148777		3407522288		107-TF		#4 OWEN D YODER	MECHANIC	285.0	COLUMBIA GAS TRAN
-OHIO TITAN ENERGY CO LTD PTSHP 79-4				RECEIVED: 09/11/81 JA: OH					
8148775		3407522264		107-TF		#2 OWEN D YODER	MECHANIC	200.0	COLUMBIA GAS TRAN
-OHIO TITAN ENERGY CO LTD PTSHP 79-5				RECEIVED: 09/11/81 JA: OH					
8148776		3407522267		107-TF		#3 OWEN D YODER	MECHANIC	193.0	COLUMBIA GAS TRAN
-OHIO TITAN ENERGY CO LTD 1980-3				RECEIVED: 09/11/81 JA: OH					
8148779		3407522429		107-TF		#3 ATLEE J MILLER	MECHANIC	350.0	COLUMBIA GAS TRAN
-OHIO TITAN ENERGY L P 1979-7				RECEIVED: 09/11/81 JA: OH					
8148778		3407522290		107-TF		#1 EILEEN B DEHASS	MECHANIC	750.0	COLUMBIA GAS TRAN
-OHIO TITAN ENERGY LTD PTNR 1979-2				RECEIVED: 09/11/81 JA: OH					
8148774		3407522263		107-TF		OWEN D YODER #1	MECHANIC	400.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED: 09/11/81 JA: OH					
8148762		3411925404		103		HARRY KOPCHAK #1	HOPEWELL	10.0	
8148762		3411925404		107-TF		HARRY KOPCHAK #1	HOPEWELL	10.0	
-PREMIER ENERGY CORP				RECEIVED: 09/11/81 JA: OH					
8148780		3407522161		107-TF		THOMAS BIRD #1	MUNDY	0.0	COLUMBIA GAS TRAN
-RELIANCE ENERGY				RECEIVED: 09/11/81 JA: OH					
8148786		3412724246		107-RT		FRANK OWEN #1	PLEASANT	7.0	COLUMBIA GAS TRAN
8148785		3408922911		107-DV		JOHN HOLMES JR #1	LICKING	5.0	COLUMBIA GAS TRAN
-REPUBLIC MINERAL CORP				RECEIVED: 09/11/81 JA: OH					
8148789		3416725586	0	107-DV		HENNIGER #4	SIMMONS FIELD	112.1	COLUMBIA GAS OF O
8148787		3416725426		107-DV		LINSCOTT #1	SIMMONS FIELD	105.6	COLUMBIA GAS OF O
8148788		3416725440		107-DV		LINSCOTT #4	SIMMONS FIELD	264.5	COLUMBIA GAS OF O
-RMR PETROLEUM CORP				RECEIVED: 09/11/81 JA: OH					
8148781		3411122403		107-DV		CLARA CLINE #1	BETHEL	10.5	
8148782		3411122405		107-DV		CLARA CLINE #3	BETHEL	10.5	
8148784		3416726649		107-DV		GILBERT WARD #1	LIBERTY	30.0	
8148783		3412122436		107-DV		JAMES BETTINGER #4	ELK	15.0	
-ROWLEY & BROWN PETROLEUM CORP				RECEIVED: 09/11/81 JA: OH					
8148797		3411923681		107-TF		KILPATRICK #1	LICKING	59.0	COLUMBIA GAS TRAN
8148798		3411923683		107-TF		KILPATRICK #2	LICKING	72.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED: 09/11/81 JA: OH					
8148804		3416726119		107-DV		DONALD BROWN #1	WARREN	10.5	
8148805		3416726126		107-DV		DONALD BROWN #2	WARREN	17.5	
8148811		3416726373		107-DV		EDWARD RINARD #1	LUDLOW	24.0	
8148812		3416726374		107-DV		EDWARD RINARD #2	LUDLOW	14.0	
8148802		3416726080		107-DV		HARRY WEDDLE #2	GRANDVIEW	10.0	
8148803		3416726118		107-DV		MAXINE BARNETT #1	BARLOW	3.5	
8148806		3416726127		107-DV		MAXINE BARNETT #2	BARLOW	17.5	
8148808		3416726265		107-DV		NORMAN RIDGEWAY #1	GRANDVIEW	10.5	
8148810		3416726282		107-DV		NORMAN RIDGEWAY #3	GRANDVIEW	5.2	
8148809		3416726266		107-DV		NORMAN RIDGEWAY #4	GRANDVIEW	15.7	
8148813		3416726448		107-DV		THURMAN ENOCHS #2	LUDLOW	5.0	
8148807		3416726167		107-DV		WILLIAM CLEGG #2 SEC 15	GRANDVIEW	10.0	
8148800		3416725976		107-DV		WILLIAM CLEGG #2 SECTION 33	GRANDVIEW	15.0	
8148801		3416726076		107-DV		WILLIAM CLEGG #3 SECTION 33	GRANDVIEW	20.0	
8148799		3416725905		107-DV		WILLIAM CLEGG #4 SEC 15	GRANDVIEW	20.0	
-SCHRIMSHER OIL & GAS EXPLORATION				RECEIVED: 09/11/81 JA: OH					

JD NO	JA CRT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8148815		3410322575		103		HILL-MCCOLLUM UNIT #1	GRANGER	20.0	COLUMBIA GAS TRAN
8148815		3410322575		107	TF	HILL-MCCOLLUM UNIT #1	GRANGER	20.0	COLUMBIA GAS TRAN
8148816		3410322576		103		HILL-MCCOLLUM UNIT #2	GRANGER	20.0	COLUMBIA GAS TRAN
8148816		3410322576		107	TF	HILL-MCCOLLUM UNIT #2	GRANGER	20.0	COLUMBIA GAS TRAN
8148820		3415320925		103		LACO ASSOCIATES INC #2	HUDSON	20.0	
8148820		3415320925		107	TF	LACO ASSOCIATES INC #2	HUDSON	20.0	
8148821		3415320927		103		PORTERFIELD UNIT #2	HUDSON	20.0	
8148821		3415320927		107	TF	PORTERFIELD UNIT #2	HUDSON	20.0	
8148819		3415320923		103		SAMPSON #1	HUDSON	20.0	
8148819		3415320923		107	TF	SAMPSON #1	HUDSON	20.0	
8148818		3415320916		103		SWIDERSKI #1	HUDSON	20.0	
8148818		3415320916		107	TF	SWIDERSKI #1	HUDSON	20.0	
8148817		3415320915		103		TARANOWSKI #1	HUDSON	20.0	
8148817		3415320915		107	TF	TARANOWSKI #1	HUDSON	20.0	
8148814		3410322543		103		YATSKO UNIT #1	HINCKLEY	20.0	COLUMBIA GAS TRAN
8148814		3410322543		107	TF	YATSKO UNIT #1	HINCKLEY	20.0	COLUMBIA GAS TRAN
-STELLAR PETROLEUM CORP				RECEIVED: 09/11/81 JA: OH					
8148822		3416726229		107	DV	LAWRENCE M SMITH #10	INDEPENDENCE	60.0	
-STOCKER&SITLER INC				RECEIVED: 09/11/81 JA: OH					
8148823		3416922027		103		NO 2 DAN YODER ETAL UNIT	PAINT	46.0	THE EAST OHIO GAS
8148823		3416922027		107	TF	NO 2 DAN YODER ETAL UNIT	PAINT	46.0	THE EAST OHIO GAS
-STRATA EXPL INC LTD PART 1980-10				RECEIVED: 09/11/81 JA: OH					
8148825		3407522425		107	TF	#2 DON BERTLER	HARDY	750.0	COLUMBIA GAS TRAN
-STRATA EXPL INC LTD PART 1980-7				RECEIVED: 09/11/81 JA: OH					
8148829		3407522462		107	TF	#2 LEON GLICK	HARDY	500.0	COLUMBIA GAS TRAN
-STRATA EXPL INC LTD 1980-12				RECEIVED: 09/11/81 JA: OH					
8148833		3407522738		107	TF	#1 H V DUGAN - LEIGHTY	MECHANIC	750.0	COLUMBIA GAS TRAN
-STRATA EXPL INC 1980-11				RECEIVED: 09/11/81 JA: OH					
8148834		3407522739		107	TF	#1 DAN J W MILLER	MECHANIC	500.0	COLUMBIA GAS TRAN
-STRATA EXPLORATION INC LTD PART 80-				RECEIVED: 09/11/81 JA: OH					
8148832		3407522737		107	TF	#1 GINGERICH UNIT	HARDY	500.0	COLUMBIA GAS TRAN
-STRATA EXPLORATION INC LTD 1980-1				RECEIVED: 09/11/81 JA: OH					
8148826		3407522426		107	TF	#1 ALFRED FARR	MECHANIC	250.0	COLUMBIA GAS TRAN
-STRATA EXPLORATION INC LTD 1980-5				RECEIVED: 09/11/81 JA: OH					
8148830		3407522477		107	TF	#1 LESTER COBLENTZ	BERLIN	850.0	COLUMBIA GAS TRAN
-STRATA EXPLORATION INC LTD 1980-6				RECEIVED: 09/11/81 JA: OH					
8148828		3407522461		107	TF	#1 LEON GLICK	HARDY	750.0	COLUMBIA GAS TRAN
-STRATA EXPLORATION INC LTD 1980-8				RECEIVED: 09/11/81 JA: OH					
8148831		3407522667	D	107	TF	#1 TON WILSON	RICHLAND	200.0	COLUMBIA GAS TRAN
-STRATA EXPLORATION INC LTD 80-2				RECEIVED: 09/11/81 JA: OH					
8148824		3407522424		107	TF	#1 DON BERTLER	HARDY	500.0	COLUMBIA GAS TRAN
-STRATA EXPLORATION INC LTD 80-3				RECEIVED: 09/11/81 JA: OH					
8148827		3407522427		107	TF	#2 ALFRED FARR	MECHANIC	350.0	COLUMBIA GAS TRAN
-WHITNAH OIL & GAS CORP				RECEIVED: 09/11/81 JA: OH					
8148837		3416726027		107	DV	BROOKS-SMITH HEIRS #2	INDEPENDENCE	15.0	COLUMBIA GAS TRAN
8148835		3416726010		107	DV	DALE & PHYLLIS HAUGHT #4	INDEPENDENCE	15.0	COLUMBIA GAS TRAN
8148836		3416726022		107	DV	DORA & E J HAUGHT #4	INDEPENDENCE	15.0	COLUMBIA GAS TRAN
8148838		3416726552		107	DV	HOWARD WEST #2	INDEPENDENCE	15.0	COLUMBIA GAS TRAN
-WRAY PETROLEUM CORP OF OHIO				RECEIVED: 09/11/81 JA: OH					
8148839		3412723503		103		WISEMAN #1	BEARFIELD	36.0	
8148839		3412723503		107	RT	WISEMAN #1	BEARFIELD	36.0	

BILLING CODE 6450-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before October 26, 1981.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease:
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–29412 Filed 10–8–81; 8:45 am]

BILLING CODE 6450–01–M

OP NO	JA ST	API NO	D SEC CAT	WELL NAME	FIELD NAME	PRCD	PURCHASER
TEXAS RAILROAD COMMISSION							
-ADA OIL EXPLORATION CORP		RECEIVED: 09/10/81 JA: TX					
8148862	F-03-029806	4247730340	102-2	JAMES J JOHNSTON #1	GIDDINGS	182.5	PHILLIPS PETROLEU
8148861	F-03-029805	4247730341	102-2	STANLEY #1	GIDDINGS	182.5	PHILLIPS PETROLEU
8148860	F-03-029651	4205130817	102-2	W BIRCH CREEK PARK #1	GIDDINGS	182.5	PHILLIPS PETROLEU
-ADJ CO		RECEIVED: 09/10/81 JA: TX					
8148844	F-04-021381	4250500000	102-4	K LOPEZ H NO 1 (79217)	HIDDAT (1400) FIELD	45.0	
-ADOBE OIL & GAS CORPORATION		RECEIVED: 09/10/81 JA: TX					
8149060	F-05-038725	4229330145	108	CARL SADLER GAS UNIT 72205	FARRAR (COTTON VALLEY LI	19.1	TEJAS GAS CORP
-AMERICAN PETROFINA COMPANY OF TEXAS		RECEIVED: 09/10/81 JA: TX					
8149146	F-7P-039431	4244732680	103	BAILES-PARMENTER-JONES #8	BAILES	25.0	GREAT WESTERN GAS
-AMOCO PRODUCTION CO		RECEIVED: 09/10/81 JA: TX					
8149088	F-08-039202	4200332629	103	BLOCK 9 FUHRMAN-MASCHO UNIT #114	FUHRMAN-MASCHO	12.4	PHILLIPS PETROLEU
8149089	F-08-039203	4200332626	103	BLOCK 9 FUHRMAN-MASCHO UNIT #121	FUHRMAN-MASCHO	6.6	PHILLIPS PETROLEU
8149087	F-06-039201	4234931564	102-4	INA K CARROLL OIL UNIT /D/ WELL #2	CHENEYBORO/COTTON VALLEY	30.0	LONE STAR GAS CO
8149087	F-06-039201	4234931564	107-TF	INA K CARROLL OIL UNIT /D/ WELL #2	CHENEYBORO/COTTON VALLEY	30.0	LONE STAR GAS CO
8148843	F-10-014697	4239300000	108-ER	LIPS RANCH H #13	HANSFORD - UPPER MORROW	2.0	NORTHERN NATURAL
8149110	F-10-039311	4229530835	103	MEIER & BECHTOLD NC 1	DARROUZETT/TONKAWA	1.0	PHILLIPS PETROLEU
8148952	F-04-034991	4248900410	102-4	WILLAMAR COMMUNITY U NO 1	WILLAMAR /5120/	200.0	NATURAL GAS PIPEL
-ANDERSON PETROLEUM INC		RECEIVED: 09/10/81 JA: TX					
8148907	F-7C-033027	4210532637	103	ELOISE CARSON CLEGG C1 2-9	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8148907	F-7C-033027	4210532637	107-TF	ELOISE CARSON CLEGG C1 2-9	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8148955	F-7C-035112	4210533208	103	SARAH C MILLSPAUGH B2 4-14	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8148955	F-7C-035112	4210533208	107-TF	SARAH C MILLSPAUGH B2 4-14	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
-APOLLO ENERGY CORP		RECEIVED: 09/10/81 JA: TX					
8149007	F-10-037732	4229500000	103	KIRK PROPERTIES #1 #91907	LIPSCOMB (CLEVELAND)	36.0	DIAMOND-SHAMROCK
-ARCO OIL AND GAS COMPANY		RECEIVED: 09/10/81 JA: TX					
8149098	F-7C-039259	4223531674	103	ELA C SUGG C-51 WELL NO 3	SPRAYBERRY TREND AREA	21.0	J L DAVIS
8149102	F-7C-039263	4223531725	103	J R SCOTT ESTATE A-56 WELL #3	SPRAYBERRY TREND AREA	19.0	J L DAVIS
8149100	F-7C-039261	4223531724	103	J R SCOTT ESTATE 54 WELL #6	SPRAYBERRY TREND AREA	20.0	J L DAVIS
8149101	F-7C-039262	4223531723	103	J R SCOTT ESTATE 56 WELL #4	SPRAYBERRY TREND AREA	18.0	J L DAVIS
8149099	F-7C-039260	4223531756	103	J R SCOTT ESTATE 56 WELL #5	SPRAYBERRY TREND AREA	21.0	J L DAVIS
-B & H OPERATING CO INC		RECEIVED: 09/10/81 JA: TX					
8149004	F-04-037621	4242731516	103	CAMERON - STATE ID#93349	YZAGUIRRE (4250)	182.0	SUN GAS CO
8149003	F-03-037620	4220131088	103	WELLS FARGO REALTY ID	PECEN (YEGUA Y-4)	144.0	UNITED GAS PIPELI
-B J GIERHART INC		RECEIVED: 09/10/81 JA: TX					
8148945	F-05-034837	4205100000	102-2	MAREK WELL NO 3	GIDDINGS (AUSTIN CHALK)	0.0	FERGUSON CROSSING
-BALL PRODUCING CO		RECEIVED: 09/10/81 JA: TX					
8148989	F-7B-037168	4213332515	102-4	OSBORN B #2	TAYLOR (CADDO)	927.0	LONE STAR GAS CO
-BLOCKER EXPLORATION CO		RECEIVED: 09/10/81 JA: TX					
8149039	F-03-038159	4236130369	102-4	POWELL LUMBER COMPANY	WEST SABINE (HACKBERRY)	365.0	AMOCO GAS CO
-BRIDWELL OIL CO		RECEIVED: 09/10/81 JA: TX					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8149025	F-09-037928	4207731295			103	SCALING RANCH P #3	LAZY B (STRAWN)	6.0	FAGADAU ENERGY CO
8149024	F-09-037927	4207731294			103	SCALING RANCH P #4	LAZY B (STRAWN)	6.0	FAGADAU ENERGY CO
8149023	F-09-037926	4207731378			103	SCALING RANCH P #5	LAZY B (STRAWN)	6.0	FAGADAU ENERGY CO
8149022	F-09-037925	4207731377			103	SCALING RANCH P #6	LAZY B (STRAWN)	6.0	FAGADAU ENERGY CO
8149021	F-09-037924	4207731410			103	SCALING RANCH P #7	LAZY B (STRAWN)	6.0	FAGADAU ENERGY CO
8149020	F-09-037923	4207731413			103	SCALING RANCH P #8	LAZY B (STRAWN)	6.0	FAGADAU ENERGY CO
-BRUNER OIL & GAS INC						RECEIVED: 09/10/81 JA: TX			
8148966	F-7B-035810	4214330664			102-4	SIMS NO 1 WELL		0.0	CORONADO TRANSMIS
-BTA OIL PRODUCERS						RECEIVED: 09/10/81 JA: TX			
8148977	F-08-036275	4247531916			103	7906 J V P HENRY #1	BLOCK 16 (DEVONIAN)	300.0	INTRATEX GAS CO
-CAG PETROLEUM CORP						RECEIVED: 09/10/81 JA: TX			
8149133	F-03-039370	4205131372			102-2	MACAT NO 1 RRC #14313	GIDDINGS (AUSTIN CHALK)	0.0	FERGUSON CROSSING
-CANYON CO						RECEIVED: 09/10/81 JA: TX			
8148913	F-7C-033504	4210532612			103	HOOVER ESTATE 102B	AMERICAN (CANYON)	45.0	EL PASO NATURAL G
8148913	F-7C-033504	4210532612			107-TF	HOOVER ESTATE 102B	AMERICAN (CANYON)	45.0	EL PASO NATURAL G
8148914	F-7C-033506	4210532577			103	LAURA HOOVER ESTATE 1 #1B	AMERICAN (CANYON)	50.0	EL PASO NATURAL G
8148914	F-7C-033506	4210532577			107-TF	LAURA HOOVER ESTATE 1 #1B	AMERICAN (CANYON)	50.0	EL PASO NATURAL G
-CHAMPLIN PETROLEUM COMPANY						RECEIVED: 09/10/81 JA: TX			
8148906	F-04-032815	4231531091			102-4	A W BEAURLINE NO 2 (M&S)	LOS INDIOS W	173.0	TENNESSEE GAS PIP
8148906	F-04-032815	4231531091			103	A W BEAURLINE NO 2 (M&S)	LOS INDIOS W	173.0	TENNESSEE GAS PIP
8148957	F-03-035214	4205100000			102-2	EARL SEBESTA NO 1	GIDDINGS	0.0	FERGUSON CROSSING
8148957	F-03-035214	4205100000			103	EARL SEBESTA NO 1	GIDDINGS	0.0	FERGUSON CROSSING
8148874	F-7C-031925	4223531638			102-2	H W CLARK NO 1	WILDCAT	99.0	
8148874	F-7C-031925	4223531638			103	H W CLARK NO 1	WILDCAT	99.0	
8148929	F-03-034345	4205100000			102-2	MELVIN SKRABANEK NO 1	GIDDINGS	0.0	FERGUSON CROSSING
8148929	F-03-034345	4205100000			103	MELVIN SKRABANEK NO 1	GIDDINGS	0.0	FERGUSON CROSSING
8148964	F-03-035736	4205100000			102-2	VACLAV HYVL NO 1	GIDDINGS	0.0	FERGUSON CROSSING
8148964	F-03-035736	4205100000			103	VACLAV HYVL NO 1	GIDDINGS	0.0	FERGUSON CROSSING
-CHASE OIL & GAS INC						RECEIVED: 09/10/81 JA: TX			
8148994	F-05-037307	4234900000			102-4	SUMMERAL BEAUCHAMP B-1 RRC #92620	O L HILL (WOODBINE)	100.0	LONE STAR GAS CO
-CIBOLA OIL & GAS CORP						RECEIVED: 09/10/81 JA: TX			
8148852	F-7B-027053	4213332209			103	TINKLER #1 RRC #15851	DESDEMONA	20.0	NORTH GORMAN GATH
-CLARION RESOURCES INC						RECEIVED: 09/10/81 JA: TX			
8148855	F-7B-028523	4214300000			102-4	CARAWAY-LOWE #9 86567	LIBERTY OAK (BIG SALINE)	10.0	NORTHERN GAS PROD
8148855	F-7B-028523	4214300000			103	CARAWAY-LOWE #9 86567	LIBERTY OAK (BIG SALINE)	10.0	NORTHERN GAS PROD
-CLAYTON W WILLIAMS JR						RECEIVED: 09/10/81 JA: TX			
8148948	F-03-034775	4205100000			102-2	ALICE CALVIN UNIT NO 1	GIDDINGS	0.0	VALERO TRANSMISSI
8148923	F-03-033946	4205130976			102-2	BERNICE-BRINKMANN UNIT #1	GIDDINGS	0.0	VALERO TRANSMISSI
8148911	F-03-033284	4228700000			102-2	CHARLES BORIACK #1	GIDDINGS	0.0	VALERO TRANSMISSI
8148953	F-03-035018	4205130958			102-2	MARY BOTKIN #1	GIDDINGS	0.0	VALERO TRANSMISSI
8148910	F-03-033281	4205100000			102-2	PETERS-MYNAR UNIT #1	GIDDINGS	0.0	VALERO TRANSMISSI
8148909	F-03-033280	4205100000			102-2	ROY HERMANN #2	GIDDINGS	0.0	VALERO TRANSMISSI
8148934	F-03-034647	4228700000			102-2	SCHMIDT-SACKS UNIT #1	GIDDINGS	0.0	VALERO TRANSMISSI
-COATES ENERGY TRUST						RECEIVED: 09/10/81 JA: TX			
8148985	F-01-036865	4212700000			102-4	BARANOWSKI UNIT WELL NO 1	BLAKEWAY	183.0	VALERO TRANSMISSI
-COMANCHE RESOURCES INC						RECEIVED: 09/10/81 JA: TX			
8149015	F-7B-037860	4204932605			102-4	D B GUNN NO 3	DALE (CADDO)	30.0	SIOUX PIPELINE CO
-COMINCO AMERICAN INC						RECEIVED: 09/10/81 JA: TX			
8148984	F-10-036618	4229500000			102-4	STUART RANCH NO 7	STUART RANCH (MORROW MID	0.0	NORTHERN NATURAL
-CONOCO INC						RECEIVED: 09/10/81 JA: TX			
8149122	F-08-039340	4213533517			103	GIST UNIT #130 IC #19373	FOSTER	9.5	ODESSA NATURAL CO
8149123	F-08-039341	4213533512			103	GIST UNIT #131	FOSTER	12.8	ODESSA NATURAL CO
8149069	F-7B-038923	4215130881			108	J B TERRELL -A- #9 IO #13657	ROUND TOP	7.6	LONE STAR GAS CO

OD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8149145	F-08-039422	4210931476		103		RAMSEY -22- #16 ID #24217	FORD WEST (4100)	12.4	EL PASO NATURAL G
8148876	F-04-032014	4213132448		103		ROBERT DRISCOLL NO 129	CONOCO DRISCOLL (GOVT WE	120.0	TRANSCO GAS PIPE
-CREST RESOURCES & EXPL CORP				RECEIVED: 09/10/81 JA: TX					
8148947	F-03-034734	4215731140		102-4		OBANION WILLIAMS A WELL NO 1	N CLODINE	250.0	HOUSTON PIPE LINE
-DALTON H COBB				RECEIVED: 09/10/81 JA: TX					
8148845	F-08-023446	4237100000		102-4		CHARLES J WALKER NO 1 WELL #87269	COBB (DEVONIAN)	365.0	EL PASO NATURAL G
-DAMERON PETROLEUM CORP				RECEIVED: 09/10/81 JA: TX					
8148919	F-7C-033535	4210532380		102-4		LAURA HOOVER ESTATE #103	AMERICAN (SPRABERRY D)	15.0	EL PASO NATURAL G
8148918	F-7C-033534	4210532722		102-2		W P HOOVER - SEC 13 #2A	AMERICAN (SPRABERRY B)	15.0	EL PASO NATURAL G
8148916	F-7C-033531	4210532576		102-2		W P HOOVER - SEC 13 BLK NN #1L	AMERICAN (SPRABERRY B)	30.0	EL PASO NATURAL G
8148915	F-7C-033530	4210532576		102-2		W P HOOVER - SEC 13 BLK NN #1U	AMERICAN (SPRABERRY A)	40.0	EL PASO NATURAL G
8148917	F-7C-033533	4210532352		102-4		W P HOOVER #2011A	AMERICAN (SPRABERRY B)	25.0	EL PASO NATURAL G
-DELTA DRILLING CO				RECEIVED: 09/10/81 JA: TX					
8149115	F-7C-039327	4210500000		108		COUCH B #2 35689	OZONA FLD	0.0	NORTHERN NATURAL
-DIAMOND SHAMROCK CORPORATION				RECEIVED: 09/10/81 JA: TX					
8148932	F-10-034580	4229530921		103		LYDIA BRADFORD NO 2	BRADFORD	0.0	SOUTHWESTERN PUBL
-DILLEY PRODUCTION CO				RECEIVED: 09/10/81 JA: TX					
8149125	F-01-039348	4216331867		103		CHIODO-ASTRO A #1	PEARSALL (AUSTIN CHALK)	6.5	TGP INC
8149126	F-01-039349	4216331879		103		M L KING-ASTRO #1	PEARSALL (AUSTIN CHALK)	4.1	TGP INC
8149127	F-01-039350	4216331910		103		MARY A URBAN #1	PEARSALL (AUSTIN CHALK)	6.0	TGP INC
-DISCOVERY OPERATING INC				RECEIVED: 09/10/81 JA: TX					
8149090	F-7C-039206	4241331007		102-4		PAGE #2	PAGE WEST (CANYON)	28.8	CRA INC
8149090	F-7C-039206	4241331007		107-TF		PAGE #2	PAGE WEST (CANYON)	26.8	CRA INC
-DONALD G HOLLAND				RECEIVED: 09/10/81 JA: TX					
8148868	F-7C-030848	4239000000		102-4		DAVENPORT #1	GERHART (GARDNER SAND)	57.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED: 09/10/81 JA: TX					
8148873	F-10-031379	4248330774		103		MAGNOLIA A #4	EAST PANHANDLE	27.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED: 09/10/81 JA: TX					
8148928	F-7C-034336	4238331785		103		FRIEND A NO 4	FARMERS	20.0	NORTHERN NATURAL
-ENTEX PETROLEUM INC				RECEIVED: 09/10/81 JA: TX					
8149046	F-02-038281	4202531466		102-4		EDWARD WICKER #1	WICKER RANCH FIELD	182.5	FERGUSON PIPE LIN
-EXXON CORPORATION				RECEIVED: 09/10/81 JA: TX					
8149085	F-02-039182	4229732609		103		CHARLES L MCCASLIN 18D (#92539)	RAMIRENA SW (YEGUA 10)	104.6	NATURAL GAS PIPEL
8149095	F-08-039250	4237133433		103		FORT STOCKTON UNIT #1007	FORT STOCKTON	72.0	NUECES CO
8149096	F-08-039251	4237133375		103		FORT STOCKTON UNIT #219U	FORT STOCKTON	1.0	NUECES CO
8149032	F-08-038032	4200332485		103		FULLERTON CLEARFORK UNIT #2729	FULLERTON	15.0	PHILLIPS PETROLEU
8149031	F-08-038031	4200332570		103		FULLERTON CLEARFORK UNIT #419	FULLERTON	15.0	PHILLIPS PETROLEU
8148973	F-08-036189	4200332539		103		FULLERTON CLEARFORK UNIT #427	FULLERTON	20.0	PHILLIPS PETROLEU
8149094	F-08-039249	4249531164		103		HALEY UNIT #502	EVETTS (SILURIAN)	350.0	INTRATEX GAS CC
8149097	F-8A-039252	4244530869		103		HAROLD R COONS #1U	LEEPER (GLORIETA)	1.0	
8149030	F-08-038029	4210332495		103		J B TUBB F #20L	SAND HILLS (TUBB)	15.0	EL PASO NATURAL G
*8149093	F-03-039211	4215731143		103		KATY GAS FIELD UNIT 2 WELL 52	KATY S (FIRST WILCOX)	698.0	ARMCO STEEL CORP
*8149092	F-03-039210	4215731144		103		KATY GAS FIELD UNIT 2 WELL 57	KATY S (FIRST WILCOX)	705.0	ARMCO STEEL CORP
8148931	F-8A-034411	4216531913		103		M S DOSS A/C 2 #5	ROBERTSON N (CLEAR FORK	15.0	PHILLIPS PETROLEU
8148912	F-02-033482	4246931685		103		M T VANDENBERGE #14 (ID PENDING)	HEYSER (5400 #2)	545.0	TENNESSEE GAS PIP
*8149137	F-09-039385	4226130623		103		MRS S K EAST 124 (93832)	RITA NE (1-70)	730.0	ARMCO STEEL CORP
*8149084	F-06-039176	4207330360		102-4		REKLAW GAS UNIT 1 #2	REKLAW (TRAVIS PEAK)	263.0	ARMCO STEEL CORP
8149029	F-8A-038028	4216531946		103		ROBERTSON CLFK UNIT #5903	ROBERTSON N (CLFK 7100)	15.0	PHILLIPS PETROLEU
-FARRINGTON ENERGY INC				RECEIVED: 09/10/81 JA: TX					
8148864	F-06-029846	4249930760		103		#1 DAN GRAHAM	QUITMAN (Q-5 SW)	16.0	CRA INC
-FRANK CASS				RECEIVED: 09/10/81 JA: TX					
8148981	F-08-036438	4232900000		108		DRIVER 34 NO 1 RRC NO 22571	SPRABERRY (TREND AREA)	105.0	EL PASO NATURAL G
8148980	F-08-036437	4232900000		108		DRIVER 34 NO 2 RRC NO 22571	SPRABERRY (TREND AREA)	84.0	EL PASO NATURAL G

JD NO	JA CKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-FURRY PRODUCING CO						RECEIVED: 09/10/81 JA: TX			
8148870	F-7B-030891	4204931690		103		J C BIBBY #4-A	BROWN COUNTY REGULAR (MA	144.0	SIOUX PIPELINE CO
-GENESIS PETROLEUM CORP						RECEIVED: 09/10/81 JA: TX			
8149009	F-03-037788	4232131108		103		STATE TRACT 309 WELL NO 5-LT - UNA	OLIVER POINT S (4000)	365.0	DOW PIPELINE CO
8149010	F-03-037789	4232131108		103		STATE TRACT 309 WELL NO 5-UT - UNA	OLIVER POINT S (3950)	365.0	DOW PIPELINE CO
-GETTY OIL COMPANY						RECEIVED: 09/10/81 JA: TX			
8149050	F-06-038343	4236500000		108		A R CURTIS #2 RRC ID #32993	CARTHAGE (PALUXY)	21.0	TEXAS GAS TRANSMI
8149051	F-03-038349	4232100000		108		L S HARRISON GAS UN #3 RRC # 79357	PALACIOS (FRIO E)	0.1	DOW CHEMICAL CO
8149082	F-08-039144	4210332473		103		NORTH MCELROY UNIT WELL NO 2249	MCELROY	31.0	PHILLIPS PETROLEU
8149045	F-06-038278	4236500000		108		O L JONES #1 RRC ID #30174	CARTHAGE (L PETTIT)	11.0	UNITED GAS PIPELI
8149074	F-8A-039009	4216500000		103		R E JAMESON #1	G-M-K (BASAL YATES)	55.0	PIONEER NATURAL G
8149052	F-06-038385	4236500000		108		SHARP-SMITH #1	CARTHAGE (L PETTIT)	19.0	ARKANSAS LOUISIAN
8149049	F-06-038342	4236500000		108		WERNER G GU #1 RRC ID #29847	CARTHAGE (U PETTIT)	12.0	TEXAS GAS TRANSMI
8149053	F-06-038386	4236500000		108		WERNER R #1 RRC ID NO 31561	BETHANY (PALUXY)	3.0	UNITED GAS PIPELI
8149054	F-06-038387	4236500000		108		WERNER-MATTHEWS #1 RRC ID #29444	BETHANY (PETTIT)	10.0	TENNESSEE GAS PIP
-GEODYNAMICS OIL & GAS						RECEIVED: 09/10/81 JA: TX			
8148851	F-03-026638	4205130350		102-2		LOWELL PATTERSON #1	STONE CITY (AUSTIN CHALK	21.0	CLAJON GAS CO
-GO-TEX OIL & GAS CO						RECEIVED: 09/10/81 JA: TX			
8148988	F-04-036951	4224931220		102-4		HELEN STRAUBE NO 1	WEST WADE CITY (2100)	50.0	UNITED GAS PIPE L
-GRACE PETROLEUM CORPORATION						RECEIVED: 09/10/81 JA: TX			
8148904	F-06-032408	4241930175		102-2		ARCO NO 1	STOCKMAN (TRAVIS-PEAK)	182.6	ARKANSAS LOUISIAN
8148983	F-04-036580	4224931350		102-4		FREEBORN NO 35	WEST AMARGOSA	0.0	HOUSTON PIPELINE
8148954	F-7C-035079	4241330932		103		TUCKER #7	TOE NAIL	5.0	ARCO OIL & GAS CO
-GULF COAST OIL & MINERALS						RECEIVED: 09/10/81 JA: TX			
8149071	F-02-038969	4223900000		108		VOLNEY R SIMONS	CARMICHAEL (2500)	18.0	TRUNKLINE GAS CO
-GULF OIL CORPORATION						RECEIVED: 09/10/81 JA: TX			
8149112	F-08-039316	4247532244		103		HUTCHINGS STOCK ASSN NO 1116	WAGON WHEEL (PENN)	24.0	CABOT CORP
8148841	F-09-003600	4223700000		108-ER		MARY WORTHINGTON NO 1	BOONSVILLE BEND CONGLOME	8.2	NATURAL GAS PIPEL
-H-M OIL CO						RECEIVED: 09/10/81 JA: TX			
8148972	F-02-036121	4228531550		103		MCELROY #1	WILDCAT (3700) PROPOSED	108.0	VALERO TRANS CO
8148995	F-04-037397	4213133970		102-4		TREVINO WELL #1		0.0	GHR ENERGY CORP
8149001	F-04-037563	4213134721		102-4		TREVINO WELL #2		0.0	GHR ENERGY CORP
8149001	F-04-037563	4213134721		103		TREVINO WELL #2		0.0	GHR ENERGY CORP
-HANOVER MANAGEMENT CO						RECEIVED: 09/10/81 JA: TX			
8149002	F-04-037617	4235531661		102-4		H A CAGE #1	COTTON (BUSENLEHNER) FIE	150.0	FERGUSON CROSSING
-HARKEN OIL & GAS INCORP						RECEIVED: 09/10/81 JA: TX			
8149006	F-7B-037704	4236332055		102-4		NICKELL UNIT #1 83515	MINERAL WELLS S (CONGL)	182.5	TEXAS UTILITIES F
-HENRY HYDROCARBON						RECEIVED: 09/10/81 JA: TX			
8148956	F-7B-035186	4236300000		102-4		C T HEARNE NO 1	SALESVILLE S (CONGL LOWE	30.0	SOUTHWESTERN GAS
-HEXAGON OIL & GAS INC						RECEIVED: 09/10/81 JA: TX			
8148996	F-7B-037402	4214330671		102-4		BEN CHAMBERS NO 1	X-RAY SOUTH (MARBLE FALL	194.0	VALERO TRANSMISSI
-HNG OIL COMPANY						RECEIVED: 09/10/81 JA: TX			
8148998	F-08-037464	4243130576		103		MCENTIRE 5 #2	CREDO E (CISCO UPPER)	7.1	INTRATEX GAS CO
-HOU-TEX OIL & GAS CO						RECEIVED: 09/10/81 JA: TX			
8148925	F-01-033980	4202100000		102-2		O R MITCHELL NO 1	BLUFF CREEK	182.0	
-HUGHES & HUGHES						RECEIVED: 09/10/81 JA: TX			
8149140	F-04-039400	4235531592		102-4		JOHN NORRIS -A- LEASE WELL NO 1	MINNIE BOCK W (7500)	110.0	DELHI GAS PIPE LI
8149141	F-04-039403	4235531612		102-4		W C BERNSEN -A- LEASE WELL #1	MINNIE BOCK EAST (CAGE)	110.0	FERGUSON CROSSING
-HUMBLE EXPLORATION CO INC						RECEIVED: 09/10/81 JA: TX			
8148859	F-03-029391	4214930701		102-2		SUZANNE #1 WELL	GIDDINGS	1012.0	PHILLIPS PETROLEU
8148859	F-03-029391	4214930701		103		SUZANNE #1 WELL	GIDDINGS	1012.0	PHILLIPS PETROLEU
-HUNT OIL COMPANY						RECEIVED: 09/10/81 JA: TX			
8149157	F-06-039546	4221330294		103		FAIRWAY (JAMES LIME) UNIT #545-3	FAIRWAY (JAMES LIME) UNI	67.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-INDIAN WELLS OIL CO				RECEIVED: 09/10/81 JA: TX					
8149026	F-7C-037934	4210532991		103		MCMULLAN 37-4	OZONA (CANYON)	150.0	NORTHERN NATURAL
-INLAND OCEAN INC				RECEIVED: 09/10/81 JA: TX					
8149128	F-02-039351	4217500000		102-4		LANGE NO 1	CARTER THOMAS (THIRD YEG	219.0	UNITED GAS PIPELI
8149124	F-02-039343	4217500000		102-4		THOMAS-VOELKEL NO 1	CARTER THOMAS (THIRD YEG	219.0	UNITED GAS PIPELI
-J J TRAVIS				RECEIVED: 09/10/81 JA: TX					
8149041	F-8A-038221	4216500000		108		ALLEN W BYRD #1 40347	LOOP NE (YATES)	0.0	PIONEER NATURAL G
8149040	F-8A-038219	4216500000		108		FLEMING UNIT #2 39603	LOOP NE YATES	15.0	PIONEER NATURAL G
-J-W OPERATING COMPANY				RECEIVED: 09/10/81 JA: TX					
8149048	F-02-038338	4212331088		102-4		W SPIES #1	SPIES (FRIO)	6.9	VALERO TRANSMISSI
-JACK N BLAIR				RECEIVED: 09/10/81 JA: TX					
8149047	F-08-038337	4213533537		102-4		VEST RANCH #1	HOLLIJACK	72.0	PHILLIPS PETROLEU
-JACK W GRIGSBY				RECEIVED: 09/10/81 JA: TX					
8148875	F-06-031954	4236531136		102-2		S L DAVIS NO 1	CARTHAGE (COTTON VALLEY)	108.0	UNITED GAS PIPE L
8148875	F-06-031954	4236531136		107-TF		S L DAVIS NO 1	CARTHAGE (COTTON VALLEY)	108.0	UNITED GAS PIPE L
-JERRY E WYLIE OIL DRILLING COMPANY				RECEIVED: 09/10/81 JA: TX					
8148867	F-7B-030824	4209300000		102-4		ARNOLD BUTLER #3 (14243)	DUSTER NE (MARBLE FALLS	23.0	LONE STAR GAS CO
-JOE C RICHARDSON JR				RECEIVED: 09/10/81 JA: TX					
8149154	F-10-039527	4235731102		103		PETERSON #2	BARLOW (DES MOINES)	27.4	PHILLIPS PETROLEU
8149153	F-10-039526	4235731027		102-4		SUSAN #1-23	RICHARDSON (MARMATON)	1.1	PHILLIPS PETROLEU
-JOHN L COX				RECEIVED: 09/10/81 JA: TX					
8148937	F-08-034701	4232930957		103		CLAUDE COOK #1	SPRABERRY (TREND AREA)	10.0	EL PASO NATURAL G
8148848	F-7C-025674	4246131550		103		FELMONT-MORGAN B #2 RRC #07871	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEU
8148939	F-08-034703	4243130858		103		FOSTER #4 (RRC #24789)	CONGER (PENN)	10.0	
8148936	F-08-034700	4231732248		103		G I MADISON JR #1 (RRC# NA)	SPRABERRY (TREND AREA)	10.0	NORTHERN NATURAL
8148938	F-7C-034702	4246131636		103		H F NEAL EST #4 (RRC #07736)	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETR CO
8148945	F-7C-034710	4246131685		103		HALAMICEK B #2 RRC #08693	MCGILL (SPRABERRY)	10.0	PHILLIPS PETR CO
8148946	F-7C-034713	4246131740		103		LYNCH 6 #1 (RRC # NA)	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETR CO
8148943	F-08-034708	4231732307		103		MABEE FOUNDATION #3 RRC #26086	SPRABERRY (TREND AREA)	10.0	NORTHERN NATURAL
8148944	F-08-034709	4232930966		103		MABEE FOUNDATION D #2 (RRC #26381)	SPRABERRY (TREND AREA)	10.0	NORTHERN NATURAL
8148942	F-08-034706	4232930965		103		MABEE FOUNDATION E #1 (RRC # NA)	SPRABERRY (TREND AREA)	10.0	NORTHERN NATURAL
8148930	F-7C-034401	4246131709		103		NEAL 38 #1	BENEDUM (FUSSELMAN)	20.0	UNION TEXAS PETRO
8148941	F-7C-034705	4231732240		103		QUATTLEBAUM #1 (RRC # NA)	SPRABERRY (TREND AREA)	10.0	NORTHERN NATURAL
8148940	F-08-034704	4246131697		103		UNIVERSITY 11 (RRC # NA)	BENEDUM (FUSSELMAN)	20.0	PHILLIPS PETROLEU
8148935	F-7C-034697	4238331734		103		WOLTERS EST B #4 (RRC #08313)	SPRABERRY (TREND AREA)	10.0	EL PASO NATURAL G
-KEY PRODUCTION CO INC				RECEIVED: 09/10/81 JA: TX					
8148991	F-06-037286	4236531160		102-4		ROBERT BALDWIN ETAL 1	JOAQUIN (WIENER)	273.8	WESTERN GAS CORP
8148992	F-06-037287	4236531161		102-4		SMITH PRICE ETAL	JOAQUIN (WIENER)	273.8	WESTERN GAS CORP
-LARIAT OIL & GAS				RECEIVED: 09/10/81 JA: TX					
8149018	F-7B-037888	4236732010		102-4		CORNELIUS #1	WILDCAT	264.0	SOUTHWESTERN GAS
-MARALO INC				RECEIVED: 09/10/81 JA: TX					
8149091	F-08-039209	4200332669		103		DEEP ROCK ET AL A #1-S	SHAFTER LAKE (SAN ANDRES	5.4	PHILLIPS PETROLEU
-MASON ENERGIES INC				RECEIVED: 09/10/81 JA: TX					
8148847	F-7B-025277	4214330434		102-2		SKILES 6 - API 42 143 30434	MORGAN MILLS	72.0	
8148846	F-7B-025275	4214330433		102-2		SKILES 7 - API 42 143 30434	MORGAN MILLS	72.0	
-MAY PETROLEUM INC				RECEIVED: 09/10/81 JA: TX					
8149014	F-10-037845	4219530901		103		GOSSETS #1	FOLLETT (MORROW)	365.0	
8149005	F-10-037686	4235731086		103		GREEVER #1	DUTCHER (CLEVELAND)	54.8	PHILLIPS PETROLEU
8149061	F-10-038787	4229530976		102-4		LONGHOFER #2 (93633)	CAMBRIDGE SOUTH (MORROW	730.0	
-MAYNARD OIL COMPANY				RECEIVED: 09/10/81 JA: TX					
8148908	F-04-033177	4235531160		102-4		CECILIA & ELEANOR KELLY GAS UNIT 1	CORPUS CHRISTI W (FRIO K	365.0	DELHI GAS PIPELIN
8149065	F-03-038829	4205131459		102-4		TATUM NO 3	CALDWELL (AUSTIN CHALK)	0.0	FERGUSON CROSSING
-MCCANN CORP				RECEIVED: 09/10/81 JA: TX					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8148842	F-08-014225	4222731882		102-2		READ A #2	COAHOMA N (FUSSEL)	36.5	GETTY OIL CO
8148842	F-08-014225	4222731882		103		READ A #2	COAHOMA N (FUSSEL)	36.5	GETTY OIL CO
8149077	F-08-039095	4222732041		102-3		READ A #5	COAHOMA N (FUSSEL)	129.6	GETTY OIL CO
8149077	F-08-039095	4222732041		103		READ A #5	COAHOMA N (FUSSEL)	129.6	GETTY OIL CO
-MCCORMICK OPERATING CO				RECEIVED: 09/10/81 JA: TX					
8149070	F-06-038958	4240130361		103		B B GRAY ESTATE UNIT NO 1	OAK HILL (COTTON VALLEY)	254.5	HYDROCARBON TRANS
8149103	F-06-038274	4240130701		103		TURNER GAS UNIT NO 2	OAK HILL (COTTON VALLEY)	199.9	HYDROCARBON TRANS
-MEG PETROLEUM CORP				RECEIVED: 09/10/81 JA: TX					
8149156	F-7C-039541	4223531711		103		NOELKE #1	KINGSLEY (ELLENBURGER)	279.7	NORTHERN NATURAL
-MEWBOURNE OIL COMPANY				RECEIVED: 09/10/81 JA: TX					
8148922	F-10-033860	4235731087		102-4		CONDON 53 #1 RRC ID#	NORTH HUNTOON (LOWER MOR	25.0	NORTHERN NATURAL
-MITCHELL ENERGY CORPORATION				RECEIVED: 09/10/81 JA: TX					
8149016	F-09-037880	4249700000		103		ASCCU #15-4	ALVORD SOUTH (CADDO CONG	0.0	NATURAL GAS PIPEL
8149113	F-09-039319	4223733187		103		BOYD HEIRS NO 1	KRAMBERGER (ATOKA CONGLO	8.0	NATURAL GAS PIPEL
8148982	F-09-036500	4250333945		102-4		C A MCMURTRY #2	JERMYN WEST (CADDO LOWER	140.0	SOUTHWESTERN GAS
8149017	F-09-037881	4249733196		103		G F WIMBERLY NO 2	W R RICHARDS (MARBLE FAL	90.0	NATURAL GAS PIPEL
8149114	F-09-039320	4223733627		103		J W LOVING ESTATE NO 11	BRYSON EAST	2.0	SOUTHWESTERN GAS
8148905	F-09-032453	4249731960		103		NELL HUDDLESTON NO 2-A	RHOME (CADDO)	48.0	NATURAL GAS PIPEL
8148970	F-05-036062	4228900000		108		O K TAYLOR #3 50259	BUFFALO SOUTH (WOODBINE)	0.0	LONE STAR GAS CO
8148969	F-09-036052	4249700000		108		ROY ROBINSON #3 10009	ALVORD (ATOKA CONGL)	11.2	NATURAL GAS PIPEL
8148869	F-05-030867	4229330514		103		V MCFERRAN #1	POKEY EAST (COTTEN VALLE	300.0	TEXAS UTILITIES F
8148869	F-05-030867	4229330514		107-TF		V MCFERRAN #1	POKEY EAST (COTTEN VALLE	300.0	TEXAS UTILITIES F
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED: 09/10/81 JA: TX					
8149066	F-03-038832	4219931533		102-4		O D FELDMAN A NO 2	SARATOGA (EY)	0.4	
*8148959	F-05-035305	4224900000		108		LA GLORIA GAS UNIT NO 87	LA GLORIA/PENA	9.3	TRANSCONTINENTAL
*8149143	F-08-039419	4232930986		103		PRESTON SPRABERRY UNIT NO 3105	SPRABERRY (TREND AREA)	17.2	EL PASO NATURAL G
-MOODY ENERGY CO				RECEIVED: 09/10/81 JA: TX					
8149083	F-10-039163	4221131331		103		MURL KENYON NO 2 WELL LSE # 04649	FELDMAN (TONKAWA)	0.0	PHILLIPS PETROLEU
-MOSBACHER PRODUCTION CO				RECEIVED: 09/10/81 JA: TX					
8149086	F-03-039188	4205131453		102-2		DENNIS W DRGAC NO 1	GIDDINGS (AUSTIN CHALK)	14.0	CLAJON GAS CO
-MOTE RESOURCES INC				RECEIVED: 09/10/81 JA: TX					
8149136	F-09-030382	4207732039		103		FRED STEPHENS #1	ANTELOPE MISSISSIPPI LIM	1.2	FAGADAU ENERGY CO
-NATURAL GAS ANADARKO INC				RECEIVED: 09/10/81 JA: TX					
8148927	F-10-034247	4235731061		102-4		VIRGY #1-302	TURNER S E (MORROW UPPER	400.0	TRANSWESTERN PIPE
-NICHOLS & BRADY PRODUCTION CO				RECEIVED: 09/10/81 JA: TX					
8149117	F-8A-039332	4216500000		108		CUNNINGHAM-DAVIS NO 2 WELL	HOMANN (YATES)	7.1	PIONEER CORP
8149119	F-8A-039334	4216500000		108		DORA CUNNINGHAM A AC 1 WELL	HOMANN (YATES)	2.1	PIONEER CORP
8149121	F-8A-039336	4216500000		108		HOMANN NO 2 WELL		7.4	PIONEER CORP
8149120	F-8A-039335	4216500000		108		T S RILEY F NO 1 WELL	HOMANN (YATES)	12.7	PIONEER CORP
8149118	F-8A-039333	4216500000		108		T S RILEY NO 1 WELL	HOMANN (YATES)	3.2	PIONEER CORP
8149116	F-8A-039331	4216500000		108		WALTER BUCK NO 1 WELL	HOMANN (YATES)	8.5	PIONEER CORP
-OILWELL OPERATORS INC				RECEIVED: 09/10/81 JA: TX					
8148961	F-10-035515	4217900000		108		GRAY #3 02920	PANHANDLE-GRAY	11.0	CABOT PIPELINE CO
-OLYMPIA OIL CO				RECEIVED: 09/10/81 JA: TX					
8149111	F-7B-039313	4205933137		103		BATTLE #1 (17305)	CALLAHAN COUNTY REGULAR	50.0	DELHI GAS PIPELIN
-PARAFFINE OIL CORP				RECEIVED: 09/10/81 JA: TX					
8149044	F-02-038263	4205731085		102-4		P H WELDER B NO 10-L	KATIE WELDER (N-1) FIELD	279.0	FLORIDA GAS TRANS
-PENNZOIL PRODUCING COMPANY				RECEIVED: 09/10/81 JA: TX					
8149055	F-04-038659	4250530457		108		ABEL VELA NO 1	COMITAS SW (7000)	12.0	DELHI GAS PIPELIN
8149059	F-04-038663	4221500000		108		ADERHOLD UNIT NO 4	SAN CARLOS (FE-97)	11.0	TRUNKLINE GAS CO
8149058	F-04-038662	4250530252		108		ALICIA R GUTIERREZ NO 1	JENNINGS S (WILCOX 8550)	17.0	VALERO INTERSTATE
8149056	F-04-038660	4247931287		108		BRUNI KILLAM MINERAL FEE NO 72-1	AVIATORS S (WILCOX 11500	2.0	VALERO TRANSMISSI
8149057	F-04-038661	4250530300		108		RAY J THOMASMA NO 3	DAVIS (CROCKETT)	15.0	VALERO TRANSMISSI

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PRCD	PURCHASER
-PERMIAN BRINE SALES INC						RECEIVED: 09/10/81 JA: TX			
8148999	F-08-037479	4210332444		102-4		SAND HILLS RANCH #1 ID NO 92185	SAND HILLS (RUSTLER)	22.0	WARREN PETROLEUM
-PETRO-LEWIS CORPORATION						RECEIVED: 09/10/81 JA: TX			
8148987	F-03-036890	4215700000		103		ELIZABETH LIPPINCOTT NO 1	LONG POINT	54.0	DOW CHEMICAL CO
-PETROLEUM CORPORATION OF TEXAS						RECEIVED: 09/10/81 JA: TX			
8149033	F-7C-038035	4210532975		103		UNIVERSITY-PHILLIPS #19	FARMER (SAN ANDRES)	0.2	PECOS CO
-PHILLIPS PETROLEUM COMPANY						RECEIVED: 09/10/81 JA: TX			
8148858	F-10-029098	4242100000		108		BERT #1	TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
-POLK & PATTON INC						RECEIVED: 09/10/81 JA: TX			
8148871	F-09-030940	4223733356		103		EDITH BROCK #1	JACK COUNTY REGULAR	105.9	SOUTHWESTERN GAS
-R E SMITH INTERESTS						RECEIVED: 09/10/81 JA: TX			
8148971	F-06-036083	4236500000		103		COPELAND UNIT #2 WELL #3	CARTHAGE (COTTON VALLEY)	450.0	TEXAS EASTERN TRA
8148971	F-06-036083	4236500000		107-TF		COPELAND UNIT #2 WELL #3	CARTHAGE (COTTON VALLEY)	450.0	TEXAS EASTERN TRA
-RAY W MCDONNELL						RECEIVED: 09/10/81 JA: TX			
8149019	F-7C-037891	4239931870		102-4		H L WOOD #3	MCDONNELL (FRY LO)	730.0	LONE STAR GAS CO
-REALITOS ENERGY CORP						RECEIVED: 09/10/81 JA: TX			
8148974	F-02-036200	4246931749		102-4		JOHN V ROHRBACHER NO 1	WILDCAT - PROPOSED COLOG	150.0	TENNESSEE GAS PIP
-RIFE OIL PROPERTIES INC						RECEIVED: 09/10/81 JA: TX			
8148865	F-7B-030135	4209300000		102-2		CLIFFORD-HOLLAND	WILDCAT	128.8	SOUTHWEST GAS PIP
8148878	F-7B-032130	4209300000		102-2		HERRALD ABLES #1	WILDCAT	119.4	SOUTHWEST GAS PIP
8148962	F-7B-035667	4236300000		102-4		J B TAYLOR #1	MINERAL WELLS S (CONGL)	0.0	SOUTHWESTERN GAS
8148963	F-7B-035668	4236300000		102-4		J B TAYLOR #2	MINERAL WELLS S (STRAWN	0.0	SOUTHWESTERN GAS
8148866	F-7B-030136	4209300000		102-2		LOWE B DYSON	WILDCAT	92.7	SOUTHWEST GAS PIP
-RK PETROLEUM CORP						RECEIVED: 09/10/81 JA: TX			
8149011	F-8A-037826	4211531467		102-4		MERRILL A NO 1 WELL	LAMESA NORTH (7850)	23.4	PHILLIPS PETROLEU
8149012	F-8A-037827	4211531454		102-4		MERRILL NO 1 WELL	LAMESA NORTH (7850)	40.1	PHILLIPS PETROLEU
8149147	F-8A-039460	4211568683		102-4		MERRILL NO 2 WELL #63142	LAMESA NORTH (7850)	45.6	PHILLIPS PETROLEU
-SAGE ENERGY CO						RECEIVED: 09/10/81 JA: TX			
8149134	F-08-039375	4249531313		103		SEALY & SMITH 7C RRC #26558	SEALY SMITH (PENN)	18.0	EL PASO NATURAL G
-SAMEDAN OIL CORPORATION						RECEIVED: 09/10/81 JA: TX			
8148976	F-04-038272	4270230156		102-2		STATE TRACT 818-L NO A-6	SAMEDAN FRIO	750.0	EL PASO NATURAL G
8148975	F-04-036268	4270230159		102-2		STATE TRACT 818-L NO A-7	SAMEDAN FRIO	1000.0	EL PASO NATURAL G
-SAMSON RESOURCES COMPANY						RECEIVED: 09/10/81 JA: TX			
8148993	F-02-037316	4229732639		102-4		O L BELL NO 1	RAMIERENA (5000)	56.9	VALLEY GAS TRANSM
-SECURITY PETROLEUM DRILLING INC						RECEIVED: 09/10/81 JA: TX			
8149107	F-10-039302	4217930787		103		EVANS WELL NO 1 04731	PANHANDLE GRAY COUNTY FI	72.0	CABOT PIPELINE CO
8149106	F-10-039301	4217930796		103		EVANS WELL NO 4 04731	PANHANDLE GRAY COUNTY FI	72.0	CABOT PIPELINE CO
-SENTINEL PETROLEUM CORP						RECEIVED: 09/10/81 JA: TX			
8148967	F-7B-035851	4213332564		102-4		AUTRY L	MANGUM WEST 3100	0.0	ODESSA NATURAL CO
8149000	F-7B-037495	4213332637		102-4		AUTRY 22-A-2	MANGUM WEST 3100	84.0	ODESSA NATURAL CO
-SESCO PRODUCTION CO						RECEIVED: 09/10/81 JA: TX			
8148849	F-06-026129	4240130915		103		S N & BESSIE SCARBOROUGH HEIRS #1	HENDERSON NORTH (COTTON	900.0	LONE STAR GAS CO
8148849	F-06-026129	4240130915		107-TF		S N & BESSIE SCARBOROUGH HEIRS #1	HENDERSON NORTH (COTTON	900.0	LONE STAR GAS CO
-SHELL OIL CO						RECEIVED: 09/10/81 JA: TX			
8148950	F-04-034851	4242731312		103		DENTSEN BROS B NO 11	LACOPITA (VICKSBURG W)	180.0	TENNESSEE GAS PIP
8148990	F-04-037194	4221531111		102-4		BRIGHT & SCHIFF HAMMAN GAS UNIT #2	MONTE CHRISTO (VICKSBURG	450.0	VALERO INTERSTATE
8148924	F-04-033951	4221531037		102-4		DIXIE MORTGAGE-HOPKINS GAS UNIT #4	MCCCOK E (VICKSBURG 1205	450.0	NATURAL GAS PIPEL
8148986	F-04-036866	4242731504		102-4		MARTINEZ-STATE NO 6	RINCON NORTH (VICKSBURG	350.0	LONE STAR GAS CO
-SIOUX NATURAL GAS CORP						RECEIVED: 09/10/81 JA: TX			
8149158	F-7C-039573	4210532920		103		UNIVERSITY 22-29 WELL #2	INGHAM (DEVONIAN)	74.6	SOUTHWESTERN GAS
-SOUTHLAND ROYALTY CO						RECEIVED: 09/10/81 JA: TX			
8149152	F-08-039523	4213500000		103		EDWARDS GRAYBURG UNIT #6-8	EDWARDS	58.0	PHILLIPS PETROLEU
8149151	F-08-039522	4213500000		103		EDWARDS GRAYBURG UNIT #7-30	EDWARDS	11.6	PHILLIPS PETROLEU

JD NO	DI PT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PRCD	PURCHASER
8149139	F-03-039396	4233930478		103		LILLIAN DEAN #1	DEAN LAKE	750.0	SOUTHWESTERN GAS
-SPINDLETOP OIL & GAS CO				RECEIVED: 09/10/81 JA: TX					
8148857	F-7B-029070	4222130597		102-2		ALLIE B GUNN #1-C	GRANBURY NE (ATOKA)	85.0	EMPIRE PIPELINE C
8148857	F-7B-029070	4222130597		103		ALLIE B GUNN #1-C	GRANBURY NE (ATOKA)	85.0	EMPIRE PIPELINE C
8148856	F-7B-029069	4222130597		102-2		ALLIE B GUNN #1-T	GRANBURY NE (MARBLE FALL	40.0	EMPIRE PIPELINE C
8148856	F-7B-029069	4222130597		103		ALLIE B GUNN #1-T	GRANBURY NE (MARBLE FALL	40.0	EMPIRE PIPELINE C
8148965	F-7B-035752	4236731974		102-4		STONEBRIDGE NO 1	STONEBRIDGE (PROPOSED)	300.0	EMPIRE PIPELINE C
-STOWERS OIL & GAS				RECEIVED: 09/10/81 JA: TX					
8149080	F-10-039136	4217930904		103		ANDERSON #21 #04686	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
8149078	F-10-039134	4217930818		103		ANDERSON #4 #04686	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
8149079	F-10-039135	4217930852		103		ANDERSON #6 04686	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
8149081	F-10-039137	4217930891		103		ANDERSON #7 #04686	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
-SUN OIL COMPANY (DELAWARE)				RECEIVED: 09/10/81 JA: TX					
8148863	F-06-029832	4220330739		102-4		GLORIA B MCQUEEN NO 1	LANSING N	225.0	TEJAS - SW TWO
8148863	F-06-029832	4220330739		107-TF		GLORIA B MCQUEEN NO 1	LANSING N	225.0	TEJAS - SW TWO
8149076	F-04-039063	4213100000		108		L WEIDERKEHR #136	GOVERNMENT WELLS NORTH	8.0	TENNESSEE GAS PIP
8149075	F-02-039062	4246900000		108		MCFADDIN -A- NO 55	MCFADDIN NW/6015/	0.0	UNITED GAS PIPE L.
-SUPERIOR OIL CO				RECEIVED: 09/10/81 JA: TX					
8148951	F-03-034933	4228730720		103		ONA B FALKE NO 1	GIDDINGS (AUSTIN CHALK)	0.0	PHILLIPS PETROLEU
-SWEETWATER DRILLING CO INC				RECEIVED: 09/10/81 JA: TX					
8149042	F-7B-038240	4205932353		102-4		S SIMMONS #1-C	PUTNAM NE (1ST CONGL)	567.0	LONE STAR GAS CO
-TAMARACK PETROLEUM CO INC				RECEIVED: 09/10/81 JA: TX					
8149108	F-7C-039307	4246131599		103		STUMHOFFER #1	SPRABERRY (TREND AREA)	4.0	EL PASO NATURAL G
8149109	F-7C-039308	4238331555		103		WEATHERBY G #1	SPRABERRY (TREND AREA)	18.0	PHILLIPS PETROLEU
-TAUBERT & STEED				RECEIVED: 09/10/81 JA: TX					
8148891	F-8A-032326	4226930856		102-4		S B BURNETT ESTATE GG 10	BIG-S-(STRAWN 5400)	2.0	LONE STAR GAS CO
8148903	F-8A-032345	4226930917		102-4		S B BURNETT ESTATE GG 12	BIG-S-(STRAWN 5400)	5.1	LONE STAR GAS CO
8148890	F-8A-032325	4226930778		102-4		S B BURNETT ESTATE GG 4	BIG-S- (STRAWN 5400)	2.0	LONE STAR GAS CO
8148893	F-8A-032328	4226930825		102-4		S B BURNETT ESTATE GG 47	BIG-S-(STRAWN REEF)	5.6	LONE STAR GAS CO
8148889	F-8A-032323	4226930804		102-4		S B BURNETT ESTATE GG 6	BIG-S-(STRAWN)	0.5	LONE STAR GAS CO
8148894	F-8A-032329	4226930844		102-4		S B BURNETT ESTATE GG 80	BIG-S-(STRAWN REEF)	1.1	LONE STAR GAS CO
8148880	F-8A-032295	4226930294		102-4		S B BURNETT ESTATE N-11	ANNE TANDY (STRAWN 5400)	17.8	LONE STAR GAS CO
8148881	F-8A-032295	4226930301		102-4		S B BURNETT ESTATE N-12	ANNE TANDY (STRAWN 5400)	4.3	LONE STAR GAS CO
8148882	F-8A-032299	4226930333		102-4		S B BURNETT ESTATE N-17	ANNE TANDY (STRAWN 5400)	5.6	LONE STAR GAS CO
8148883	F-8A-032300	4226930374		102-4		S B BURNETT ESTATE N-19	ANNE TANDY (STRAWN 5400)	3.6	LONE STAR GAS CO
8148897	F-8A-032338	4226930379		102-4		S B BURNETT ESTATE N-22	ANNE TANDY (STRAWN LOWER	4.2	LONE STAR GAS CO
8148884	F-8A-032301	4226930381		102-4		S B BURNETT ESTATE N-23	ANNE TANDY (STRAWN 5400)	4.5	LONE STAR GAS CO
8148898	F-8A-032339	4226930393		102-4		S B BURNETT ESTATE N-26	ANNE TANDY (STRAWN LOWER	2.4	LONE STAR GAS CO
8148899	F-8A-032340	4226930389		102-4		S B BURNETT ESTATE N-27	ANNE TANDY (STRAWN LOWER	2.1	LONE STAR GAS CO
8148896	F-8A-032337	4226930268		102-4		S B BURNETT ESTATE N-7	ANNE TANDY (STRAWN LOWER	0.4	LONE STAR GAS CO
8148895	F-8A-032336	4226930110		102-4		S B BURNETT ESTATE Y-2	ANNE TANDY (STRAWN LOWER	0.9	LONE STAR GAS CO
8148902	F-8A-032344	4226930219		102-4		S B BURNETT ESTATE Y10A	ANNE TANDY (STRAWN LOWER	4.0	LONE STAR GAS CO
8148892	F-8A-032327	4226930230		102-4		S B BURNETT ESTATE Y11A	ANNE TANDY (STRAWN LOWER	2.7	LONE STAR GAS CO
8148885	F-8A-032302	4226930242		102-4		S B BURNETT ESTATE Y17A	ANNE TANDY (STRAWN 5400)	3.7	LONE STAR GAS CO
8148886	F-8A-032303	4226930253		102-4		S B BURNETT ESTATE Y18A	ANNE TANDY (STRAWN 5400)	5.4	LONE STAR GAS CO
8148887	F-8A-032304	4226930263		102-4		S B BURNETT ESTATE Y20A	ANNE TANDY (STRAWN 5400)	0.9	LONE STAR GAS CO
8148900	F-8A-032341	4226930138		102-4		S B BURNETT ESTATE Y3A	ANNE TANDY (STRAWN LOWER	2.1	LONE STAR GAS CO
8148901	F-8A-032343	4226930206		102-4		S B BURNETT ESTATE Y9A	ANNE TANDY (STRAWN LOWER	4.8	LONE STAR GAS CO
8148888	F-8A-032305	4226930267		102-4		S B BURNETT Y21A	ANNE TANDY (STRAWN 5400)	9.1	LONE STAR GAS CO
-TAYLOR OPERATING COMPANY				RECEIVED: 09/10/81 JA: TX					
8149129	F-09-039352	4249700000		103		THOMAS HODGES #6 (90884)	BOONSVILLE (BEND CONGL G	180.7	NATURAL GAS PIPE
-TENNECO OIL COMPANY				RECEIVED: 09/10/81 JA: TX					
8149104	F-8A-039293	4250131540		103		PRENTICE CLEARFORK UNIT #1609	PRENTICE (6700)	8.0	AMOCO PRODUCTION

JO NO	JA TKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-TEXACO INC						RECEIVED: 09/10/81 JA: TX			
8149072	F-8A-038972	4221932924		103		C E OWENS #6	SLAUGHTER	13.0	SLAUGHTER GASOLIN
8148997	F-08-037407	4210931449		103		CULBERON V FEE #6	FORD WEST (4100)	69.0	EL PASO NATURAL G
8149138	F-08-039394	4210931478		103		CULBERSON W FEE #2	FORD WEST (4100)	2.5	
8149073	F-36-039000	4240131114		107-TF		GARNETT G/U O/A WELL #1	OAK HILL NW (COTTON VALL	730.0	TRANSCONTINENTAL
8148958	F-04-035304	4242731430		102-4		L GONZALES SHARE 20 WELL #15	ROMA EAST (QUEEN CITY)	730.0	GULF ENERGY & DEV
8149105	F-10-039297	4235700000		108		S P DANIEL GAS UNIT #2	HANSFORD (LOWER MORROW)	17.5	NORTHERN NATURAL
-TEXAS AMERICAN OIL CORP						RECEIVED: 09/10/81 JA: TX			
8149043	F-10-038246	4248330538		108		L LAYCOCK NO 1	EAST PANHANDLE	13.9	TRANSWESTERN PIPE
-TEXAS INTERNATIONAL PET CORP						RECEIVED: 09/10/81 JA: TX			
8148978	F-03-03630	4205131244		102-2		LAMB #4A	GIDDINGS (AUSTIN CHALK)	365.0	CLAJON GAS CO
-TEXAS OIL & GAS CORP						RECEIVED: 09/10/81 JA: TX			
8148872	F-08-031328	4237133247		102-4		CANON 60 #2	YUCCA BUTTE NW (PENN DET	50.0	DELHI GAS PIPELIN
8148920	F-7C-033605	4223500000		103		JONES K #5	DOVE CREEK (CANYON -D)	182.5	COLUMBIA GAS TRAN
8148933	F-7C-034619	4223500000		103		JONES W NO 2	DOVE CREEK (CANYON) FIEL	146.0	COLUMBIA GAS TRAN
8148960	F-05-035403	4216130605		103		LAMBERT B #1	BEST (BOSSIER SAND)	0.0	
8148960	F-05-035403	4216130605		107-TF		LAMBERT B #1	BEST (BOSSIER SAND)	0.0	
8148853	F-06-027212	4220330731		102-4		WOODS B #1	BLOCKER (COTTON VALLEY)	500.0	UNITED GAS PIPELI
8148853	F-06-027212	4220330731		107-TF		WOODS B #1	BLOCKER (COTTON VALLEY)	500.0	UNITED GAS PIPELI
-TEXLAND-RECTOR & SCHUMACHER						RECEIVED: 09/10/81 JA: TX			
8148921	F-8A-033749	4221933032		102-4		T H KIMBROUGH NO 1	LEVELLAND (ABO)	3.0	AMOCO PRODUCTION
-THE ANSCHUTZ CORPORATION						RECEIVED: 09/10/81 JA: TX			
8148968	F-02-036027	4229732641		102-4		EMILY H PARKER #2 (RRC 10 #106507)	DINERO W (4300)	80.0	VALLEY GAS TRANSM
-THOMAS C CANAN						RECEIVED: 09/10/81 JA: TX			
8149008	F-7B-037774	4242900000		103		CURRY A NO 1 16454	STEPHENS COUNTY REGULAR	16.0	SOUTHWESTERN GAS
-THOMAS-POWELL ROYALTY INC						RECEIVED: 09/10/81 JA: TX			
8149149	F-7C-039499	4239931950		102-4		MCADAMS #1 (08871)	BROWN SUGAR (GRAY)	150.0	UNION TEXAS PETRO
8149150	F-7C-039500	4239931689		102-4		PHILLIPS ET AL #2 (08370)	WINGATE NW (GRAY)	75.0	UNION TEXAS PETRO
-TIPPERARY OIL AND GAS CORP						RECEIVED: 09/10/81 JA: TX			
8149028	F-01-037974	4216331618		103		BONNYE H HALM B #1	PEARSALL (AUSTIN CHALK)	6.6	T G P INC
8149038	F-01-038068	4216300000		103		C S WHITWELL #6	PEARSALL (AUSTIN CHALK)	4.0	T G P INC
8149037	F-01-038060	4216331977		103		CARLTON MASSEY #12	PEARSALL (AUSTIN CHALK)	0.0	T G P INC
8149035	F-01-038058	4216331458		103		HAROY THOMPSON #3	PEARSALL (AUSTIN CHALK)	18.3	T G P INC
8149036	F-01-038059	4216331969		103		MACE #4	PEARSALL (AUSTIN CHALK)	0.0	T G P INC
8149034	F-01-038049	4216300000		103		PATTIE THOMPSON #6	PEARSALL (AUSTIN CHALK)	1.1	T G P INC
-TOM F MARSH INC						RECEIVED: 09/10/81 JA: TX			
8149062	F-10-038810	4248330696		102-4		BROWN WELL #1-61	GAGEBY CREEK (13780)	73.0	
8149068	F-10-038842	4248330625		102-4		HUDSON WELL 1-3	BRISCOE (MORROW)	880.0	WESTAR TRANSMISSI
8149067	F-10-038841	4248330670		102-4		MEADOWS WELL 1-1	BRISCOE (MORROW)	1560.0	WESTAR TRANSMISSI
8149064	F-10-038812	4248330739		102-4		PANNELL WELL 1-2	LOTT RANCH (14500)	0.0	PIONEER NATURAL G
8149063	F-10-038811	4221131090		102-4		STANDLEE WELL #1	BRISCOE (14000)	52.0	PIONEER NATURAL G
-TRINITY RESOURCES INC						RECEIVED: 09/10/81 JA: TX			
8148850	F-03-026231	4203931469		102-4		DEBBIE NO 1 WELL	DANBURY DOME (F-5-A GAS)	250.0	VALERO TRANSMISSI
8148850	F-03-026231	4203931469		103		DEBBIE NO 1 WELL	DANBURY DOME (F-5-A GAS)	250.0	VALERO TRANSMISSI
-U S OPERATING INC						RECEIVED: 09/10/81 JA: TX			
8148877	F-03-03206	4205130959		102-2		BETTIE NO 1	GIDDINGS (AUSTIN CHALK)	15.0	PHILLIPS PETROLEU
8148926	F-03-034099	4205131134		102-2		SUELLEN UNIT NO 1	GIDDINGS (AUSTIN CHALK)	30.0	PHILLIPS PETROLEU
-UNION OIL COMPANY OF CALIF						RECEIVED: 09/10/81 JA: TX			
8149013	F-10-037833	4229530924		103		CLEVELAND #1-68	GLAZIER NW (MORROW UPPER	300.0	
-VARN PETROLEUM CO						RECEIVED: 09/10/81 JA: TX			
8148879	F-04-032265	4240900000		102-4		OMA E HILL NO 1 MORGAN (6312 FRIO)	MORGAN (6312 FRIO)	0.0	TRANSCONTINENTAL
-W A MONCRIEF JR						RECEIVED: 09/10/81 JA: TX			
8149027	F-7B-037943	4236731983		103		MLH NO 3	WEATHERFORD SE (1900)	123.0	

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JL NO	JA NT	API NO	U SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-W L BRUCE OPERATOR			RECEIVED: 09/10/81 JA: TX				
8149130	F-10-039366	4206530835	103	A J RAMMING #1 RRC #04772	PANHANDLE	252.0	GETTY OIL CO
8149132	F-10-039369	4206530880	103	HAIDUK #1 RRC #04775	PANHANDLE	720.0	GETTY OIL CO
8149131	F-10-039368	4206530898	103	HAIDUK TRACT 2 WELL #1 RRC #04791	PANHANDLE	0.0	GETTY OIL CO
-WAYMAN W BUCHANAN			RECEIVED: 09/10/81 JA: TX				
8148979	F-01-036350	4217730766	102-2	CARNES NO 1	PEACH CREEK (AUSTIN CHAL	675.3	TIPPERARY CORP
8149142	F-7B-039408	4236732008	103	LESTER BYRD NO 3	H & R (BEND CONGL)	25.8	SOUTHWESTERN GAS
-WESSELY ENERGY CORPORATION			RECEIVED: 09/10/81 JA: TX				
8149148	F-7B-039463	4215130957	103	TURNER NO 1	SYLVESTER (GOEN SAND)	7.0	PALO DURO PIPELIN
-WILLIAM PERLMAN			RECEIVED: 09/10/81 JA: TX				
8148854	F-7C-027533	4243532391	102-2	IDA CAUTHORN 135-2 90818	SHURLEY RANCH (CANYON)	0.0	EL PASO NATURAL G
8148854	F-7C-027533	4243532391	107-TF	IDA CAUTHORN 135-2 90818	SHURLEY RANCH (CANYON)	0.0	EL PASO NATURAL G
-WORLD PRODUCERS INC			RECEIVED: 09/10/81 JA: TX				
8149144	F-7B-039421	4236732003	102-4	LEONARD #3	EL CHICO (STRAWN)	70.0	SOUTHWESTERN GAS
8149155	F-7B-039529	4236732031	102-4	LEONARD #4	EL CHICO (STRAWN)	70.0	SOUTHWESTERN GAS
-7HF OIL CO LTD			RECEIVED: 09/10/81 JA: TX				
8149135	F-02-039381	4239100000	103	FAGAN O 1 (93783)	FAGAN (2100) FIELD	100.0	DELHI GAS PIPELIN

OTHER PURCHASERS VOLUME NO :516

8148959	NATURAL GAS P L CO OF AMER
8149084	E I DUPONT DE NEMOURS & CO INC
8149092	E I DUPONT DE NEMOURS & CO INC
8149093	E I DUPONT DE NEMOURS & CO INC
8149137	E I DUPONT DE NEMOURS & CO INC
8149143	PHILLIPS PETROLEUM CO

BILLING CODE 6450-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before October 26, 1981.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease:
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper:
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well:
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-29413 Filed 10-8-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL 1955-7; OPTS-51330]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of seven PMNs and provides a summary of each.

DATES: Written comments by: December 4, 1981. PMN 81–500, 81–501, 81–502, 81–503, 81–504, 81–505, 81–506.

ADDRESS: Written comments, identified by the document control number "[OPTS–51330]" 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, (202–755–5687).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–426–2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81–500

Close of Review Period. January 3, 1982.

Manufacturer's Identity. The Sherwin Williams Company, 10909 South Cottage Grove Avenue, Chicago IL 60628.

Specific Chemical Identity. 2-dodecyl-9-H-thioxanthen-9-one.

Use. The manufacturer states that the PMN substance will be used as a photosensitizer for radiation curable inks and coatings.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Liquid with slightly sweet odor.
Specific gravity (H_2O=1, 240 °C)—1.07.
Boiling point—300° C @ 12 mm/Hg.
Flash point (closed cup)—232° C.
Solubility: water percent by weight @ 24°C—3.7.
Vapor density—13.19.
Percent volatile—2.33 @ 115° C.
Color—Yellowish brown.
Vapor pressure @ 20° C—0.79 mm/Hg.
Freezing point—< −25° C.
Evaporation rate (butyl acetate=1)—<0.1.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—15,000 mg/kg.
Acute dermal toxicity LD_{50} (rabbit)—>2,000 mg/kg.
Primary skin irritation (rabbit)—Slightly irritating.
Eye irritation (rabbit)—Non-irritant.
Delayed dermal sensitization (guinea pig)—Non-sensitizing.

Exposure. The manufacturer states that during manufacture 4 workers may experience dermal exposure 2 hrs/day, 360 days/yr during discharge, process check and quality control check.

Environmental Release/Disposal. The manufacturer states that 1,000–10,000 kg/yr will be released to the water 2 hrs/day, 360 days/yr. Disposal is to a publicly owned treatment works (POTW).

PMN 81–501

Closed of Review Period. January 3, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Manufacturing site—Middle Atlantic.
Standard Industrial Classification Code—285; e.

Special Chemical Identity. Claimed confidential business information. Generic name provided: Polyster of a substituted alkanediol and carbomonocyclic anhydride.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	0	20,000
2d year	20,000	80,000
3d year	80,000	150,000

Physical/Chemical Properties

Flash point—118° F.
Acid value—8.8 mg KOH/gm.
Color value (Gardner)—6.
Percent total solids (weight)—77.4.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing 125 workers may experience dermal, inhalation and occular exposure up to 6 hrs/day, up to 63 days/yr during extraction, sampling and filling. Concentration levels will average and peak at 0–1 part per million (ppm).

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to the air and water and from 10–10,000 kg/yr to the land. Trace amounts of entering ingredients and solvents may be vented through scrubber and continuous exhaust. Water and by-product will be released via the

decanter and reprocessed for industrial use. Disposal is by incineration.

PMN 81-502

Close of Review Period. January 3, 1982.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—Over $500,000,000.
Manufacturing site—East North Central.
Standard Industrial Classification Code—2821.

Specific Chemcial Identity. Claimed confidential business information.
Generic name provide: Polymer of epon resin and alkanedioic acid.

Use. The Manufacturer states that the PMN substance will be used in coatings.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Acid number—<1.
Weight/gallon—9.1—9.3.
Hydroxyl value—85—95.
Molecular weight—3,100 (determined by GPC).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that there will be no exposure.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 81-503

Close of Review Period. January 3, 1982.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—Over $500,000,000.
Manufacturing site—East North Central.
Standard Industrial Classification Code—2821.

Specific Chemcial Identity. Claimed confidential business information.
Generic name provided: Copolymer of alkylacrylates and methacrylates.

Use. The manufacturer states that the PMN substance will be used in coatings.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Acid number—22-28.
Weight/gallon—9.0-9.4.
Hydroxyl value—90-110.
Molecular weight—6,600 (determined by GPC).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that there will be no exposure.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 81-504

Close of Review Period. January 3, 1982.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—Over $500,000,000.
Manufacturing site—East North Central.
Standard Industrial Classification Code—2821.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Copolymer of alkylacrylates and methacrylates.

Use. The manufacturer states that the PMN substance will be used in coatings.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Acid number—30-40.
Weight/gallon—9.1-9.3.
Hydroxyl value—75-85.
Molecular weight—7,450 (determined by GPC).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that there will be no exposure.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 81-505

Close of Review Period. January 3, 1982.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—Over $500,000,000
Manufacturing site—East North Central
Standard Industrial Classification Code—2821

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Copolymer of alkylacrylates and methacrylates.

Use. The manufacturer states that the PMN substance will be used in coatings.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Acid number—20-25.
Weight/gallon—9.1-9.3.
Hydroxyl value—100-110.
Molecular weight—4,900 (determined by GPC).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that there will be no exposure.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 81-506

Close of Review Period. January 3, 1982.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—Over $500,000,000
Manufacturing site—East North Central.
Standard Industrial Classification Code—2821.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Copolymer of alkylacrylates and methacrylates.

Use. The manufacturer states that the PMN substance will be used in coatings.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Acid number—13-17.
Weight/gallon—8.8-8.9.
Hydroxyl value—70-80.
Molecular weight—9,000 (determined by GPC).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that there will be no exposure.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

Dated: October 5, 1981.

Woodson W. Bercaw,

Acting Director for Management Support Division.

[FR Doc. 81-29458 Filed 10-8-81; 8:45 am]
BILLING CODE 6560-31-M

[TSH-FRL 1955-6; OPTS-51329]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATES: Written comments by: PMN 81-498 and 81-499, November 30, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51329]" 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 (202-755-5687).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Divison (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-498

Close of Review Period. December 30, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Disubstitutedpolycarbocycle.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a minor component of a formulation used by a limited number of specialized industrial customers.

PRODUCTION ESTIMATES

	Kilograms per year, maximum
1st year	100
2d year	300
3d year	500

Physical/Chemical Properties

Melting point—250° C.

Solubility: water—<0.1%; octanol—<0.1%.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing 10 workers may experience dermal and inhalation exposure up to 1.5 hrs/day, up to 10 days/yr during manual transfer operations. During use a maximum of 100 customers will have employees who could experience dermal exposure.

Environmental Release/Disposal. The manufacturer states that there will be no release to the land, essentially none to the air, and 0-0.5 kg/yr to the water. Disposal is by incineration and biological treatment system.

PMN 81-499

Close of Review Period. December 30, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Pentasubstitutedbenzopyran.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a minor component of a formulation used by a limited number of specialized industrial customers.

PRODUCTION ESTIMATES

	Kilograms per year maximum
1st year	65,000
2d year	130,000
3d year	150,000

Physical/Chemical Properties

Melting point—9° C.

Solubility: water—0.04 part per million (ppm); octanol—1.0-10.0%.

Vapor pressure—0.01 mm/Hg @ 25° C.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>3,000 mg/kg.

Acute dermal toxicity LD_{50} (rat)—>20 mg/kg.

Skin irritation (rabbit)—Slight.

Eye irritation (rabbit)—Slight.

Skin sensitization—Low.

Repeated 10-day skin application—Moderate exacerbation of the irritative response.

Environmental Test Data

COD—2.75 g/g.

LC_{50} (daphnia magna)—0.045 ppm.

Exposure. The manufacturer states that during manufacture and processing 105 workers may experience dermal and inhalation exposure 2 hrs/day up to 100 days/yr during manual transfer operations.

Environmental Release/Disposal. The manufacturer states that during processing 0-500 kg/yr will be released to land, 0-12 kg/yr released to air and 0-60 kg/yr to water.

Dated: October 5, 1981.

Woodson W. Bercaw,

Acting Director for Management Support Division.

[FR Doc. 81-29457 Filed 10-8-81; 8:45 am]

BILLING CODE 6560-31-M

[ER-FRL-1955-8]

Availability of Environmental Impact Statements

AGENCY: Office of Federal Activities> (A-104), Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EIS's) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR Part 1506.9) during the week of September 28, 1981 to October 2, 1981.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from October 9, 1981 and will end on November 23, 1981. The >30-day review period for final EIS's as calculated from October 9, 1981 will end on November 9, 1981.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA, for further information. Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Federal Activities, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245-3006.

Dated: October 6, 1981.

Thomas R. Sheckells,

Acting Director, Office of Federal Activities (A-104).

Department of Agriculture

SCS: Draft—Mississippi County Spillway Protection Plan, Mississippi County, Missouri (EIS Order #810801)

Army Corps of Engineers

Draft—Sugar Creek Basin Flood Control and Conservation, Mecklenburg County, North Carolina and York and Lancaster Counties, South Carolina (EIS Order #810803)

Draft—North Bay Marine Industrial Park Development, Coos County, Oregon (EIS Order #810818)

Final—Cross Village Light-Draft Harbor, Emmett County, Michigan (EIS Order #810805)

Final—Geneva-On-The-Lake Small-Boat Harbor, Ashtabula County, Ohio; the review period for this EIS has been extended until November 15, 1981 (EIS Order #810806)

Final—Carolina Beach Inlet Navigation Project, New Hanover County, North Carolina (EIS Order #810811)

Department of Energy

Final Supplement—Texoma and Seaway Group Salt Domes, SPR Phase III Development, Cameron Parish, Louisiana and Brazoria and Jefferson Counties, Texas (EIS Order #810815)

Department of Housing and Urban Development

Draft—Heather Hills Planned Development, Mortgage Insurance, Wake County, North Carolina (EIS Order #810808)

Draft—Tri-County Residential Development Plan, Mortgage Insurance, Hillsborough, Pasco and Pinellas Counties, Florida (EIS Order #810809)

Department of the Interior

NPS: Draft—Chattahoochee River National Recreation Area, Cobb, Forsyth, Fulton and Gwinnett Counties, Georgia (EIS Order #810814)

BLM: Final—APS/SDG&E Intercomection Project, Maricopa and Yuma Counties, Arizona and Imperial and San Diego Counties, California (EIS Order #810812)

BR: Draft—Chikaskia Water Supply Project, Sedgwick, Butler, Kingman, Harper and Sumner Counties, Kansas and Grant and Kay Counties, Oklahoma; the review period for this EIS has been extended until December 31, 1981 (EIS Order #810817)

EXTENSION: GS: Draft—Smokey Canyon Phosphate Mine, Caribou County, Idaho—published Federal Register September 25, 1981—the review period for this EIS has been extended until November 16, 1981 (EIS Order #810769 and #810770)

EXTENSION: NPS: Draft—US 101 Bypass, Redwood National Forest, Humboldt and Del Norte Counties, California—published Federal Register September 25, 1981—the review period for this EIS has been extended until November 20, 1981 (EIS Order #810779)

Department of Transportation

FHWA: Final—CA-192 Shoulder Widening and Bridge Replacement, Santa Barbara County, California (EIS Order #810804)

FHWA: Draft Supplement—US 27 Reconstruction, Lansing to Ithaca, Clinton and Gratiot Counties, Michigan (EIS Order #810800)

Environmental Protection Agency

EPAH: Draft—Offshore Platform Hazardous Waste Incineration Facility, Gulf of Mexico, Louisiana, Alabama, Georgia and Florida (EIS Order #810813)

EPA6: Draft—Little Rock/Adams Field Wastewater Treatment Facilities, Grant, Pulaski County, Arkansas (EIS Order #810819)

EPA6: Draft Supplement—Albuquerque Wastewater Treatment Facilities, Sludge Management, Bernalillo County, New Mexico (EIS Order #810810)

Federal Energy Regulatory Commission

Draft—Trans-Anadarko Pipeline Project, Texas, Arkansas, Oklahoma and Louisiana (EIS Order #810802)

General Services Administration

Draft—Denver/Boulder Federal Housing Program, Arapahoe, Boulder, Denver, Douglas, Gilpin and Jefferson Counties, Colorado (EIS Order #810807)

Nuclear Regulatory Commission

Final—Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas (EIS Order #810816)

[FR Doc. 81-29494 Filed 10-8-81; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-1956-1]

Comments on Environmental Impact Statements and Other Actions Impacting the Environment; Availability of Report

AGENCY: Office of Federal Activities (A-104), Environmental Protection Agency.

PURPOSE: Pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment.

SUMMARY OF NOTICE: A report which identifies EPA's comments on EIS's and other actions impacting the environment which were released during September 1981 has been prepared and is available upon request. To obtain a copy of this report you should contact: Ms. Kathi L. Wilson, Office of Federal Activities (A-104), U.S. Environmental Protection Agency, Washington, D.C. 20460.

CONTENTS OF REPORT: The report contains the type and title of the document reviewed by EPA. The agency responsible for preparing the document, the EPA review control number, the classification of the nature of EPA's comments for draft EIS's and a summary of the EPA's comments is given for final EIS's and other actions.

Dated: October 6, 1981.

Thomas R. Sheckells,

Acting Director, Office of Federal Activities.

[FR Doc. 81-29495 Filed 10-8-81; 8:45 am]

BILLING CODE 6560-37-M

[PH-FRL 1955-4; OPP-50554]

Extension of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

1471-EUP-43. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 6,500 pounds of the herbicide tebuthiuron on rangeland and pastureland to evaluate brush control. A total of 3,110 acres are involved. The program is authorized in the States of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from July 23, 1981 to July 23, 1982. A temporary tolerance for residues of the active ingredient in or on pasture grass and grass hay has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

279–EUP–81. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 4,386 pounds of the insecticide permethrin on cotton to evaluate control of various insects. A total of 1,400 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas. The experimental use permit is effective from July 10, 1981 to July 10, 1982. A permanent tolerance for resudues of the active ingredient in or on cottonseed has been established (40 CFR 180.378). (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

1021–EUP–26. McLaughlin Gormley King Company, 8810 Tenth Avenue North, Minneapolis, MN 55427. This experimental use permit allows the use of 48 pounds of the remaining supply (122 pounds originally authorized) of the insecticide 3-phenoxy-benzyl d-cis and trans-2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate on marshland to evaluate control of mosquitoes and adult midges. A total of 7,000 acres are involved. The program is authorized only in the States of California, Florida, Maryland, Minnesota and New Jersey. The experimental use permit is effective from August 8, 1981 to August 8, 1982. The permit is being issued with the limitation that none of the material will enter the food chain. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

707–EUP–95. Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 4,850 pounds of the chemical hybridizing agent potassium 1-(p-chlorohenyl)-1,4-dihydro-6-methyl-4-oxo-pyridazine-3-carboxylate on wheat to evaluate hybridizing potential. A total of 3,200 acres are involved. The program is authorized only in the States of Colorado, Illinois, Indiana, Kansas, Michigan, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, and Texas. The experimental use permit is effective from October 18, 1981 to October 18, 1982. A temporary tolerance for resudues of the active ingredient in or on wheat (second generation, grown out of the hybrid seed and untreated male parent) has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: September 24, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-29456 Filed 10-8-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Meeting

The Consumer Advisory Council will meet on Wednesday, October 28, and Thursday, October 29. The meeting, which well be open to public observation, will take place in Terrace Room E of the Martin Building. The October 28 session is expected to begin at 1 p.m. and to continue until 5 p.m. The October 29 session is expected to begin at 9 a.m. and to conclude at 3 p.m., with a lunch break from 1 to 2 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. Time permitting, the Council will consider the following topics:

1. Interest on Deposits

A discussion of recent actions taken by the DIDC in implementing the Depository Institutions Deregulation Act of 1980.

2. Consumer Education Issues

A discussion of the Federal Reserve's role in consumer education.

3. Consumer Use of EFT Services

A discussion of problems (especially among low-income consumers and the elderly) associated with the use of electronic fund transfers, and whether these problems can be expected to increase with the rising use of EFT services by consumers.

4. Future Sources of Home Financing

A discussion of (1) an Administration-backed legislative proposal to expand the asset powers of federally chartered savings and loan associations, and (2) the potential effects that the proposal might have on consumers regarding availability of residential mortgage financing and housing.

5. Pricing of Federal Reserve Bank Services

A discussion of the policy implications for consumers of the Federal Reserve's pricing of services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Friday, October 23, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, October 5, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-29378 Filed 10-8-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 141]

Allegheny County Steam Heating Company, Pennsylvania Public Utility Commission; Proposed Intervention in Steam Service Abandonment Proceeding

The General Services Administration (GSA) seeks to intervene in a proceeding before the Pennsylvania Public Utility Commission concerning the application of the Allegheny County Steam Heating Company for authority to discontinue steam service to customers in downtown Pittsburgh, including service to two Federal buildings. GSA represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Albert A. Vicchiolla, Assistant General Counsel, Transportation and Public Utilities Division, General Services Administration, 425 I Street, N.W., Room 3001, Washington, D.C. (mailing address: General Services Administration (LT), Chester A. Arthur Building, Washington D.C. 20406), 202–275–6101, on or before November 9, 1981, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act. 40 U.S.C. 481(a)(4))

Dated: September 29, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-29352 Filed 10-8-81; 8:45 am]
BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81F-0289]

American Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that the American Cyanamid Co. has filed a petition proposing that the regulations be amended to provide for the safe use of acrylamide-dimethylaminoethyl methacrylate quaternary copolymer as a processing aid in flocculating and dewatering protein waste for recovery of nutrients for subsequent use in animal feeds.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP-2191) has been filed by American Cyanamid Co., Wayne, NJ 07470, proposing the food additive regulations be amended in Part 573 (21 CFR Part 573) by adding new § 573.121 *Acrylamide-dimethylaminoethyl methacrylate quaternary copolymer* (21 CFR 573.121) providing for the safe use of the additive as a flocculant and dewatering agent in the recovery of protein waste and subsequent use of the recovered protein material in animal feeds.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 28, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-29096 Filed 10-8-81; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 81D-0300]

Antimicrobial Drugs for Intramammary Infusion; Availability of Proposed Guideline

AGENCY: Food and Drug Administration.

ACTION. Notice.

SUMMARY: The Food and Drug Administration announces the availability of a proposed revised guideline concerning the evaluation of antimicrobial drugs for intramammary infusion (infectious bovine mastitis) as related to target animal safety and effectiveness. Interested persons are invited to submit written comments on the proposed guideline.

DATE: Comments on or before December 7, 1981.

ADDRESSES: The proposed guideline may be seen at and comments submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Single copies of the proposed guideline are available from the Office of the Deputy Director (HFV-2), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Terence Harvey, Bureau of Veterinary Medicine (HFV-2), Food and Drug Administration, 5560 Fishers Lane, Rockville, MD 20857, 301-443-3450.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act) requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations which show that the drug is safe and effective for use. Section 512(d) of the act describes the criteria that must be met before a new animal drug may be approved, including requirements that a drug's effectiveness be shown by "substantial evidence" as defined in section 512(d)(3) of the act and that it be safe for use as labeled.

The Bureau of Veterinary Medicine has prepared a proposed revised guideline describing the type of studies needed to establish target animal safety and effectiveness of antimicrobial drugs for intramammary infusion for the treatment and control of infectious bovine mastitis. The proposed guideline is intended, when finalized, to replace a guideline entitled "Guidelines for Bovine Anti-Mastitis Products: 1973 Revised." The proposed revised guideline would make several substantive changes as well as editorial revisions in the 1973 revised guideline. The most significant changes that would be made in studies to respond to the proposed revised guideline include (1) increasing the minimum number of test animals to be used during the irritation studies; (2) determining through pretrial surveys the incidence of mastitis in the potential test herds; (3) specifying the use of dosage titration studies and determining the optimum effective dose; and (4) taking samples for milk culture 1 week after treatment for drugs used for treatment claims in nonlactating cows.

The proposed revised guideline does not address the human food safety section of the 1973 revised guideline. This section is also being revised and should soon be available as a proposed supplement to this proposed guideline. The proposed guideline also does not provide detailed labeling requirements. However, these requirements should also be available soon as a proposed supplement to this proposed guideline.

Section 10.90(b) (21 CFR 10.90(b)) provides for the issuance of guidelines to establish procedures of general applicability that, although not legal requirements, are acceptable to the agency. A person who follows a guideline is assured that the criteria and procedures employed in a study will be acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guideline. A person who so chooses to depart from the guideline may discuss the matter further with the agency to prevent expenditure of resources for work that the agency may later determine to be unacceptable.

Requests for single copies of the proposed guideline should be addressed to the Office of the Deputy Director (HFV-2) (address above). A copy of the proposed guideline is on file in the Dockets Management Branch (HFA-305) (address above).

Interested persons may submit written comments on the proposed guideline to the Dockets Management Branch (HFA-305) on or before December 7, 1981. The comments will be considered in determining whether revision of the proposed guideline is warranted. Respondents should submit two copies

(except that individuals may submit one copy) identified with the docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: September 28, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-29101 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

E. R. Squibb & Sons, Inc.; Strekacin Tablets and Liquid; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) withdraws approval of two new animal drug applications (NADA's) sponsored by E. R. Squibb & Sons, Inc., providing for use of Strekacin tablets and liquid containing streptomycin, bismuth subcarbonate, kaolin or attapulgite, and pectin used in the treatment of gastroenteritis in dogs and cats. The firm requested the withdrawal of approval.

EFFECTIVE DATE: October 19, 1981.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540, is the sponsor of NADA 65-102 which provides for use of Strekacin tablets for treating gastroenteritis in dogs and cats. The NADA, which became effective October 14, 1963, contains streptomycin, bismuth subcarbonate, attapulgite, and pectin in tablets. Squibb is also sponsor of NADA 65-160 for Strekacin liquid used for treating gastroenteritis in dogs. This NADA became effective June 21, 1955, and provides for an oral suspension containing streptomycin, bismuth subcarbonate, kaolin, and pectin. By letter dated April 20, 1981, Squibb requested withdrawal of approval of the NADA's because the products are no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), notice is given that approval of NADA 65-102 and NADA 65-160 and all supplements for Strekacin tablets and liquid is hereby withdrawn, effective October 19, 1981.

Dated: September 28, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-29100 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0254]

Mammographic Phantoms; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an open meeting to discuss the data resulting from a study evaluating the imaging characteristics of existing mammographic phantoms in the clinical environment and to develop a report on the study's findings. A mammographic phantom is a physical device that when radiographed is designed to provide a reproducible means of assessing mammographic imaging.

DATES: The meeting will be held at 9 a.m. October 27 and 28, 1981.

ADDRESS: The meeting will be held at the Bureau of Radiological Health, Rm. 400, 12720 Twinbrook Parkway, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. McCrohan, Bureau of Radiological Health (HFX-77), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2436.

SUPPLEMENTARY INFORMATION: The Bureau of Radiological Health believes that radiologists and technologists should increase the use of mammographic phantoms to evaluate mammographic image quality currently obtained within their facilities and to monitor changes in image quality over a period of time. Interested persons are invited to an open public meeting to discuss data collected during a study of the applicability, advantages, and limitations of existing mammographic phantoms and to review a draft report on the findings of the study. Persons planning to attend are asked to advise in advance the contact person listed above.

Dated: September 30, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-29102 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

Norden Laboratories, Inc.; Virmyxin Eye and Ear Ointment; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) withdraws approval of a new animal drug application (NADA) sponsored by Norden Laboratories, Inc., providing for use of Virmyxin Eye and Ear Ointment containing virginiamycin and polymyxin B in the treatment of infectious eye and ear disorders in dogs and cats. The firm requested the withdrawal of approval.

EFFECTIVE DATE: October 19, 1981.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68501, is the sponsor of NADA 13-706 which provides for use of Virmyxin Eye and Ear Ointment for treatment of infectious eye and ear disorders in dogs and cats.

The application originally became effective October 23, 1964. In a report of March 19, 1980, the sponsor requested withdrawal of approval of the NADA because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 13-706 and all supplements for Virmyxin Eye and Ear Ointment is hereby withdrawn, effective October 19, 1981.

Dated: September 28, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-29099 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

Penick Corp.; Neomycin Polycarboxylate; Withdrawl of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) providing for the use of neomycin polycarboxylate (carboxylic acid resin adsorbate of neomycin). The sponsor, Penick Corp., has requested the withdrawal.

EFFECTIVE DATE: October 19, 1981.

FOR FURTHER INFORMATION CONTACT: David Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Penick Corp., 530 New York Ave., Lyndhurst, NJ 07071, is the sponsor of NADA 13-324 which provides for the use of neomycin polycarboxylate for the treatment of scours (diarrhea) and enteritis in calves and pigs. The application was originally approved on May 27, 1963. In a letter dated June 5, 1981, the sponsor requested that approval of the NADA be withdrawn because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commission of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 13-324 and all supplements thereto for neomycin polycarboxylate (carboxylic acid resin adsorbate of neomycin) is hereby withdrawn, effective October 19, 1981.

Dated: September 28, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-29097 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

Spartan Grain and Mill Co.; Spartan Dog Food Meal Medicated; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) sponsored by Spartan Grain and Mill Co. providing for use of Spartan Dog Food Meal Medicated containing diethylcarbamazine as an aid in the control of large roundworms in dogs. The firm requested the withdrawal of approval.

EFFECTIVE DATE: October 19, 1981.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Spartan Grain and Mill Co., P.O. Box 5687, Spartanburg, SC 29304, is the sponsor of NADA 14-739 which provides for use of Spartan Dog Food Meal Medicated contained 30 milligrams (mg) per pound of diethylcarbamazine as an aid in the control of large roundworms (ascarids) in dogs. The application originally became effective January 7, 1964. The sponsor requested withdrawal of approval of the NADA by letter dated July 11, 1980, because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 14-739 and all supplements for Spartan Dog Food Meal Medicated is hereby withdrawn, effective October 19, 1981.

Dated: September 28, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-29098 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

Advisory Committees; Filing of Annual Reports

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act, annual reports of the various committees must be filed with the Library of Congress. These have been filed and the committees are listed in this notice.

ADDRESS: Copies are available from the Dockets Management Branch (HFA-305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1751.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776) 5 U.S.C. App. I)), the annual reports required by the act for the following Food and Drug Administration advisory committees, which held closed meetings during the period of July 1, 1980, through June 30, 1981, have been filed with the Library of Congress:

Bureau of Biologics:

- Vaccines and Related Biological Products Advisory Committee.

Bureau of Drugs:

- Anesthetic and Life Support Drugs Advisory Committee
- Endocrinologic and Metabolic Drugs Advisory Committee
- Gastrointestinal Drugs Advisory Committee
- Pulmonary-Allergy Drugs Advisory Committee

Bureau of Medical Devices:

- Circulatory System Devices Panel
- Clinical Chemistry and Hematology Devices Panel
- General Medical Devices Panel
- Immunology and Microbiology Devices Panel
- Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel
- Respiratory and Nervous System Devices Panel
- Surgical and Rehabilitation Devices Panel

Annual reports are available for public inspection at (1) the Library of Congress, Newspaper and Current Periodical Reading Room, Rm. 1026, Thomas Jefferson Bldg., Second St. and Independence Ave. SE., Washington, DC; (2) the Department of Health and Human Services Library, Rm. 1436, 330 Independence Ave. SW., Washington, DC, between 9 a.m. and 4:30 p.m., Monday through Friday; and (3) the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 5, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-29362 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0151]

Toray Industries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Amended notice.

SUMMARY: The Food and Drug Administration amends a notice that appeared in the Federal Register. The notice announced the filing of a food additive petition for the use of Nylon 12 and Nylon 12/6 as components of side seam cement formulations. The petitioner, Toray Industries, Inc., is also proposing that the food additive regulations be amended to provide for the safe use of four adjuvant substances that may be employed in producing side seam cement formulations.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice was given in the Federal Register of June 5, 1981 (46 FR 30199) that a petition (FAP 1B3556) had been filed by the law offices of Weil, Gotshal & Manges, 1101 Connecticut Ave. NW., Washington, DC 20036, on behalf of Toray Industries, Inc., Tokyo, Japan, proposing that § 175.300(b)(3)(xxxii) (21 CFR 175.300(b)(3)(xxxii)] of the food additive regulations be amended for the safe use of Nylon 12 and Nylon 12/6 as components of side seam cement formulations.

Notice is given that the petition also proposes that such regulation provide for the safe use of the following four adjuvant substances:

4,4'-Bis(*alpha, alpha'*-dimethylbenzyl)diphenylamine;

N,N'-Hexamethylenebis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamide);

Tetrakis [methylene(3,5-di-*tert*-butyl-4-hydroxycinnamate)] methane;

Polypropylene glycol.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and of the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 30, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-29363 Filed 10-8-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-19135, OR-19141, OR-19167]

Oregon; Order Providing for Opening of Land

Correction

In FR Doc. 81-27767, appearing at page 47118, in the issue of Thursday, September 24, 1981, make the following changes:

On page 47119, in the first column

1. In T. 21 S., R. 3 E., *Sec.* 15, remove the second SE¼NW¼.

2. In the first column, move the lines "T. 24 S., R. 4E.,"

Sec. 12 Lot 1 to 7, inclusive."

from the end of T. 21 S., R. 4E., to the End of T. 22 S., R. 4E.,.

3. On page 47119, in the second column, in paragraph 3. change the first line to read, "3. The land in the E½SW¼SE¼NW¼".

BILLING CODE 1505-01-M

Wyoming; Rawlins District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Bureau of Land Management, Rawlins District Grazing Advisory Board will be held at 10 a.m. Tuesday November 10, 1981, at the Bureau of Land Management Office, Highway 287 South, P.O. Box 589, Lander, Wyoming 82520.

The agenda will include: (1) FY 82 Annual Work Plan; (2) Green Mountain monitoring and study methods; (3) Lander Resource Area MFP recommendations; (4) maintenance contract on Lander Resource Area reservoirs; (5) recent wild horse roundups; and (6) arrangement for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 1 and 1:30 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the district manager at the above address by November 6, 1981. A per person time limit may be established for persons wishing to make oral statements.

Summary minutes of the meeting will be on file at the district office and will be available for public review 30 days after the meeting.

Jack Kelly,

Acting District Manager.

[FR Doc. 81-29452 Filed 10-8-81; 8:45 am]

BILLING CODE 4310-84-M

Carson City District Advisory Council; Meeting

October 2, 1981.

SUMMARY: The Council will meet November 13 and consider the topic of wildlife habitat improvements. The Council will observe habitat improvements on a field trip the following day.

Date and time: November 13, 1981; 7:00 p.m.

Location: District Office, Bureau of Land Management, 1050 Highway 50 E., Suite 344, Carson City, Nevada.

Agenda

7:00 p.m.—Call to order
7:15 p.m.—Subcommittee Reports
7:45 p.m.—Public Statements
8:00 p.m.—BLM presentation on wildlife habitat improvements
9:00 p.m.—Discussion
—Adjournment

The District Advisory Council is a 10-member body of citizens representing several different interests. The Council advises the District Manager on matters relating to management programs and land use planning. All meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Stephen Weiss, Public Affairs Officer, Bureau of Land Management, 1050 E. William St., Suite 335, Carson City, NV. 89701; telephone (702) 882-1631.

Dated: Octoer 1, 1981.

Thomas J. Owen,

District Manager.

[FR Doc. 81-29456 Filed 10-8-81; 8:45 am]

BILLING CODE 4310-84-M

Las Vegas District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Las Vegas District Advisory Council meeting.

SUMMARY: The Las Vegas (NV) District Advisory Council will meet November 17, 1981 at the Las Vegas District Office, 4765 W. Vegas Drive. The Council will conduct a brief business meeting from 8:00 to 8:30 a.m. At the conclusion of that session, the members will depart via BLM-provided vehicles for the Spring Mountain Range (west of Las Vegas) for an inspection of resource

management situations and problems. The purpose of the trip is to enable the Council to respond to issues raised in the Clark County MFP 2. Members of the public may accompany the tour but must provide their own transport and logistical support. It is expected the council will return to the Las Vegas District Office at approximately 4:30 p.m.

Dated: October 2, 1981.

William C. Calkins,

Associate District Manager.

[FR Doc. 81-29354 Filed 10-8-81; 8:45 am]

BILLING CODE 4310-84-M

[U-45949]

Millard County, Utah; Issuance of Land Sale Conveyance Document

The United States issued a land sale conveyance document to Intermountain Power Agency on August 31, 1981, Patent No. 43-81-0024 for the following described lands pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Salt Lake Meridian, Utah

T. 15 S., R. 6 W.,
Sec. 18, SW¼NW¼, SW¼;
Sec. 19, NW¼, N½SW¼, SW¼.
T. 15 S., R. 7 W.,
Sec. 10, all;
Sec. 11, all;
Sec. 12, SW¼SW¼;
Sec. 13, SE¼NE¼, E½SE¼, W½E½, W½;
Sec. 14, all;
Sec. 15, all;
Sec. 22, lots 1, 2, 4, 6, 9;
Sec. 23, lots 1, 3, 5, 6, N½N½, SE¼NE¼;
Sec. 24, lots 1, 2, 5, 7, N½, N½SE¼.

Comprising 4,614.78 acres.

The lands were conveyed to the Intermountain Power Agency for development of a generating plant. The sale of these lands will serve important public objectives which cannot be achieved on lands other than public lands.

The value of the Federal lands were appraised at $692,200.00 and payment was received for this amount to the United States.

Dated: September 24, 1981.

Robert E. Anderson,

Chief, Division of Technical Services.

[FR Doc. 81-29356 Filed 10-8-81; 8:45 am]

BILLING CODE 4310-84-M

[N-19693]

Nevada; Order Providing for Opening of Public Lands

In an exchange of lands made under the provisions of section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

Mount Diablo Meridian

T. 1 N., R. 32 E.
Sec. 13, W½E½, SE¼NE¼, SE¼SW¼;
Sec. 36, N½NE¼.

The area described contains 320 acres in Mineral County.

Title to the above-described lands was accepted by decision dated September 9, 1980. At that time the lands in section 36 became part of the Inyo National Forest and are subject to all the laws, rules and regulations applicable thereto, and are open to such forms of disposition as may by law be made of National Forest Lands.

Inquiries concerning these lands should be addressed to the Forest Supervisor, Inyo National Forest, 873 North Main Street, Bishop, CA 93514.

Subject to valid existing rights, the lands in section 13 are hereby restored to the operation of the public land laws, including the mining and mineral leasing laws, at 10 a.m. on November 9, 1981.

Wm. J. Malencik,

Chief, Division of Technical Services.

October 2, 1981.

[FR Doc. 81-29353 Filed 10-8-81; 8:45 am]

BILLING CODE 4310-84-M

[U-30245]

Utah County, Utah; Issuance of Land Sale Conveyance Document

The United States issued a land sale conveyance document to Moses Alvin Rowley and Myrtle Bigelow Rowley on June 11, 1981, Patent No. 43-81-0018 for the following described lands pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Salt Lake Meridian, Utah

T. 9 S., R. 1 E.,
Sec. 34, E½E½SW¼NE¼.

Comprising 10 acres.

The lands were conveyed to the Bigelows to settle an unintentional trespass involving the above described lands. The public interest was well served through completion of this sale.

The value of the Federal land was appraised at $5,000 and payment was received for this amount to the United States.

Dated: September 24, 1981.

Robert E. Anderson,

Chief, Division of Technical Services.

[FR Doc. 81-29357 Filed 10-8-81; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Notice of Receipt of Applications

October 5, 1981.

The applicants listed below wish to conduct specific activities with various endangered species:

Applicant: Jeffrey H. Gee, Troy, Michigan, PRT 2-8514.

The applicant requests a permit to obtain in interstate commerce two (2) margays (*Felis weidii*) from Mr. Michael Jacobson, Tucson, Arizona, for enhancement of propagation.

Applicant: Marvin Schwilling, Kansas Fish and Game, Emporia, KS, PRT 2-8512.

The applicant requests a permit to collect a limited number of gray bats (*Myotis grisescens*) to conduct a study on the organochlorine content of bats in the Pittsburg, KS, region for scientific research.

Applicant: University of Colorado Museum, Boulder, CO, PRT 2-8500.

The applicant requests a permit to export and reimport dead museum specimens of endangered wildlife to lend specimens to foreign institutions for scientific research.

Applicant: Albert Winskye, Easthampton, MA, PRT 2-8460.

The applicant requests a permit to purchase in interstate commerce captive-bred Nene geese (*Branta sandvicensis*) from Dr. S. Dillon Ripley, Litchfield, CT, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicted by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before November 9, 1981 by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: October 5, 1981.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 81-29507 Filed 10-8-81; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1675, Block 296, Main Pass Area, offshore Louisiana.

The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 2, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-29353 Filed 10-8-81; 8:45 am]

BILLING CODE 4310-31-M

INTERNATIONAL COMMUNICATION AGENCY

[Delegation Order No. 81-1]

Delegation of Authority to the Associate Director for Broadcasting

Pursuant to the authority vested in me as Director of the International Communication 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 Broadcasting the following described authority:

1. The authority to direct radio broadcasting conducted by the Voice of America, including its broadcasting studios, and radio transmitting and radio relay stations within the United States or in foreign countries.

2. The authority to make arrangements domestically and in foreign countries for the collection of news and information on current affairs; to analyze and to make preparation for the broadcasting thereof.

3. The authority for technical aspects of the planning, design, preparation of specifications, and construction of radio transmitting and radio relay stations within the United States and in foreign countries.

4. The authority to implement any international radio regulations, executive agreements or treaties reached with foreign countries or international organizations to the extent involving the exercise of authorities granted under other paragraphs of this Order or to the extent specifically authorized by the Director.

5. The authority to prepare for and to participate in conferences or negotiations with foreign governments or international organizations on radio broadcasting, in association with other elements of the Agency as may be appropriate. The assistance and participation of the Office of the General Counsel shall be considered necessary in all negotiations of consequence.

6. The authority to exercise any authority or to discharge any responsibility arising out of any existing interagency agreement between the United States Information Agency or the International Communication Agency and the Department of State, or between any of the foregoing and any other agency or department, or component thereof, which agreement was concluded under functions delegated or transferred to the Director or to the Agency and is related to authorities granted herein.

7. The authority to enter into interagency agreements to further the discharge of the responsibilities set forth herein.

8. The authority to issue requisitions for personal property, services (including construction) and real property to be acquired by the Agency Contracting Office. This Order does not include the authority to make contracts or grants.

9. Notwithstanding any other delegation at any time made by the Director, the authority independently to provide personnel services throughout the world for the Voice of America (including by appointment in the civil service or in the foreign service of overseas specialists, and by employment of foreign nationals both domestically and in foreign countries); to establish training and development programs with respect to any category of personnel; to conduct employee-management relations; and to administer systems for the resolution of employee grievances. The civil service personnel system may be administered on a separate competitive basis if legally proper and deemed desirable in the discretion of the Associate Director for Broadcasting. The Associate Director for Broadcasting and The Associate Director for Management shall coordinate their activities to ensure operational efficiency and harmony of Agency-wide personnel policies and procedures, to the extent practicable.

10. Except as otherwise limited by law, the authority to exercise any authority delegated directly by the Director or the Agency contracting officer to any subordinate officer or employee of the Associate Director for Broadcasting.

11. Except as provided in paragraph 10, the authority to redelegate any authority granted herein together with the power of further redelegation. The power of redelegation shall not diminish or limit the right of the Associate Director for Broadcasting to exercise any redelegated authority.

12. Notwithstanding any other provision of this Order, the Director may at any time exercise any function or authority delegated herein.

13. All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or suspended.

14. This Order supersedes Delegation Order No. 78–1 of April 3, 1978.

This Order is effective as of August 25, 1981.

Dated: October 1, 1981.

Charles Z. Wick,

Director, International Communication Agency.

[FR Doc. 81-29453 Filed 10-8-81; 8:45 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

Commission Issuances

AGENCY: Interstate Commerce Commission.

ACTION: Amendment.

SUMMARY: The Regulatory Flexibility Act requires agencies to consider the effect that its regulatory proposals will have on small businesses, organizations and governmental jurisdictions. The Commission Issuance No. 52 set forth in the appendix explains the Commission's internal procedures for implementing the Regulatory Flexibility Act.

EFFECTIVE DATE: Effective upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Kathleen King, 202-275-0956.

SUPPLEMENTARY INFORMATION: The following is an amendment to the Commission Issuances of December 19, 1978 [43 FR 57211, 12-06-78]. The purpose of this amendment is to add a new issuance No. 52 Implementation of the Regulatory Flexibility Act. This new issuance outlines the Commission's internal procedure for implementing the Regulatory Flexibility Act [Pub. L. 96-354].

Since this document governs the internal operations and procedure of the Commission, it is being issued in final form. Public comments are not being required.

This decision does not significantly affect the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 10301.

Decided: September 18, 1981.

By the Commission, Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham and Gilliam.

James H. Bayne,

Acting Secretary.

Appendix

52. Implementation of the Regulatory Flexibility Act

A. *Purpose.*—This issuance establishes the Commission's intention to incorporate the spirit and letter of the Regulatory Flexibility Act, (RFA) in the formulation of agency policies and regulations.

B. *Background.*—On September 19, 1980, Congress enacted Public Law 96-354, or the RFA. The RFA authorizes and directs, as a principle of regulatory issuance, that agencies endeavor to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulations. To achieve this principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.

C. *Policy.*—For several years the Commission has employed many steps to reduce the regulatory burden on small business entities, particularly with regard to easing entry into the interstate trucking industry and reducing reporting burdens. The RFA will expend the scope of the Commission's analysis of economic impacts of proposed rulemakings on small communities and municipalities, shippers, receivers and others, not just small carriers. Additional consideration will be given to the possibility that proposals will confer degrees of benefit on different size carriers.

D. *Regulatory Flexibility Officer.*—The Associate Director, Office of Proceedings, is designated Regulatory Flexibility Officer.

E. *Definitions.*—Small entity shall have the same meaning as the terms "small business", "small organization" and "small governmental jurisdiction" as defined below:

1. *Small Business*—Generally, an independently owned and operated business which is not dominant in its field. The Commission may, however, redefine "small" for various transportation modes by rule in accordance with the RFA.

2. *Small Organization*—Generally, a non-profit enterprise which is independently owned and operated and is not dominant in its field.

3. *Small Governmental Jurisdiction*—Generally, a political unit covering an area with a population under 50,000.

F. *Initial Regulatory Flexibility Analysis (IRFA).*—

1. An analysis of the impact of the proposed rule on small entities to be included on all NPRs which may have a significant economic impact on a substantial number of small entities. Such analysis must contain:

a. a description of the reasons why action by the agency is being considered;

b. a succinct statement of the objectives of, and legal basis for the proposed rule;

c. a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

d. a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

e. an identification, to the extent practicable, of all relevant Federal Rules which may duplicate, overlap or conflict with the proposed rule.

2. In addition, each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analaysis shall discuss significant alternatives such as:

a. the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

b. the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

c. the use of performance rather than design standards; and

d. an exemption from coverage of the rule, or any part thereof, for such small entities.

G. *Final Regulatory Flexibility Analysis (FRFA).*—A final analysis of the impact of the proposed rule on small entities shall be prepared on all final rules to be promulgated which may have a significant economic impact on a substantial number of small entities. Such final analysis shall contain:

1. A succinct statement of the need for, and the objectives of, the rule;

2. A summary of the issues raised by the public comments in response to the intitial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; and

3. A description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities which was considered by the agency, and a statement of the reasons why each one of such alternatives was rejected.

H. *Certification.*—In any rulemaking involving a proposed or final rule which will not, if promulgated, have a significant economic impact (adverse or beneficial) on a substantial number of small entities, a certification of that fact can be made in lieu of an IRFA and a FRFA. Such "certification of no significant economic impact" must contain a succinct statement explaining the reasons for the certification. Any

proceeding involving a final rule, in which a previous certification has been made, should state that in the NPR we certified that the rule would have no significant economic impact on a substantial number of small entities.

I. *Responsibility.*—

1. *Regulatory Flexibility Officer* is directed to prepare the Regulatory Flexibility Agenda which will be part of the Regulatory Council's Calendar of Federal Regulations: and to review all agency

(a) NPRs prior to assignment for preparation of a draft decision to determine if the proposed rule may have a significant economic impact on a substantial number of small entities. The results of this review shall be clearly indicated and affixed to the NPR and forwarded to the originating Bureau or Office; and (b) NPRs and final rules after preparaton of a draft decision, but prior to circulation for Commission vote, to reevaluate the appropriateness of any certification, IRFA or FRFA to determine the sufficiency thereof. In all cases the Regulatory Flexibiltiy Officer is assigned the task of preparing or causing to be prepared, as appropriate, certifications of no significant impact, exemptions, waivers and delays.

2. *Heads of Bureaus and Offices* are to assure that all NPRs and final rules to be promulgated, including exemptions, waivers or delays, have been cleared by the Regulatory Flexibility Officer at the earliest possible stage. NPRs should be referred prior to assignment for preparation of a draft decision, and NPRs and final rules should be referred for appropriate review and clearance after preparation of the draft decision but prior to circulation for Commission consideration. The circulation memorandum on each decision should indicate that the Regulatory Flexibility Officer has approved of the Regulatory Flexibility action taken, waived or delayed. In all cases in which a voluminous IRFA has been necessary, the originating Bureau or Office may prepare a separate IRFA summary to be published in the Federal Register at the time of the publication of general NPR.

3. *Small Business Assistance Office* shall render all possible assistance to the Regulatory Flexibility Officer in coordinating agency activities and processes with the staff of the Office of Advocacy, Small Business Administration which oversees the government-wide program; and to any originating Bureau or Office seeking help in defining the small entity population and potential impact of the proposed or final rule. In special circumstances, the SBAO may be called upon by the Regulatory Flexibility Officer to prepare the certification, IRFA or FRFA.

4. *The Secretary* shall assure that all certifications, IRFAs, and FRFAs approved by the Regulatory Flexibility Officer are published in the Federal Register and served directly on the Office of Advocacy, SBA and on a small select list of organizations representing small entities; and that all waivers or delays approved by the Regulatory Flexibiltiy Officer are published in the Federal Register.

[FR Doc. 81-29395 Filed 10-8-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's exisiting authority, the duplication shall not be construed as conferring more than an single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: October 6, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

James H. Bayne,

Acting Secretary.

MC-F-14698, filed September 9, 1981. ZRUBIAN CORPORATION d.b.a. FOUR STAR LINES DIVISION (Four Star) (Rt. 2, Siren, WI 54872)—Purchase(Portion)—MIDLAND LINES, INC. d.b.a. ZEPHYR LINES DIVISION (Zephyr) (P.O. Box 978, Minneapolis, MN 55440). Representative: Richard L. Gill, 1805 American National Bank Bldg., Paul, MN 55101. Four Star seeks authority to purchase a portion of the interstate rights of Zephyr. Irvin C. Abbott, James M. DeGidio, and Glenn Roseland also seek authority to control said rights through the transaction. Four Star is purchasing a portion of the interstate operating rights contained in Zephyr's certificate MC-44770 (Sub-No. 15),

issued August 3, 1978, which authorizes the transportation service as follows: Regular Routes: Passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, Between Minneapolis, MN, and Morris, MN, serving all intermediate points: From Minneapolis over MN Highway 55 to Glenwood, MN, thence over MN Highway 28 to Morris, and return over the same route. Between Sisseton, SD, and Morris, MN, serving all intermediate points: From Sisston over SD Highway 10 to the SD-MN state line, thence over MN Highway 28 to Morris, and return over the same route. Between Graceville, MN, and Wheaton, MN, serving no intermediate points: From Graceville over US Highway 75 to Wheaton, and return over the same route. Four Star is a motor common carrier authorized to conduct interstate operations pursuant to authority granted in MC-149589.

Note.—Application for TA has been filed.

[FR Doc. 81-29385 Filed 10-8-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. The parent corporation and address of its principle office are: Frank Calandra, Inc., 600 Arch Street, Cresson, PA 16630.

2. Wholly owned subsidiaries which will participate in the operations and states of incorporation are;

Name of Corporation and State of Incorporation

Marjenn Trucking Co., Inc., Pennsylvania
Jennmar Corporation, Pennsylvania
Keystone Bolt Company, Pennsylvania
Jennmar Corporation of West Virginia, Inc., West Virginia
Keystone Bolt Company of West Virginia, Inc., West Virginia
Frank Calandra of West Virginia, Inc., West Virginia
Jennmar Corporation of Kentucky, Inc., Kentucky
Keystone Bolt of Kentucky (a division of Jennmar Corporation of Kentucky, Inc.)
Frank Calandra of Kentucky, Inc., Kentucky
Jennmar Corporation of Illinois, Inc., Illinois
Keystone Bolt of Illinois (a subdivision of Jennmar Corporation of Illinois)
Frank Calandra of Illinois, Inc., Illinois

1. Parent Corporation and address; Gerber Products Company, 445 State Street, Fremont, Michigan 49412.

2. Wholly owned subsidiaries which will participate in the operations and State of Incorporation;

Walter W. Moyer Company, Inc., Pennsylvania
G&M Finishing, Inc., Pennsylvania
Reliance Products Corporation, Rhode Island
Century Products, Inc., Ohio
Okla Homer Smith Furniture Manufacturing Company, Inc., Arkansas

1. Parent corporation and address of principal office: Mobil Corporation, 150 E. 42nd Street, New York, New York 10017.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

Container Corporation of America, Delaware
Montgomery Ward & Co., Inc., Illinois
American Delivery Service Company, Delaware
Jefferson Stores, Inc., Delaware
Jefferson Ward Stores, Inc., Delaware
Standard T Chemical Company, Inc., Delaware
Mobil Oil Corporation, New York
Pasadena Chemical Corporation, Delaware
W. F. Hall Printing Company, Delaware
Chicago Rotoprint Company, Illinois
Hall of Mississippi, Inc., Delaware
Hall of Tennessee, Inc., Delaware
W. F. Hall Printing Company of Georgia, Inc., Delaware

1. Parent corporation and address of principal office: The PQ corporation, Corporate Headquarters, Valley Forge Executive Mall, P.O. Box 840, Valley Forge, PA 19482.

2. Wholly owned subsidiary which will participate in the operations, and State of incorporation;

(i) Potters Industries Inc., 377 Route 17, P.O. Box 86, Hasbrouck Heights, NJ 07604; State of Incorporation: New York
(ii) Nyacol Products Inc., Megunco Road, P.O. Box 349, Ashland, MA 01721; State of Incorporation: Delaware

1. The principal owner is Duane C. Petersen, of 1806 Rose Lane, Williston, North Dakota 58801.

2. The following are corporations which are 100% owned by Duane C. Petersen:

(i) Roughrider Drilling Fluids, Inc., Incorporated December 27, 1977, State of North Dakota.
(ii) All American Trucking, Inc., Incorporated March 20, 1975, State of North Dakota.
(iii) Dane Chemco, Inc., Incorporated February 20, 1980, State of North Dakota.

James H. Bayne,
Acting Secretary.

[FR Doc. 81-29383 Filed 10-8-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Republications of Grants of Operating Rights Authority Prior To Certification

[Permanent Authority Volume No. OP3-244]

Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this Federal Register notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the Federal Register of July 3, 1980, at 45 FR 45539.

MC 42405 (Sub-42) (Republication), filed November 25, 1980, published in the Federal Register issue of December 18, 1980, and republished this issue. Applicant: MISTLETOE EXPRESS SERVICE, P.O. Box 25614, Oklahoma City, OK 73125. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. A Decision of the Commission, Review Board Number 3, decided March 25, 1981, and served April 30, 1981, and a Decision of the Commission, Division 2, Acting as an Appellate Division, decided June 22, 1981, and served June 29, 1981, find that the performance by applicant of the service described in the appendix will serve a useful public purpose, responsive to a public purpose, responsive to a public demand or need to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except Classes A and B explosives), moving in express service, (1) between Memphis, TN, and Florence, AL, over U.S. Hwy 72, (2) between Memphis, TN, and Fulton, MS, over U.S. Hwy 78, (3) between Memphis, TN, and Winona, MS, (a) over U.S. Hwy 51, and (b) over Interstate Hwy 55, (4) between Memphis, TN, and Leland, MS, over U.S.

Hwy 61, (5) between junction U.S. Hwys 61 and 49 and Greenville, MS; from junction U.S. Hwys 61 and 49 near Rich, MS, over U.S. Hwy 49 to junction Mississippi Hwy 1, then over Mississippi Hwy 1 to Greenville, MS, and return over the same routes, (6) between junction U.S. Hwy 61 and Mississippi Hwy 3 and junction U.S. Hwys 49W and 82; from junction U.S. Hwy 61 and Mississippi Hwy 3 over Mississippi Hwy 3 to junction U.S. Hwy 49, then over U.S. Hwy 49 to junction U.S. Hwy 49W, then over U.S. Hwy 49W to junction U.S. Hwy 82, and return over the same route, (7) between Clarksdale and Greenwood, MS; from Clarksdale over U.S. Hwy 49 to junction U.S. Hwy 49E then over U.S. Hwy 49E to Greenwood, MS, and return over the same route, (8) between Holly Springs and Greenwood, MS, over Mississippi Hwy 7, (9) between junction Mississippi Hwys 9W and 7 and Eupora, MS; from junction Mississippi Hwys 9W and 7 over Mississippi Hwy 9W to junction Mississippi Hwy 9, then over Mississippi Hwy 9 to Eupora, and return over the same route, (10) between Walnut, MS, and junction Mississippi Hwy 15 and the Natchez Trace Parkway, over Mississippi Hwy 15, (11) between Corinth and Columbus, MS, over U.S. Hwy 45, (12) between junction Natchez Trace Parkway and U.S. Hwy. 82 and junction Natchez Trace Parkway and Mississippi Hwy 25, over the Natchez Trace Parkway, (13) between junction U.S. Hwy 72 and Mississippi Hwy 25 and junction Mississippi Hwys 25 and 8 over Mississippi Hwy 25, (14) between junction U.S. Hwys 45 and Alt. U.S. Hwy 45, and junction U.S. Hwys 82 and Alt. 45, over Alt. U.S. Hwy 45 (15) between junction Mississippi Hwy 5 and U.S. Hwy 72 and Hickory Flat, MS, over Mississippi Hwy 5, (16) between junction Mississippi Hwy 7 and 30, and junction Mississippi Hwy 30 and U.S. Hwy 45, over Mississippi Hwy 30, (17) between junction Mississippi Hwy 4 and U.S. Hwy 61 and junction Mississippi Hwys 4 and 25, over Mississippi Hwy 4, (18) between Clarksdale and Tupelo, MS, over Mississippi Hwy 6, (19) between junction Mississippi Hwys 32 and 1 and Amory, MS; from junction Mississippi Hwys 32 and 1 and Amory, MS; from junction Mississippi Hwys 32 and 1, over Mississippi Hwy 32 to Okolona, then over Mississippi Hwy 41 and U.S. Hwy 278 to Amory, and return over the same route, (20) between Rosedale, MS, and junction Mississippi Hwys 8 and 25, over Mississippi Hwy 8, (21) between El Dorado, AR, and Columbus, MS, over U.S. Hwy 82, (22) between junction U.S. Hwy 167 and Arkansas Hwy 4 and McGehee, AR, over Arkansas Hwy 4, (23) between junction Arkansas Hwys 4 and 35 and junction Arkansas Hwy 35 and U.S. Hwy 165, over Arkansas Hwy 35, (24) between Pine Bluff and Endora, AR, over U.S. Hwy 65, (25) between junction U.S. Hwys 65 and 165 and Parkdale, AR over U.S. Hwy 165, (26) between junction U.S. Hwy 65 and Arkansas Hwy 81 and Eudora, AR; from junction U.S. Hwy 65 and Arkansas Hwy 81 over Arkansas Hwy 81 to Hamburg, then over Arkansas Hwy 8 to Eudora, and return over the same route, (27) between Pine Bluff, AR, and Memphis, TN; from Pine Bluff over U.S. Hwy 70 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Memphis, and return over the same route, (28) between Little Rock and Stuttgart, AR; from Little Rock over Arkansas Hwy 130 to junction Arkansas Hwy 11, then over Arkansas Hwy 11 to Stuttgart, and return over the same route, (29) between Forrest City and Dumas, AR; from Forrest City over Arkansas Hwy 1 to junction Arkansas Hwy 54, then over Arkansas Hwy 54 to Dumas, and return over the same route, (30) between Walnut Corner, AR, and junction Mississippi Hwy 1 and U.S. Hwy 49, over U.S. Hwy 49, (31) between Pine Bluff and Warren, AR, over Arkansas Hwy 15, (32) between Fordyce and Warren, AR, over Arkansas Hwy 8, (33) between Stuttgart and DeWitt, AR, (a) from Stuttgart over Arkansas Hwy 11 to junction Arkansas Hwy 152, then over Arkansas Hwy 152 to DeWitt, and return over the same route, and (b) from Stuttgart over Arkansas Hwy 11 to junction Arkansas Hwy 130, to DeWitt, and return over the same route, (34) between Brinkley and Marvell, AR, over U.S Hwy 49, (35) between Batesville and Oxberry, MS, over Mississippi Hwy 35, and (36) between Falkner, MS, and junction Mississippi Hwys 370 and 4, over Mississippi Hwy 370, in (1) through (36) above serving all intermediate points; that applicant is fit, willing, and able properly to perform this service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

James H. Baynes,

Acting Secretary.

[FR Doc. 81-29392 Filed 10-8-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-2-190

Decided: October 2, 1981.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier. Member Chandler not participating.

MC 109633 (Sub-56), filed September 25, 1981. Applicant: ARBET TRUCK LINES, INC., P.O. Box 697, Sheffield, IL 61361. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601, 312-332-5106. Transporting *paper, paper products, plastic packaging materials, containers, and paddings,* between points in Marion County, IL, Union and Middlesex Counties, NJ, York County, PA, Guilford and Caldwell Counties, NC, Pontotoc County, MS, and Los Angeles and Fresno Counties, CA, on the one hand, and, on the other, points in the U.S.

MC 145872 (Sub-8), filed September 25, 1981. Applicant: TREVIS BERRY TRANSPORTATION, 655 Luchessa, P.O. Box 1802, Gilroy, CA 95020. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, 415-357-6236. Transporting *fiberboard and pulpboard boxes,* between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of Gilroy, CA.

MC 149293 (Sub-1), filed August 31, 1981. Applicant: THREE STAR TRUCKING CO., 7871 Ritz, Westland, MI 48185. Representative: Alex J. Miller, 555 S. Woodward, Suite 512, Birmingham, MI 48011, (313) 647-3350. Transporting *metal products,* between points in MI, OH, IN, LA, WI, TX, PA, KY, TN, AL, MS, AR, IL, and MO.

MC 151142 (Sub-5), filed September 14, 1981. Applicant: H & H TRANSPORTATION, INC., 1425 E. Main Street, Newark, OH 40035. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030, (703) 691-0900. Transporting *general commodities* (except classes A and B explosives), between the facilities of Stanley Homes Products, Inc., at points in MA, OH, TN, TX, CA, IL, and NC.

MC 151453 (Sub-3), filed September 15, 1981. Applicant: HERMAN O. ALBRITTON, d.b.a. HERMAN O. ALBRITTON TRUCKING, Route 2, Box 219, Butler, GA 31006. Representative: Herman O. Albritton (same address as applicant), 912-862-3859. Transporting *lighting fixutres and parts,* between points in the U.S., under continuing contract(s) with Gibson-Metalux Corp, of Americus, GA.

MC 152362 (Sub-2), filed September 14, 1981. Applicant: SOUTHWEST EXPRESS CO., INC., 1007 Cooper Sq. #276, Arlington, TX 76010. Representative: Timothy C. Hope (same address as applicant), 817-261-8439. Transporting *general commodities,* between points in TX, NM, CO, WY, KS, OK, AR, LA, TN, MS, AL, GA, NC, SC, FL, and Va, on the one hand, and, on the other, points in the U.S. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 158182, filed September 9, 1981. Applicant: EDI TRANSPORT COMPANY, 8528 East 34th St., Tulsa, OK 74145. Representative: Max E. Foster, 2045 South 71st East Ave., Tulsa, OK 74112, 918-663-8727. Transporting *general commodities* (except classes A and B explosives), between points in AR, KS, LA, MO, OK, and TX.

MC 158383, filed September 22, 1981. Applicant: M.S.T. LEASING CORPORATION, 250 Miller Pl., Hicksville, NY. Representative: Jack L. Schiller, 123-60 83rd Ave., Kew Gardens, NY 11415, 212-263-2078. Transporting (1) *plastic bottles and bottle caps,* between points in CT and PA, on the one hand, and, on the other, New York, NY, (2) *glass bottles and bottle caps,* between points in CT, on the one hand, and, on the other, New York, NY, and (3) *coffee,* between New York, NY, on the one hand, and, on the other, Boston, MA.

Volume No. OPY-4-391

Decided: September 30, 1981.

By the Commission, Review Board Number 2, members Carleton, Fisher, and Williams.

MC 31307 (Sub-4), filed September 18, 1981. Applicant: COLUMBIA RIVER TRUCK CO., INC., P.O. Box 1001, Camas, WA 98607. Representative: Lawrence V. Smart, Jr., 419 NW, 23rd Ave., Portland, OR 97210, (503) 226-3755. Transporting *general commodities* (except classes A and B explosives), between points in OR and WA.

MC 34227 (Sub-26), filed September 21, 1981. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15190 E. Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17 St., Suite 2600, Denver, CO 80202, (303) 892-6700. Transporting *printed advertising materials,* between points in the U.S., under continuing contract(s) with Simon Marketing, Inc., of Atlanta, GA.

MC 42487 (Sub-1050), filed September 23, 1981. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226-4692. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., with continuing contract(s) with Ladish Co., of Cudahy, WI.

MC 89427 (Sub-1), filed September 21, 1981. Applicant: PARKER ABBOTT TRANSFER & STORAGE, INC., P.O. Box 282, Salt Lake City, UT 84110. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting *general commodities,* (except classes A & B explosives), between points in UT, ID, WY, and NV.

MC 99427 (Sub-53), filed September 23, 1981. Applicant: ARIZONA TANK LINES, INC., 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304, (515) 245-2730. Transporting *general commodities* (except classes A and B explosives), between points in AZ, CA, CO, NV, NM, TX, and UT, on the one hand, and, on the other, points in the U.S.

MC 134167 (Sub-1), filed September 24, 1981. Applicant: CARRIER SERVICE CO. OF WISCONSIN, INC., 2621 South 5th Place, Milwaukee, WI 53201. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. Transporting *general commodities (except classes A and B explosives),* between points in the U.S., under continuing contract(s) with J.C. Penney Co., Inc., of New York, NY.

MC 146447 (Sub-14), filed September 25, 1981. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St. Miami, FL 33316, (305) 592-0036. Transporting *metal products,* between points in the U.S., under continuing contract(s) with Jenkins Bros., Inc., of Fairfield, CT.

MC 146447 (Sub-15), filed September 25, 1981. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St. Miami, FL 33166, (305) 592-0036. Transporting *rubber and plastic products,* between points in the U.S., under continuing contract(s) with H.

Muehlstein & Co., Inc., of Greenwich, CT.

MC 157237, filed September 24, 1981. Applicant: LEON SRYGLER, d.b.a. LEON SRYGLER TRUCKING, P.O. Box 66, Horse Cave, KY 42749. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790-2510. Transporting (1) *printed matter,* and (2) *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with R.R. Donnelley & Sons Company, of Glasgow, KY.

MC 158407, filed September 23, 1981. Applicant: COURTESY TRANSPORTATION, INC., Route 16 (P.O. Box 281), Mendon, MA 01756. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580, 1-716-265-9510. Transporting *building materials, paper and paper articles,* and *insulating materials,* between points in the U.S., under continuing contract(s) with Fortifiber Corporation, of Attleboro, MA.

MC 158437, filed September 24, 1981. Applicant: EXECUTIVE TRAVEL, INC., 88 Ryder's Lane, Stratford, CT 06497. Representative: Robert E. Bonazzo (same address as applicant), (203) 371-7073. To operate as a *broker,* at Stratford, CT, in arranging for the transportation of *passengers and their baggage,* beginning and ending at points in CT, and extending to points in the U.S.

Volume No. OPY-4-394

Decided: October 5, 1981.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

MC 74416 (Sub-31), filed September 24, 1981. Applicant: LESTER M. PRANGE, INC., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005, (202) 296-3555. Transporting *metal products,* and *paper and related products,* between those points in NY on and west of Interstate Hwy 81, on the one hand, and, on the other, points in NC, WI, AL, SC, GA, MA, CT, RI, IN, OH, and PA.

MC 127756 (Sub-3), filed June 16, 1981, previously noticed in the Federal Register issue of July 7, 1981, and republished this issue. Applicant: SERVICE TRANSPORT LINES, INC., 618 Galveston, P.O. Box 1232, West Sacramento, CA 95691. Representative: Don Chase (same address as applicant), (916) 371-5030. Transporting (1) *metal products,* (2) *food and related products,* and (3) *plastic articles,* between points in CA, AZ, NV, OR, and WA. Note: The purpose of this republication is to include plastic articles as part of the commodity description.

MC 133676 (Sub-17), filed September 21, 1981. Applicant: COMET TRUCK LINE, INC., 1175 Choctaw Dr., Baton Rouge, LA 70821. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701, (601) 335-3576. Transporting (1) *building materials* and (2) *chemicals* between points in AL, AR, LA, and MS.

MC 139306 (Sub-13), filed September 22, 1981. Applicant: STANAGE TRANSPORTATION, INC., 121 Indian Springs Rd., Hot Springs, AR 71901. Representative: James M. Duckett, 221 W. 2d, Suite 411, Little Rock, AR 72201, (501) 375-3022. Transporting *cullet glass,* between points in Boyle County, KY and Mercer County, NJ, on the one hand, and, on the other, points in Lamar County, TX.

MC 145726 (Sub-14), filed September 24, 1981. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 428 So. Lawrence St., Montgomery, AL 36104, (205) 262-2756. Transporting *food and related products,* between the facilities used by John Morrell & Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 146496 (Sub-11), filed September 28, 1981. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree Rd., Chamblee, GA 30341. Representative: Thomas H. Davis (same address as applicant), (404) 452-1744. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Richway, Division of Federated Department Stores, Inc., of Atlanta, GA.

MC 146496 (Sub-12), filed September 28, 1981. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree Rd., Chamblee, GA 30341. Representative: Thomas H. Davis (same address as applicant), (404) 452-1744. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with General Electric Company, Housewares and Audio Business Division, of Bridgeport, CT.

MC 149296 (Sub-1), filed September 24, 1981. Applicant: LEVINGE CORPORATION, 14027 Chrisman, Houston, TX 77039. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893-3050. Transporting (1) *Mercer commosites,* (2) *metal products* and (3) *machinery* between Houston, TX, on the one hand, and, on the other, points in AL, AR, CO, FL, KS, LA, MS, NM, OK and WY.

MC 151566 (Sub-8), filed September 25, 1981. Applicant: PERRY TRANSPORT, INC., 14375-172d Ave., Grand Avenue, MI 49417. Representative: Richard O. Peel (same address as applicant), (616) 842-3550. Transporting *building woodwork,* between points in the U.S. under continuing contract(s) with ODL, Inc., of Zeeland, MI.

MC 152286, filed September 24, 1981. Applicant: TRUCANO CONSTRUCTION, INC., 3560 N. Douglas, Juneau, AK 99802. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235-1111. Transporting *modular buildings, lumber or wood products, building materials, equipment and supplies, and boats,* between points in AK, located east of an imaginary line constituting a southward extension of the International Boundary line between the United States (Alaska) and Canada (Yukon Territory).

MC 153736, filed September 25, 1981. Applicant: FARGO INDUSTRIES, INC., 11920 Fargo Rd., NE, Aurora, OR 97002. Representative: Donald W. Haworth (same address as applicant), (503) 678-5013. Transporting *general commodities in containers* (except classes A and B explosives), between points in Multnomah County, OR and Clark County, WA, on the one hand, and, on the other, points in Cowlitz and King Counties, WA.

MC 154656, filed September 21, 1981. Applicant: ROY HAMILL, d.b.a. HAMILL TRUCKING, Rt. 2, Box 164, Pryor, OK 74361. Representative: Roy Hamill (same address as applicant), (918) 825-3418. Transporting *beer,* between points in the U.S., under continuing contract(s) with Anheuser-Bush, of St. Louis, MO and Golden Eagle Dist. Co., of Tulsa, OK. Condition: Issuance of a Permit in this proceeding is subject to prior or coincidental cancellation, at applicant's written request of authority in its Certificate of Registration under Docket No. MC-42091.

MC 156406, filed September 28, 1981. Applicant: BEASTON TRANSIT, INC., 30887 Road 50, Goshen, CA 93227. Representative: Edward L. Fanucchi, 2409 Merced, Suite 3, Fresno, CA 93271, (209) 268-8771. Transporting *cotton harvester machinery or equipment,* (a) between points in CA, on the one hand, and, on the other, points in AZ, NM, and TX, and (b) between points in TX, on the

one hand, and, on the other, points in NM, AZ, and CA.

MC 156956, filed September 25, 1981. Applicant: WEST CENTRAL ENVIRONMENTAL CORP., P.O. Box 714, Auburn, NY 13021. Representative: Neil D. Breslin, 11 North Pearl St., Albany, NY 12207, (518) 434–1136. Transporting *hazardous wastes,* between points in Norfolk County, MA and points in Fluvanna County, VA.

MC 158066 (Sub-1), filed September 25, 1981. Applicant: 5 "J" EXPRESS, INC., 9144 E. 400 N., Van Buren, IN 46991. Representative: Gerald J. Baumann (same address as applicant), (317) 934–2368. Transporting *general commodities* (except classes A and B explosives), between the facilities of Ralston Purina Company in the U.S., on the one hand, and, on the other, points in the U.S.

MC 158476, filed September 25, 1981. Applicant: HODGES MOVING & STORAGE, P.O. Box 45571, Tulsa, OK 74145. Representative: Dean Williams, Suite 615–East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with General Electric Company, of Dallas, TX.

MC 158486, filed September 28, 1981. Applicant: DARLENE G. AND HOWARD V. CAIN, d.b.a. H & D TRUCK LINE, P.O. Box 206, Oregon, MO 64473. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Amour Food Company, of Phoenix, AZ.

Volume No. OPY–5–171

Decided: October 1, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 2788 (Sub-6), filed September 22, 1981. Applicant: GLOVER TRUCKING CORP., P.O. Box 7206, Holland Station, Suffolk, VA 23437. Representative: James F. Flint, 406 World Center Bldg., 918 16th Street, N.W., Washington, DC 20006, (202) 833–1170. Transporting *general commodities* (except classes A and B explosives), between Franklin, Norfolk and Williamsburg, VA, and points in Southampton, James City, and Isle of Wight Counties, VA, on the one hand, and, on the other, points in NY, PA, OH, NJ, DE, MD, VA, TN, KY, NC, SC, IL, IN, GA, WV, and DC.

MC 107478 (Sub-90), filed September 22, 1981. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Drive, P.O. Box 2006, High Point, NC 27261. Representative: Kim D. Mann, 7101 Wisconsin Ave., Washington, D.C. 20014, (301) 986–1410. Transporting *general commodities* (except classes A and B explosives) between the facilities of Joy Manufacturing Company at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 107478 (Sub-91), filed September 22, 1981. Applicant: OLD DOMINION FRIEGHT LINE, INC., P.O. Box 2006, 1791 Westchester Dr., High Point, NC 27261. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014, (301) 986–1410. Transporting *such commodities* as are dealt in or used by manufacturers of duplicating machines, between the facilities used by Xerox Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 135678 (Sub-34), filed September 16, 1981. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Rm 248-Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, (405) 528–3884. Transporting *baby goods, foodstuffs, chemicals,* and *cleaning compounds,* between the facilities of Gerber Products Company at points in OK, AR, TX, NM, CO, CA, on the one hand, and, on the other, points in OK, AR, TX, NM, CO, and CA.

MC 138758 (Sub-4), filed September 23, 1981. Applicant: NORTHERN GAS, INC., P.O. Box 66, Lyndonville, VT 05851. Representative: John P. Monte, P.O. Box 568, Barre, VT 05641, (802) 476–6671. Transporting *propane,* between points in Albany County, NY, on the one hand, and, on the other, points in NH and VT. Condition: The certificate to be issued here shall be limited in points of time to a period expiring 5 years from the date of issuance.

MC 139579 (Sub-13), filed September 21, 1981. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, NY 14094. Representative: Raymond A. Richards, 35 Curtice Pk., Webster, NY 14580, (716) 265–9510. Transporting (1) *chemicals and related products,* under continuing contract(s) with (a) Chemical Sales Corporation, and Commercial Chemicals, Inc., both of Buffalo, NY, and (b) Chemicentral/Buffalo, of Town of Tonawanda, NY, and (2) *vending machines, gum and confectionery,* under continuing contract(s) with Ford Gum and Machine Company, Inc., of Akron, NY, between points in the U.S.

MC 145088 (Sub-14), filed September 8, 1981. Applicant: S & T TRUCKLOAD, INC., 2527 N.E. 28th St., Fort Worth, TX 76106. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102, (817) 335–2505. Transporting *general commodities* (except classes A and B explosives), between points in Dallas, Tarrant, and Henderson Counties, TX, on the one hand, and, on the other, points in the U.S.

MC 146869 (Sub-3), filed September 18, 1981. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting (1) *furniture and fixtures,* between Chicago, IL, and points in Kane, Kendall, and Du Page Counties, IL, points in NC and VA, on the one hand, and, on the other, Detroit, MI, and points in Wayne, Washtenaw, Ingham, Clinton, Eaton and Oakland Counties, MI, and (2) *malt beverages,* between points in Catawba, Gaston, and Mecklenburg Counties, NC, on the one hand, and, on the other, Detroit, MI, Baltimore, MD, and points in Vanderburg County, IN, Atlantic County, NJ, and Campbell County, KY.

MC 146869 (Sub-4), filed September 21, 1981. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *such commodities* as are dealt in or used by a manufacturer of electrical products, between points in the U.S., under continuing contract(s) with General Electric Company, of Bridgeport, CT.

MC 157228, filed September 21, 1981. Applicant: PRAIRIE LINE, INC., 505 Cottage Grove Drive, Woodbury, MN 55125. Representative: Marquita J. Finley, AAA Building—Suite 200, 170 E. 7th Place, St. Paul, MN 55101, (612) 297–8484. Transporting *construction materials,* between points in the U.S., under continuing contract(s) with the CertainTeed Corporation of Valley Forge, PA.

MC 158028, filed August 31, 1981. Applicant: J & Y, INC., 1601 South 35th Ave., Phoenix, AZ 85009. Representative: Nicholas T. Adrahtas, 2900 Arizona Bank Bldg., 101 North First Ave., Phoenix, AZ 85003, (602) 252–7381. Transporting (1) *food and related products,* between points in Maricopa County, AZ, on the one hand, and, on the other, Los Angeles, CA, Portland, OR, and points in Marin, Sonoma, Napa, Solano, Sacramento, Contra Costa, Alameda, Santa Clara, and San Mateo Counties, CA, King, Spokane, Lewis, and Yakima Counties, WA, and Umatilla,

Marion, Polk, Lane, Deschutes, and Morrow Counties, OR; and (2) *plastic articles,* between Phoenix, AZ, on the one hand, and, on the other, Los Angeles, CA, and points in King County, WA.

MC 158338, filed September 18, 1981. Applicant: R. D. CADLE, d.b.a. RON'S TRUCKING, 53 So. Dawson St., Seattle, WA 98134. Representative: Ronald D. Cadle, 13028 S.E. 207th Pl., Kent, WA 98031, (206) 767–5367. Transporting *lumber and wood products,* between points in Grays Harbor County, WA, on the one hand, and, on the other, points in WA, CA, NV, and AZ.

MC 158418, filed September 23, 1981. Applicant: AMERICAN BELMONT COACHWAYS, P.O. Box 280, Belmont, OH 43718. Representative: William A. Murphy (same address as applicant), (614) 782–1367. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Belmont, Monroe, Harrison, Noble, and Guernsey Counties, OH, and Ohio County, WV, and extending to points in the U.S.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-29397 Filed 10-8-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an appplication must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days afeter publication an applicant may file a verified statement in rebuttal to any statment in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those were service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY–4–392

Decided: September 30, 1981.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

MC 158457, filed September 25, 1981. Applicant: HARRY JUDGE, d.b.a. JUDGE TRUCKING COMPANY, East Side Drive, Chincoteague, VA 23336. Representative: Blair P. Wakefield, Suite 1001, First and Merchants, National Bank Bldg., Norfolk, VA 23510, (804) 627–0700. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OPY–4–393

Decided: October 5, 1981.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

MC 152236, filed September 24, 1981. Applicant: CAN AM RAPID COURIER, INC., 970 Kensington Ave., Buffalo, NY 14215. Representative: Gregory B. Fraser, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701, (716) 664–5210. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OPY–5–172

Decided: October 1, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 113658 (Sub-57), filed September 22, 1981. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport St., Commerce City, CO 80022. Representative: Rick A. Rude, 1730 Rhode Island Ave. NW., Washington, DC 20036, (202) 223–5900. Transporting *general commodities* between Irwin, Harlan, Garwin, and Toledo, IA, and Alden and Gill, CO, on the one hand, and, on the other, points in the U.S. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at all of the involved points.

Note.—The sole purpose of this application is to substitute motor carrier service for completely abandoned rail service.

MC 144939 (Sub-9), filed Septembr 21, 1981. Applicant: LARRY A. HOUSEHOLDER, d.b.a. HOUSEHOLDER TRUCKING, R.R. 1, Fenton, IA 50539. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158368, filed September 21, 1981. Applicant: FLUID TRANSPORT, INC., 14314 Lomitas Avenue, City of Industry, CA 91744. Representative: John Peter Kukta (same address as applicant), (213) 968–9634. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs),

agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158388, filed September 22, 1981. Applicant: JARON TRUCKING, INC., 123 Christie Street, Newark, NJ 07105. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048–0640, (212) 466–0220. Transporting for or on behalf of the United States Government *general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.*

MC 158388, filed September 22, 1981. Applicant: JARON TRUCKING, INC., 123 Christie Street, Newark, NJ 07105. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048–0640, (212) 466–0220. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 158398, filed September 22, 1981. Applicant: S-R-F-T-C BROKERS, 6960 Madison Avenue West, Minneapolis, MN 55427. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 158409, filed September 23, 1981. Applicant: LIN-NOR, INC., 5186 Holladay Blvd., Salt Lake City, UT 84117. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. As a *broker* of *general commodities* (except household goods), between points in the U.S.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-29399 Filed 10-8-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions Volume No. 177; Restriction Removals; Decision-Notice

Decided: October 1, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

James H. Bayne,

Acting Secretary.

MC 105413 (Sub-43)X, filed September 18, 1981. Applicant: PETROLEUM TRANSPORT SERVICE, INC., 3908 Richland Drive, Council Bluffs, IA 51501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Applicant seeks to remove restrictions in its Sub-Nos. 8, 9, 10, 13, 15, 16, 17, 18, 20, 21, 22, 23, 27, 28, 30, 31, 33, 35, 39F, 40F, 41F, and 42 certificates to (1) broaden the commodity descriptions to (a) "commodities in bulk" from (all in bulk), anhydrous ammonia in Sub-Nos. 8, 18, 20, 35, 39F, liquefied petroleum gas in Sub-Nos. 9 and 13, liquid petroleum products in Sub-No. 10 (part 3), fertilizer and fertilizer compounds, acid, and chemicals (except cryogenic liquid) in Sub-No. 15, anhydrous ammonia and fertilizer solutions in Sub-Nos. 16 and 27, fertilizers, insecticides, fungicides, and herbicides and materials and ingredients thereof in Sub-No. 28, liquid animal food and liquid animal food supplements in Sub-No. 30, chemicals fertilizers and fertilizer materials in Sub-No. 31, fertilizer and fertilizer materials, in Sub-No. 40F, liquid fertilizer in Sub-No. 41F, and petroleum products in Sub-No. 42; (b) "petroleum, natural gas and their products" from liquid petroleum products in Sub-No. 10 (part 1) and refined petroleum products in Sub-No. 10 (part 2); (c) "commodities in bulk and chemicals and related products" from anhydrous ammonia and fertilizer (in bulk) and dry fertilizer in Sub-No. 17; and (d) "chemicals and related products" from dry fertilizer in Sub-No. 21, fertilizer and fertilizer ingredients in Sub-No. 22, chemicals and fertilizers in Sub-No. 23, and anhydrous ammonia, ureau and fertilizer in Sub-No. 33; (2) remove the facilities limitations and the originating at and/or destined to restrictions in Sub-Nos. 9, 13, 16, 17, 18, 20, 21, 23, 27, 28, 30, 31, 35, 39F, and 40F; (3) eliminate the in tank vehicles or hopper type vehicles in Sub-Nos. 8, 9, 10, 13, 15, 16, 17, 18, 27, 30, 31, 35, 39F, 41F, and 42; (4) change its one way irregular route authorities to radial authority in Sub-Nos. 8, 9, 10 (parts 2 and 3), 13, 15, 16, 17, 18, 20, 21, 22, 23, 27, 28, 30, 31, 33, 35, 39F, 40F, and 41F and its one way regular route authority to two-way authority in Sub-No. 10 (part 1); (5) allow service at all intermediate points between Arkansas City and Augusta, KS and Omaha, NE, McPherson, KS and Union, Murdock, Firth and Adams, NE, and Kansas City, KS and Lincoln, NE in Sub-No. 10 (part 1); (6) remove the for pick-up only and for delivery only restrictions in Sub-No. 10 (part 1); and (7) replace cities with county-wide authority as follows: Louisiana with Pike County, MO and Onida with Sully County, SD in Sub-No. 8; Greenwood with Cass County, NE in Sub-No. 9; Lincoln and Firth with Lancaster County, NE, Adams with Gage County, NE, Avoca, Eagle, Elmwood, Murdock, Nehawka, and Union with Cass County, NE, Omaha with Douglas County, NE, Memphis and Ashland with Saunders County, NE, Sterling with Johnson County, NE, and Superior with Nucknolls Counties, KS in Sub-No. 10 (parts 2 and 3); Plattsmouth with Cass County, Ne in Sub-No. 13; Fremont with Dodge County, NE in Sub-No. 15; Hoag with Gage County, NE in Sub-No. 16; Beatrice with Gage County, NE in Sub-No. 17; Fort Dodge with Webster County, IA in Sub-No. 18; Creston with Union County, IA in Sub-No. 20; Council Bluffs with Pottawattamie County, IA in Sub-No. 21; Belmond, Waterloo, Sanborn, Jefferson, Carroll, and Council Bluffs with Wright, Black Hawk, O'brien, Greene, Carroll, and Pottawattamie Counties, IA in Sub-No. 22; Hoag with Gage County, NE in Sub-No. 27; Blair with Washington County, NE in Sub-No. 28; La Platte with Sarpy County, NE in Sub-No. 30; Lincoln with Lancaster County, NE in Sub-No. 31; Conway with McPherson County, KS, Greenwood with Cass County, NE, and Whiting, Early, and Garner with Monona, Sac, and Hancock Counties, IA in Sub-No. 35; Hoag with Gage County, NE in Sub-No. 39F; Mason City with Cerro Gordo County, IA in Sub-No. 40F; and Nebraska City with Otoe County, NE in Sub-No. 41F.

MC 111201 (Sub-55)X, filed September 18, 1981. Applicant: J. N. ZELLNER & SON TRANSFER COMPANY, P.O. Box 91247, Atlanta, GA 30364–1247. Representative: Archie B. Culbreth and John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 16, 23, 43F, and 46F certificates to (A) broaden the commodity descriptions (1) in the lead, from cotton, in bales, cotton waste, cotton Linters and used cotton bagging and ties and textile and mill waste (except liquids), to "textile mill products;" (2) in Sub-No. 2 from wooden poles and cross arms to "lumber, and wood products"; (3) Sub-Nos. 16, 23 and 46F, from beverages (except alcoholic, citrus or frozen beverages in containers) and alcoholic liquors, to "beverages and related items"; and (4) in Sub-No. 43F, from malt beverages (except in bulk) to "beverages and related items (B) remove facilities limitations in Sub-Nos. 23, 43F, and 46F; (C) authorize radial authority for only oneway authority; and (D) replace city-wide authorities wherever they appear in each certificate with county-wide authorities as follows: Augusta with Richmond County, GA; East Point with Fulton County, GA; Macon with Bibb County, GA; Chattanooga with Hamilton County, TN; Tarrant City with Jefferson County, AL: Eustis with Lake County, FL, Atlanta with Clayton, Cobb, DeKalb, Fulton, and Gwinnett Counties, GA; Columbus with Muscogee County, GA; Charlotte with Mecklenburg County, NC; Greenville with Greenville County, SC; Spartanburg with Spartanburg County, SC; Albany with Dougherty County, GA; Lynchburg with Moore County, TN; and Montgomery with Elmore and Montgomery Counties, AL.

MC 123279 (Sub-11)X, filed September 14, 1981. Applicant: CHARTER EXPRESS, INC., 8418 Tallmadge Road, R.D. #6, Ravenna, OH 44266. Representative: William P. Jackson, P.O. Box 1240, Arlington, VA 22210. Applicant seeks to remove restrictions in its lead and Sub-Nos. 10 certificate to (1) broaden the commodity descriptions from (a) plastic, rubber, plastic and rubber products, supplies and machinery used in the manufacture thereof, to "rubber and plastic products, supplies and machinery used in the manufacture thereof" in the lead; (b) general commodities (with exceptions) to "general commodities (except classes A and B explosives)" in the lead; (c) plastic flakes, granules, lumps, paste, pellets, powder, and plastic scrap to "rubber and plastic products" in the lead; (d) iron and steel articles to "metal products" in Sub-No. 10; (2) delete commodity exceptions such as in bulk, in tank vehicles, "size or weight" commodities and in containers, in the lead; (3) broaden cities to counties: (a) in the lead, Fremont, OH, to Sandusky County, OH, Akron, OH, to Summit, Wayne, Medina, Stark and Portage Counties, OH, Bellevue, OH, to Huron, Sandusky, Erie and Seneca Counties, OH, Bridgeport, Middletown, and Wallingford, CT, to Fairfield, Middlesex, New Haven, and Hartford Counties, CT, Wilmington, DE, to New Castle County, DE, Stoughton, MA, to Norfolk, Plymouth and Bristol Counties, MA, Garwood, Hamburg, Hoboken, Mountain View, New Brunswick, and Patterson, NJ, to Union, Hudson, Middlesex, Passaic, Sussex, Bergen, Essex, Mercer, Somerset, Morris, and Monmouth Counties, NJ; Amsterdam, Hicksville and Smithtown, NY, to Montgomery, Nassau, Suffolk, Fulton Counties, NY, Nazareth, PA, to Northampton County, PA, Naugatuck, CT, to New Haven County, CT, Boston, Fall River, Lawrence, and Springfield, MA, to Suffolk, Norfolk, Essex, Middlesex, Plymouth, Bristol, Hampden, and Hampshire Counties, MA, Elizabeth, Garwood, Newark, and Trenton, NJ, to Union, Middlesex, Hudson, Essex, Bergen, Passaic, Morris, Somerset, Mercer, Monmouth, Counties, NJ, Buffalo, Chester, and Middleport, NY, to Erie, Orange and Niagara Counties, NY, Economy, Jeanette, Port Alleghany, Pottstown, and Rochester, PA, to Beaver, Allegheny, Westmoreland, McKean, Montgomery, Berks, and Chester Counties, PA; (b) in Sub-No. 10 Blissfield, Detroit, Marine City, and Monroe, MI, to Lenawee, Wayne, Oakland, Macomb, Monroe, Wastensaw, St. Clair, and Monroe Counties, MI, Akron, Amherst, Ashtabula, Avon, Birmingham, Bowling Green, Brilliant, Bucyrus, Calcutta, Canton, Cleveland, Columbiana, Conneaut, Costonia, East Liverpool, East Palestine, Elyria, Empire, Fremont, Fostoria, Knoxville, Lodi, Lorain, Lowellville, McDonald, Mansfield, Martins Ferry, Massillon, Mingo Junction, Newton Falls, New Washington, Niles, North Jackson, Painesville, Port Clinton, Port Homer, Ravenna, Salem, Sandusky, Steubenville, Stratton, Struthers, Toledo, Toronto, Vermilion, Warren, Wellsville, Willard, Wooster, Yorkville, and Youngstown, OH, to Summit, Medina, Portage, Stark, Wayne, Lorain, Ashtabula, Erie, Wood, Jefferson, Crawford, Columbiana, Cuyahoga, Lake, Seneca, Sandusky, Mahoning, Trumbull, Richland, Belmont, Ottawa, Lucas, Huron, and Gragua Counties, OH, Beech Bottom, Benwood, Bethany, Chester, Follansbee, Hancock, Newell, New Cumberland, Wheeling, Weirton, Wellsburg, and West Liberty, WV, to Brooke, Marshall, Hancock, Morgan, and Ohio Counties, WV, Black Rock, Brocton, Buffalo, Clarence Center, Depew, Dunkirk, Fredonia, Hamburg, Jamestown, Lancaster, Lockport, Middleport, Niagara Falls, North Tonawanda, Rochester, Tonawanda, and Wilson, NY, to Chautauqua, Erie, Niagara, Monroe, Orleans, Wayne, and Ontario Counties, NY, Ellwood City, Erie, New Castle, and Pittsburgh, PA, to Lawrence, Erie, Allegheny, Washington, Westmoreland, Beaver, Butler, Armstrong, Fayette, Greene, and Indiana Counties, PA, Flint, Jackson, Lansing, Pontiac, and Saginaw, MI, to Genesee, Jackson, Ingham, Oakland, Saginaw, Shiawassee, Clinton, Easton, and Bay Counties, MI; (4) authorize radial service in lieu of one-way authority in the lead and Sub-No. 10.

MC 125040 (Sub-6)X, filed September 14, 1981. Applicant: R. CONLEY, INC., 6891 Seneca Street, Elma, NY 14059. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. (I) Applicant seeks to remove the restrictions in its certificates in its Sub-Nos. 2 and 4 certificates and MC-19608 (transferred to the applicant in Docket No. MC–FC–77637), to (A) broaden the commodity descriptions to "food and related products" (1) from fruit juices and wine in MC–125040 Sub-No. 2, (2) from vinegar and vinegar stock in MC–125040 Sub-No. 4, and (3) from vinegar, and cider and vinegar in MC–19608; (B) broaden the territorial descriptions by substituting (1) points in Summit, Wayne, Stark, Portage, Cuyahoga, Medina, and Lake Counties, OH, for Akron, Cleveland, and Cuyahoga Falls, OH; and Crawford County, PA for Springboro, PA; Boone, Campbell, and Kenton counties, KY and Hamilton, Butler, and Cleremont Counties, OH, for Cincinnati, OH; (2) Chautauqua, Niagara, and Ontario Counties, NY, for Naples, Newfane, and Westfield, NY; Chautauqua County, NY for Fredonia, NY in Sub-No. 2, (3) Wayne County, NY, for Sodus, NY, in Sub-No. 4 (C) replace one-way with radial authority, (D) remove the seasonal restriction in Sub-No. 2, (E) remove the in bulk, in tank vehicle restrictions in Sub-Nos. 2 and 4, and MC–19608; (II) Applicant seeks to remove the restrictions in its lead and Sub-Nos. 4, 6, 7, and 10 permits to (A) broaden the commodity descriptions to "food and related products" from milk and milk products, from dairy products

(with exceptions) in its lead permit; from ice cream in Sub-Nos. 4 and 7, and from liquid corn syrup in Sub-No. 6, (B) change the territorial description to between points in the United States under continuing contract(s) with named shippers in all permits, remove vehicle restrictions wherever they appear; and (C) remove the in packages restriction in Sub-No. 7.

MC 127042 (Sub-308)X, filed September 21, 1981. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Joseph B. Davis (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 8 (Sheets 1–4 regular route), 93, 94, and 210F certificates: (1) to broaden the commodity descriptions as follows: (a) Sub-Nos. 8, 93, and 94 to "food and related products and chemicals and related products" from meats, packinghouse products, butter, eggs, and dressed poultry in Sub-No. 8, and from meat and meat products described in Sections A, B, C, of 61 M.C.C. 209 and 766, (except hides and commodities in bulk) in Sub-Nos. 93 and 94; (b) to "building materials" from insulation and insulation materials in Sub-No. 210F–(1), and (c) to "chemicals and related products" from fertilizer, fertilizer ingredients, and ice melters, (except in bulk, in tank vehicles), in Sub-Nos. 210F–(2); (2) eliminate the "except hides and commodities in bulk" restriction in Sub-Nos. 93 and 94; and eliminate the "except in bulk, in tank vehicles" restriction in Sub-No. 210F–(2); (3) remove restrictions on its regular route operations which limit service to named intermediate points in Sub-No. 8 to authorize service at all intermediate points; broaden offroute points to county-wide authority as follows: In Sub-No. 8A(1), Hills, MN with Rock County, MN; Alvord, Doon, and Larchwood, IA, with Lyon County, IA; Sub-No. 8A(2), Baltic and Renner, SD, with Minnehaha County, SD; Brandt, SD, with Deuel County, SD; Elton, SD, with Brookings County, SD, and Pipestone, MN, with Pipestone County, MN; Sub-No. 8A(3), Badger, Erwin and Oldham, SD, with Kingsbury County, SD, Nunda, SD with Lake County, SD; Sinai, SD with Brookings County, SD; and Bryant, SD with Hamlin County, SD; and Sub-No. 8A(4), Bigelow, Dundee, Kinbrae, Lismore, Org, Reading, Round Lake and Rushmore, MN with Nobles County, MN; and Kenneth, MN with Rock County, MN; (4) replace named facilities at Marshall, MO, in (a) Sub-Nos. 93 and 94 with Saline County, MO, (b) Sub-No. 210F replace Kenosha, WI with Kenosha County, WI; (5) remove restriction limiting transportation to traffic originating at named facilities and destined to named points in Sub-Nos. 93 and 94; (6) replace one-way with radial authority in Sub-Nos. 93, 94, and 210F.

MC 128515 (Sub-5)X, filed September 23, 1981. Applicant: PAUL'S HAULING, LTD., 250 Oak Point Road, Winnipeg, Manitoba, Canada R2R 1V1. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2 and 3 certificates to (1) broaden the commodity description from (a) agricultural chemicals to "chemicals and related products" in the lead; (b) by-products of distilling and fermenting operations, (animal feed supplements), in bulk, to "food and related products" in Sub-No. 2; (c) petroleum and petroleum products, in bulk, to "petroleum, natural gas, and their products" in part one of Sub-No. 3; (d) agricultural chemicals, in bulk, (except animal and poultry feed and animal and poultry feed ingredients) to "chemicals and related products" in part two of Sub-No. 3; (2) broaden the territorial descriptions to allow two-way service in place of existing one-way authority; (3) remove the "in bulk" restrictions in Sub-Nos. 2 and 3; (4) eliminate the "originating at" restriction in the lead; and (5) expand authorized ports of entry to include all ports of entry in MN and ND in Sub-No. 2.

MC 142672 (Sub-182)X, filed September 23, 1981. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Harry Keifer, P.O. Drawer F, Mulberry, AR 72947. Applicant seeks to remove restrictions from its Sub-Nos. 28F, 31F, 85, 124F, 144F, and 157 certificates as follows: (A) in Sub-No. 31F remove the facilties limitation at or near San Antonio, TX; (B) replace one-way authority with radial authority; (C) broaden commodity description from meat, meat products and meat byproducts, and articles distributed by meat-packinghouses to "food and related products"; (D) broaden San Antonio, TX to Bexar County, TX (E) In Sub-Nos. 28F and 144F remove the facilities limitations at or near Palestine, TX; (F) eliminate the "originating at and/or destined to" restrictions (G) replace one-way authority with radial authority; (H) broaden commodity description from meat, meat products and meat byproducts, and articles distributed by meat-packinghouses to "food and related products"; (I) broaden Palestine, TX to "Anderson County, TX"; (J) Sub-No. 28F will be subsumed in Sub-No. 144F; (K) In Sub-No. 157, part 1, remove facilities limitations at or near Corpus Christi, TX; (L) In Sub-Nos. 85, 124F and 157, part 1, replace one-way authority with radial authority; (M) In Sub-Nos. 85, 124F, and 157 part 1 and 2, broaden commodity description from meat, meat products, and meat byproducts, and articles distributed by meat-packinghouses "food and related products"; (N) In Sub-Nos. 85, 124F, and 157 part 1, broaden Corpus Christi, TX, to "Nueces County, TX".

MC 146319 (Sub-5)X, filed September 23, 1981. Applicant: ELLIOT LAKE FREIGHT LINES LIMITED, P.O. Box 70, Spragge, Ontario, Canada P0R 1K0. Representative: William J. Hirsch, P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. Applicant seeks to remove restrictions in its Sub-Nos. 3F and 4F certificates to: (1) broaden the commodity descriptions, in Sub-No. 3F certificate, from magnesium hydroxide, in bulk, in tank vehicles, to "chemicals and related products;" in Sub-No. 4F, from uranium, to "ores and minerals, and metal products;" (2) broaden city-wide to county-wide authority, Ludington to Mason County, MI, in Sub-No. 3F; (3) broaden ports of entry in the Upper Peninsula of MI to all ports of entry in MI, in Sub-Nos. 3F and 4F; (4) change one-way to radial authority; and (5) remove foreign commerce restrictions in Sub-Nos. 3F and 4F.

MC 147886 (Sub-16)X, filed September 14, 1981. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. Applicant seeks to remove restrictions in its Sub-Nos. 4F, 5F, 6F, 9F, 12F and 13 certificates as follows: in Sub-No. 4F, to broaden the commodity description from lighting fixtures, and materials and accessories used in the installation thereof to "electrical machinery, equipment and supplies and clay, concrete, glass or stone products" and to replace facilities at Vermilion, OH with county wide (Erie County, OH) authority; and to remove restriction limiting transportation to traffic originating at named facilities; in Sub-No. 5F, to broaden the commodity description from (1) lawn and garden equipment, (2) lawn and garden products in containers and (3) agricultural insecticides and fungicides in containers, to "chemicals and related products, metal products, and machinery" and to replace facilities at or near Marysville, Vermilion and Columbus, OH with county wide (Union, Erie and Madison Counties, OH); in Sub-

No. 6F, to broaden the commodity description from foodstuffs (except unfrozen meat, unfrozen meat products, and unfrozen meat byproducts, and except commodities in bulk), to "food and related products" and to replace facilities with county wide authority as follows: Greenville, MS with Washington County, MS, Millsboro, DE with Sussex County, DE and Bridgeport, Memphis and Imlay City, MI with Saginaw, St., Clair, Macomb and Lapeer Counties, MI; in Sub-No. 9F, to broaden the commodity description from air conditioners, hot air furnances, and air conditioning and hot air furnace equipment, materials and supplies, to "machinery, and metal products," and replace city wide with county wide authority as follows: Ft. Smith, AR with Sebastion County, AR, Milledgeville, GA with Baldwin County, GA, Garland, TX with Dallas County, TX, Orlando, FL with Orange County, FL and Jackson, Jonesville and Addison, MI with Jackson, Hillsdale and Lenawee Counties, MI; in Sub-No. 12F, broaden the commodity description from (1) foam cushion materials and packaging accessories,, (2) plastic foam pellets and powder and (3) plastic forms, planks, shapes and boards, to "rubber and plastic products"; in Sub-No. 13, to broaden the commodity description from part (1) agricultural machinery and agricultural implements to "machinery"; in all sub-nos, except Sub-No. 13, replace one way with radial authority.

MC 148183 (Sub-43)X, filed September 24, 1981. Applicant: ARROW TRUCK LINES, INC., Post Office Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. Applicant seeks to remove restrictions in its Sub-Nos. 5F, 6F, 7F, 10F, 11F, 12F, 14F, 16F, 17F, 18F, 19F, 20, 21F, 22, 23F, 24, 25F, 26F, 27F, 28F, 29F, 30, 31, 32F, 33, and 34 certificates to (1) broaden the commodity description from frozen bakery products, oleomargarine, frozen fresh, and canned fruit juices, frozen fruit juice concentrate, fresh canned vegetable juices, fruit sections, and fruit salads, meat and meat products, and meat by products, chesse and chesse products, frozen foods, foodstuffs, spaghetti, macaroni and noodles, malt beverages and empty containers, sugar, chocolate candy, food products, and candy to "food and related products" in all certificates except Sub-No. 32F; (2) eliminate the facilities limitations in Sub-Nos. 5F, 6F, 7F, 10F, 11F, 14F, 16F, 17F, 18F, 19F, 21F, 22, 24, 26F, 27F, 32F, and 34; (3) change city to county-wide authority from Saugatuck and Holland to Allegan and Ottawa Counties, MI; Gainesville, to Hall County, GA; Bartow, Winter Haven, Haines City, Lakeland, Howie-in-the-Hills, Plymouth and Umatilla to Polk, Lake and Orange Counties, FL; Madison to Madison County, FL; Columbus Junction and Waterloo to Louisa and Black Hawk Counties, IA; Indianapolis to Marion County, IN; Plymouth to Sheybogen County, WI; Frankfort, Benton Harbor, and Hart to Benzie, Berrien, and Oceana Counties, MI; Allentown, Chambersburg, Fogelsville, and Wayensboro to Lehigh and Franklin Counties, PA; South Bend to Saint Joseph County, IN; Martinsburg to Berkeley County, WV; Ranson to Jefferson County, WV; Albany to Dougherty County, GA; Jarrett to Sussex County, VA; Decatur to Adams County, IN; Jersey City to Hudson County, NJ; Toledo to Lucas County, OH; Aiken to Aiken County, SC; Montgomery to Montgomery County, AL; Plover to Portage County, WI; Reserve and Kenner to St. John the Baptist and Jefferson Parishes, LA; West Reading and Wyomissing to Berks County, PA; Waukesha to Waukesha County, WI; Albert Lea to Freeborn County, MN; Navasota to Grimes County, TX, Industrial Airport to Johnson County, KS; New Haven to New Haven County, CT; Buffalo to Erie County, NY; Bryan to Williams County, OH; and Detroit to Wayne County, MI; (4) expand one-way to radial authority; and (5) remove the restrictions: "in vehicles equipped with mechanical refrigeration"; in containers; except in bulk; except frozen or in bulk; except hides; except liquid; except meats; and except AK and HI.

MC 148426 (Sub-5)X, filed September 24, 1981. Applicant: CONTRACT COURIER SERVICES, INC., 951 Piper Lane, Suite 2, Lower Level, Prospect Heights, IL 60070. Representative: Allan C. Zuckerman, 39 South LaSalle Street Chicago, IL 60603. Applicant seeks to remove restrictions in its MC-142674 Sub-No. 1 permit to (1) broaden the commodity description to "medical test kits and hazardous materials (except classes A and B explosives)" from medical isotopes, medical test kits, radioactive drugs and radiopharmaceuticals; (2) remove the ex-air restrictions, and (3) broaden the territorial authority to between points in the US, under continuing contract(s) with the named shipper.

[FR Doc. 81-29387 Filed 10-8-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions Volume No. OP1-277; Decison-Notice

Decided: October 2, 1981.

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the execption of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be

issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's othr authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier, (Chandler not participating in part).

James H. Bayne,

Acting Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those were service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

MC 42261 (Sub-156), filed September 18, 1981. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017 (212) 532–5100. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 52471 (Sub-4), filed September 10, 1981. Applicant: HEMPHILL TRUCKING INC., 1931 Yellowstone Road, Rock Springs, WY 82901. Representative: John R. Davidson, Suite 805 First Bank Building, Billings, MT 59101 (406) 248–9156. Transporting (1) *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacturer, processing, storage, transmission and distribution of manufactured and natural gas and petroleum and their products and by products, (2) *machinery, equipment, materials and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, and (3) *pipe, and earth drilling materials, equipment and supplies,* between points in CO, ID, MT, NV, UT and WY.

MC 93711 (Sub-2), filed June 26, 1981, previously noticed in the FR issue of July 20, 1981. Applicant: WALLINGTON MOTOR LINES, INC., P.O. Box 428, Clifton, NJ 07105. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904 (201) 572–5551. Transporting *chemicals and related products, cleaning equipment, plastic and plastic articles, glassware, and paper and paper products,* between New York, NY, on the one hand, and, on the other, points in CT, NJ, NY and PA.

Note.—This republication clarifies the commodity description.

MC 93840 (Sub-66), filed September 21, 1981. Applicant: GLESS BROS, INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *commodities in bulk,* between the facilities of Hunt-Wesson Foods, Inc., in IA, IL, MN, WI, MO, NE, KS, MI, OH, IN, KY, TN, ND, SD, OK, and AR, on the one hand, and, on the other, points in IA, IL, MN, WI, MO, NE, KS, MI, OH, IN, KY, TN, ND, SD, OK, and AR.

MC 114761 (Sub-15), filed May 20, 1981, and previously noticed in FR issue of June 8, 1981. Applicant: GETTER TRUCKING INCORPORATED, 1635 North Frontage Road, Billings, MT 59101. Representative: John R. Davidson, Suite 805 First Bank Bldg., Billings, MT 59101, (406) 248–9156. Transporting (1) *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of manufactured and natural gas and petroleum and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, and (3) *pipe and earth drilling materials, equipment, and supplies,* (a) between points in AK, AZ, CA, CO, ID, KS, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, and WY, and (b) between points in AK, AZ, CA, CO, ID, KS, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, and WY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Note.—This republication clarifies the commodity description.

Condition: Issuance of a certificate in this proceeding shall cancel Certificate No. MC–114761 (Sub-No. 15F), issued August 24, 1981.

MC 118420 (Sub-10), filed September 24, 1981. Applicant: BULLDOG TRUCKING OF GEORGIA, INC., P.O. Box 555, Carnesville, GA 30521. Representative: Kim G. Meyer, 235 Peachtree St., N.E., Suite 120, Atlanta, GA 30303, (404) 522–2322. Transporting *animal feed,* between points in Franklin County, Ga, on the one hand, and, on the other, points in LA, MS, AL, TN, KY, NC, SC, VA, and MD.

MC 126081 (Sub-1), filed September 24, 1981. Applicant: BILLY BYBEE TRUCKING, P.O. Box 150, Universal, IN 47884. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *food and related products,* between points in Butler and Hamilton Counties, OH, Peoria and Saint Clair Counties, IL, Milwaukee County, WI, Shelby County, TN, Ramsey County, MN, Wayne County, MI, St. Louis County, MO and Campbell County, KY, on the one hand, and, on the other, points in Vermillion, Vigo and Parke Counties, IN.

MC 141751 (Sub-4), filed September 23, 1981. Applicant: M.P.C. TRUCKING, INC., Cold Stream Rd., Kimberton, PA 19442. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *pulp, paper and related products,* between points in Hillsborough County, NH, on the one hand, and, on the other, points in Saratoga and Albany Counties, NY.

MC 146610 (Sub-3), filed April 9, 1981. Applicant: CHARLES JOINER, 104 South Central, Tennille, GA 31087. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Evans Adhesive Corporation, of Columbus, OH, and Plywood Corp., of Tennille, GA.

MC 157591, filed September 11, 1981. Applicant: WALTER M. NICKELS d.b.a. NICKELS FARM, Raymondville, MO 65555. Representative: Walter M. Nickels (same address as applicant) (417) 457–6477. Transporting *charcoal and charcoal briquettes,* between points in Dent County, MO, on the one hand, and, on the other, points in the AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and DC.

MC 158221, filed September 14, 1981. Applicant: CARNACO TRANSPORT, INC., 5045 Wilshire Blvd., Los Angeles, CA 90036. Representative: William H. Borghesani, Jr., 1150 17th St., N.W., Suite 1000, Washington, DC 20036 (202) 457–1122. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Carnation Company, of Los Angeles, CA.

[FR Doc. 81-29385 Filed 10-8-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Republications of Grants of Operating Rights Authority Prior To Certification Decision Volume No. OPY-4-VOL-395 Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broaden grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 154706 (Republication), filed March 3, 1981; published in the Federal Register issue of April 1, 1981; republished in the Federal Register issue of July 24, 1981; and republished this issue. Applicant: OMNI OVERSEAS FREIGHTING, INC., 3001 South Ridgeland Ave., Berwyn, IL 60402. Representative: C. J. Calabria (same address as applicant). In a Decision by the Commission, Division 2, Acting as an Appellate Division, decided September 28, 1981, and finds that performance by the applicant as *a common carrier,* by motor vehicle, in interstate or foreign commerce, over *irregular routes,* transporting (1) *electrical appliances,* between points in Du Page County, IL, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Ohio, Kentucky, Iowa, Minnesota, and Wisconsin; and (2) *general commodities,* between points in Cook County, IL, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Ohio, Kentucky, Iowa, Minnesota, and Wisconsin; will serve a useful public purpose responsive to a public demand or need; that applicant is fit, willing and able properly to perform such service; and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to reflect the full scope of authority granted.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-29333 Filed 10-8-81; 8:45 am]

BILLING CODE 7035-01-M

[No. AB-43 (Sub-74F)]

Illinois Central Gulf Railroad Co.—Abandonment—In Henderson, Union, Webster, Crittendon, and Caldwell Counties, KY; Findings

October 2, 1981.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided October 2, 1981, a finding, which is administratively final, was made by the Administrative Law Judge stating that the public convenience and necessity permit the abandonment by Illinois Central Gulf Railroad Co. of rail lines extending from milepost 19.0 near Wilson, KY to milepost 97.25 near Princeton, KY (Evansville District), from milepost 0 at Blackford, KY to milepost 8.5 at Clay, KY (Providence District), from milepost 0 at Wheatcroft, KY to milepost 9.4 at Providence, KY (Providence District) and from milepost 0 at Morganfield, KY to milepost 6.5 at Uniontown, KY (Uniontown District), a total of approximately 102.65 miles, traversing Henderson, Union, Webster, Crittendon and Caldwell Counties in Kentucky. Abandonment is subject to the conditions for the protection of employees discussed in *Oregon Short Line Railroad Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). Offers of financial assistance must be made within 10 days of the publication of this notice. Any person who made an offer of financial assistance prior to the publication of the notice must inform the carrier and the Commission of its continued interest or the offer may be considered to have lapsed. A certificate of abandonment will be issued to Illinois Central Gulf Railroad Co. based on the above-described finding, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Mrs. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquistion cost of all of any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of any offer, and no request is made of the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 C.F.R. § 1121 as revised by Ex Parte No. 274 (Sub-No. 6), *Abandonment of Railroad Lines and Discontinuance of Service,* 365 I.C.C. 249 (1981) as published at 46 Fed. Reg. 45342 (September 11, 1981). All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-29391 Filed 10-8-81; 8:45 am]

BILLING CODE 7035-01-M

[Third Revised ICC Order No. 80 Under Service Order No. 1344]

Rerouting Traffic; St. Louis Southwestern Railway Co. et al.

To: St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Oklahoma, Kansas and Texas Railroad Company; and Chicago and North Western Transportation Company.

In the opinion of Robert S. Turkington, Agent, the Chicago, Rock Island and Pacific Railroad Company is unable to transport promptly traffic offered for movement via its lines, because of an embargo of its lines.

Rerouting authority previously granted in Reroute Order No. 63, was continued in Reroute Order No. 80, and should be extended for those carriers

which have indicated that tariff modifications in progress could not be completed by the expiration of Second Revised Reroute Order No. 80 (September 30, 1981). This matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, and therefore requires this action by the Commission. Keota Washington Transportation Company, Little Rock & Western Railway Corporation and Union Pacific Railroad Company have advised the Commission that modification of their respective tariffs have been completed. Consequently, the authority for those carriers to reroute traffic under this order has been terminated.

It is ordered,

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company (RI), being unable to transport promptly traffic offered for movement via its lines because of an embargo of its lines, that lines interim 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 the order as authority for the rerouting: St. Louis Southwestern Railway Company, Cadillac & Lake City Railway Company, Oklahoma, Kansas and Texas Railroad Company, Chicago and North Western Transportation Company.

(b) Concurrence of receiving roads to be obtained. The railroad rerouting cars in accordance with this order shall receive the concurrence of other railraods to which such traffic is to be rerouted, before rerouting.

(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 by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements 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 12:01 a.m., October 1, 1981.

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1981, unless otherwise modified, amended or vacated.

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.

Issues at Washington, D.C., September 30, 1981.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 81-29390 Filed 10-8-81; 8:45 am]

BILLING CODE 7530-01-M

[Ex Parte No. 403]

Rail Carrier Cargo Liability Study

AGENCY: Interstate Commerce Commission.

ACTION: Availability of study.

SUMMARY: Section 211(d) of the Staggers Rail Act of 1980 requires the Interstate Commerce Commission to report to Congress within one year of the effective date of the Act its recommendations as to whether rail carriers should continue to be subject to section 11707 of Title 49, United States Code. This statutory provision effectively codifies the common law governing carrier cargo liability, thus providing a uniform, strict liability standard for railroads and transportation companies.

Based on a careful review of the origins of the common law, the changes made by the Staggers Act, and the arguments set forth in comments made by the parties in this proceeding, the Commission recommended that the Interstate Commerce Act be amended to: (1) eliminate the venue restrictions contained in the Staggers Act, (2) provide the courts with authority to award attorneys fees to successful claimants, and (3) remove the $10,000 jurisdictional threshold for access to Federal Costs.

COPIES: The report was made available to appropriate members of Congress on September 30, 1981. Copies of this study are now available on request made to the Office of the Secretary. Requests for copies may be made by calling the Commission's toll-free number (800-424-5403) or by writing to the Office of the Secretary, Room 2227, Interstate Commerce Commission, 12th and Constitution Ave., NW, Washington, D.C. 20423.

By the Commission, Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham and Gilliam. Commissioner Gresham submitted a separate expression in the report.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-29388 Filed 10-8-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-102)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment Between Bigelow and Maitland, Mo.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its rail line between Milepost 0.000, near Bigelow, MO, and Milepost 14.74, near Bigelow, MO, in Holt County, MO, a total distance of 14.74 miles, subject to conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) a financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) it is likely that:

(a) if a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) if a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings desribed above, the effectiveness of the abandonment certificate will be

postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 1095 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

James H. Bayne,

Acting Secretary.

[FR Doc. 81–29386 Filed 10–8–81; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-53)]

Rail Carriers; Union Pacific Railroad Co., Exemption for Contract Tariff ICC–UP–C–0003

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). Its filed contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: Union Pacific Railroad Company (UP) filed a petition on September 25, 1981, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we advance the effective date of its contemporaneously filed addendum to contract tariff ICC–UP–C–0003, now October 25, 1981, so that the effective date would be on one day's notice. The addendum adds two destinations to the contract.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. Cf. former section 11762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition is granted. Since the contract, one warehouse has been closed, necessitating the transfer of operations to another location. The "second" destination is a correction of a specified destination mistakenly listed by a name not currently used on applicable waybill records. Under these circumstances, authorization of a provisional exemption is warranted. UP's addendum to contract tariff ICC–UP–C–0003 may become effective on one day's notice.

We will apply the following conditions which have been imposed in similar exemption proceedings: If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking these exemptions under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: October 1, 1981.

By the Commission, Division 1, Commissioners Clapp, Gresham and Taylor. Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 81–29389 Filed 10–8–81; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

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 September 28–October 2, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely; and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–11,148; ITT Abrasive Products Co., Tiffin, OH
TA–W–11,420; Federal-Mogul Corp., Greenville, MI
TA–W–11,508; Fisher Corp., Troy, MI
TA–W–11,291; Saginaw Sheet Metal Parts Corp., Saginaw, MI
TA–W–11,297; South Haven Rubber Co., South Haven, MI
TA–W–11,002 and 11,702; Al Tech Specialty Steel Corp., Dunkirk, NY and Watervliet, NY
TA–W–10,584, 10,648, and 10,889; Brown Shoe Co., Union, MO, Booneville, MS, and Owensville, MO
TA–W–11,350; Fiber-Tek, Inc., Benzonia, MI
TA–W–10,476; Racal Sportswear, Inc., Brooklyn, NY
TA–W–11,658; Gould, Inc., Engine Parts Div., Bridgeport, OH
TA–W–11,852; Crotty Corp., Quincy, MA
TA–W–11,521; Thompson Steel Co., Inc., Worcester, MA
TA–W–11,914; Lee Cylinders, Inc., Cambridge City, IN
TA–W–11,583; Sunstrand Heat Transfer, Inc., Dowagiac, MI
TA–W–11,884; Lundberg Screw Products Co., Lansing, MI
TA–W–11,010; Cal Feather Products, Sand City, CA
TA–W–11,846; Robinet Mfg. Co., North Branch, MI

In the following case the investigation revealed that the firm does not produce an article within the meaning of Section 222(3) of the Act.

TA–W–11,947; Bob Chandler Ford Sales, Inc., DeQueen, AR

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

TA–W–10,869; Birmingham Stove and Range Co., Birmingham, AL

In each of the following cases the investigation revealed that criterion (3)

has not been met for the reason(s) specified.

TA-W-10,942; Johns-Manville Sales Corp., Richmond, IN

Aggregate U.S. imports of mineral wool insulation are negligible.

TA-W-9265; Northern Mining Equipment Co., Hibbing, MN

With respect to wire rope and cable products, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to the sale and repair of mining equipment, the investigation revealed that the firm does not produce an article within the meaning of Section 222(3) of the Act.

TA-W-11,487; Spartan Die Co., Lansing, MI

Aggregate U.S. imports of forging dies are negligible.

In the following case the investigation revealed that criterion (2) has not been met.

TA-W-12,354; Somerset Knitting Mills, Inc., Philadelphia, PA

Affirmative Determinations

TA-W-12,101; William Atkin Co., Allentown, PA

A certification was issued on a petition received on January 12, 1981 covering all workers of the firm separated on or after January 9, 1980 and before December 31, 1980.

TA-W-10,214; Bel-Mor Knitwear, Inc., Ty-Ups, Inc., Farmingdale, NY

A certification was issued on a petition received on July 28, 1980 covering all workers of the firm separated on or after April 11, 1980 and before December 28, 1980.

I hereby certify that the aforementioned determinations were issued during the period September 28–October 2, 1981. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal working hours or will be mailed to persons who write to the above address.

Dated October 5, 1981

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-29193 Filed 10-8-81; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration has instituted investigations pursuant to Section 221 (a) of the Act and 29 CFR 90.12

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 19, 1981.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 19, 1981.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 30th day of September, 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Amore Chain Co. (company)	Coventry, R.I.	9/29/81	9/23/81	TA-W-13,013	Chains—Neck, gold.
Carmen Athelic Industries, Inc. (workers)	Aguadilla, P.R.	9/28/81	9/22/81	TA-W-13,014	Footwear—athletic.
Delton, Ltd. (company)	New York N.Y.	9/29/81	9/23/81	TA-W-13,015	Sportscoats—mens.
Global Systems Corp. (workers)	Haverhill, Mass.	9/29/81	9/24/81	TA-W-13,016	Equipment—electronic.
Kay-Dell Sportswear, Inc. (company)	Bayonne, N.J.	9/28/81	9/21/81	TA-W-13,017	Apparel—ladies'.
L.E. Smith Glass Co. (AFGWU)	Mt. Pleasant, Pa.	9/29/81	9/17/81	TA-W-13,018	Glassware
(The) National Sugar Refining Co. (Sugar Refinery Wkrs.)	Philadelphia, Pa.	9/28/81	9/21/81	TA-W-13,019	Refining—sugar.
Olympian Products, Inc. (workers)	Wetumpka, Ala.	9/21/81	9/18/81	TA-W-13,020	Garments—down filled.
Seaside Blouse Co. (ILGWU)	Bridgeport, Conn.	9/18/81	9/14/81	TA-W-13,021	Blouses—ladies'.
Turner Shoe Mfg. Co., Inc. (workers)	Aguadilla, P.R.	9/28/81	9/22/81	TA-W-13,022	Footwear—athletic.
Ethel Manufacturing, Inc. (workers)	Lindenhurst, N.Y.	9/29/81	9/24/81	TA-W-13,023	Coats—ladies'.
Norton Laboratories, Inc. (workers)	Lockport, N.Y.	9/28/81	9/22/81	TA-W-13,024	Parts—automobiles.
New York Imperial Foundations, Inc. (ILGWU)	Pine Brook, N.J.	9/29/81	9/23/81	TA-W-13,025	Brassieres and girdles.

[FR Doc. 81-29192 Filed 10-8-81; 8:45 am]

BILLING CODE 4510-28-M

Proposed Reallocation of Nonutilized Funds Carried Forward From Fiscal Year 1981 Into Fiscal Year 1982 Under the Comprehensive Employment and Training Act (CETA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed reallocation of nonutilized funds carried forward from Fiscal Year 1981 to Fiscal Year 1982 Under the Comprehensive Employment and Training Act.

SUMMARY: This document provides 30 days notice and opportunity to comment on the Department of Labor's intention to reallocate certain nonutilized CETA prime sponsor funds carried forward from fiscal year (FY) 1981 to FY 1982.

DATE: Comments should be submitted on or before November 9, 1981.

ADDRESS: Comments should be addressed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Room 5010, 601 D Street N.W., Washington, D.C. 20213, Attention: Mr. Jess C. Ramaker, Acting Administrator, Office of Comprehensive Employment Development.

FOR FURTHER INFORMATION CONTACT: Mr. Jess C. Ramaker, 202-376-6254.

SUPPLEMENTARY INFORMATION: Section 108 of CETA authorizes the Department to reallocate any amount of any allocation under the Act to the extent that the recipient will not be able to use such amount within a reasonable period of time. Section 108 of the Act and § 676.47 of the implementing regulations require the Department to provide 30 days notice and opportunity to comment on such proposed reallocation. Section 676.47 further provides that the Department shall not consider as nonutilization a carryover into the next fiscal year by a prime sponsor of up to 10 percent of its annual allocation for each Annual Plan Subpart.

Pursuant to Section 108 and 20 CFR 676.47, the Department proposed to reallocate all carryover funds in excess of 25 percent of prime sponsors' fiscal year (FY) 1981 allocations for Title II-A, B, and C, Youth Community Conservation Improvement Program (YCCIP) and Youth Employment and Training Programs (YETP) under Title IV-A, Title VII and Special Grants to Governors. In accordance with Section 483 of CETA, all Summer Youth Employment Program (SYEP) funds carried over from FY 1981 to FY 1982 will be combined with new obligational authority (NOA) for the FY 1982 program.

This proposed action is designed to ensure effective utilization by prime sponsors of all funds allocated under CETA, taking into consideration late start-ups and other administrative and programmatic factors, as well as to ensure that excess funds which cannot be utilized within a reasonable period are made available to other jurisdictions which are in need of and can utilize such funds.

As a result of the phaseout of the Titles II-D and VI programs during Fiscal Year 1981, there will be no allowable carry forward of Titles II-D and VI funds, except for funds in the administrative cost pool to be carried forward for closeout purposes.

Special program funds for Indochinese Youth Demonstration projects will not be subject to reallocation.

Signed at Washington, D.C. this 1st day of October 1981.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 81-29491 Filed 10-8-81; 8:45 am]

BILLING CODE 4510-30-M

Reallocation of Youth Community Conservation and Improvement Projects Funds Under Title IV-A of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Final Reallocation of YCCIP Funds.

SUMMARY: This document announces the final reallocation of certain Youth Community Conservation and Improvement Projects funds under Title IV-A of the Comprehensive Employment and Training Act (CETA).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Gilliland, Acting Administrator, Office of Youth Programs, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213, Telephone: (202) 376-2646.

SUPPLEMENTARY INFORMATION: Two prime sponsors, Calcasieu Parish, Louisiana and the City of Dallas, Texas, advised the Department of Labor that they chose not to operate CETA Youth Community Conservation and Improvement Projects (YCCIP) programs in fiscal year (FY) 1981. The Department determined that two other prime sponsors, the South Plains, Texas Association of Governments and the North Texas Regional Planning Consortium were underutilizing their fiscal year 1981 YCCIP funds and would not be able to use a portion of their allocations within a reasonable period of time.

Pursuant to 20 CFR 676.47, the prime sponsors, the public and the appropriate Governors were given notice of and 30 days to comment on the proposed reallocations. After consideration of the comments received, the Department determined to redistribute all of the first two and a portion of the two other sponsors' YCCIP funds in the amounts and to the prime sponsors indicated below.

From (prime sponsor)	To (prime sponsor)
(1) Calcasieu Parish, LA—$103,591.	Shreveport, LA.
(2) City of Dallas, TX—$343,703.	Central Texas Manpower Consortium—$200,000. Tarrant County, TX—$43,703. Webb County, TX—$100,000.
(3) South Plains Association of Governments.	Greater Pasadena, TX., CETA Consortium.
(4) North Texas Regional Planning Consortium $53,000.	City of Little Rock, AK.

Signed at Washington, D.C. this 28th day of September, 1981.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 81-29487 Filed 10-8-81; 8:45 am]

BILLING CODE 4510-30-M

Voluntary Reallocation of Funds Under Title II-D of the Comprehensive Employment and Training Act (CETA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final notice of the voluntary reallocation and redistribution of funds under Title II-D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the voluntary reallocation by Erie County, New York of $900,000 in Title II-D funds and the redistribution of $500,000 of these funds to the City of Buffalo and $400,000 to the New York Governor's Grant.

FOR FURTHER INFORMATION CONTACT: Jess C. Ramaker, Acting Administrator, Office of Comprehensive Employment Development, 601 D Street, NW., Room 5402, Washington, D.C. 20213, Telephone: 202-376-6366.

SUPPLEMENTARY INFORMATION: The Erie County, New York prime sponsor advised the Department of Labor that under its Fiscal Year (FY) 1981 CETA grant it had excess Title II-D funds available which it would be unable to utilize effectively prior to the end of the fiscal year. Erie County further advised that it was agreeable to a voluntary reallocation of these funds.

The Department determined that as a result of slow program buildup and

subsequent attrition of its Title II–D program in compliance with the President's planned phaseout of Title II–D, Erie County cannot effectively use $900,000 of its Title II–D funds. Pursuant to 20 CFR § 676.47, the Governor, the general public and other prime sponsors were given 30 days notice to comment on the proposed reallocation of these funds. After consideration of the comments received, the Department decided to redistribute $500,000 of these funds to the City of Buffalo prime sponsor, which is located geographically within Erie County, and $400,000 to the New York Governor's Grant for use in PSE reemployment efforts throughout the State. The Department reviewed the operations of the City of Buffalo and the New York Governor's Grant and determined that they need and can utilize these funds effectively by the end of FY 1981.

Signed at Washington, D.C. this 28th day of September, 1981.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 81-29488 Filed 10-8-81; 8:45 am]

BILLING CODE 4510-30-M

Voluntary Reallocation of Funds Under Title VII of the Comprehensive Employment and Training Act (CETA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of the Voluntary Reallocation and Redistribution of Funds Under Title VII of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the voluntary reallocation by the Balance of State, Indiana prime sponsor of $1,066,422 in Title VII funds and the redistribution of these funds to the nine Indiana prime sponsors listed below.

FOR FURTHER INFORMATION CONTACT: Jess C. Ramaker, Acting Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5010, Washington, D.C. 20213, Telephone: 202/376–6254.

SUPPLEMENTARY INFORMATION: The Balance of State Indiana prime sponsor advised the Department of Labor that due to the slow organizational start of its Private Industry Council it would be unable to effectively utilize $1,066,422 of its Fiscal Year 1981 Title VII funds by the end of the fiscal year. The Governor further advised that the prime sponsor was agreeable to a voluntary reallocation of these funds for the purpose of redistributing them to other Indiana prime sponsors where they could be more effectively utilized. Pursuant to 20 CFR 676.47, the general public and the other prime sponsors were given notice and 30 days to comment on the proposed reallocation. After consideration of the comments received and a review of the other Indiana prime sponsors' Title VII activities, the Department decided to redistribute the funds to the following nine Indiana prime sponsors in the amounts indicated.

Fort Wayne Consortium	$60,000
Southwestern Consortium	70,000
Delaware/Blackford Consortium	193,450
Lake County	50,000
City of Gary	170,972
City of Hammond	122,500
La Porte County	42,000
Madison County	300,000
City of Indianapolis	57,500
Total	$1,066,422

Signed at Washington, D.C. this 28th day of September 1981.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 81-29489 Filed 10-8-81 8:45 am]

BILLING CODE 4510-30-M

Voluntary Reallocation of Funds Under Title VII of the Comprehensive Employment and Training Act (CETA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of the Voluntary Reallocation and Redistribution of Funds Under Title VII of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the voluntary reallocation by the Alamo Consortium, Texas prime sponsor of $200,000 in Title VII funds and the redistribution of $185,162 of these funds to the prime sponsors listed below.

FOR FURTHER INFORMATION CONTACT: Jess Ramaker, Acting Administrator, Office of Comprehensive Employment Development, 601 D Street, NW., Room 5010, Washington, D.C. 20213. Telephone: 202–376–6254.

SUPPLEMENTARY INFORMATION: The Alamo Consortium, Texas prime sponsor advised the Department of Labor that due to its inability to finalize some major employment generating contracts, it would be unable to utilize $200,000 of its Fiscal Year 1981 Title VII allocation. The prime sponsor further advised that it was agreeable to a voluntary reallocation of these funds. Pursuant to 20 CFR 676.47 the Governor, the general public and other prime sponsors were given notice and 30 days to comment on the proposed reallocation.

After consideration of the comments received, and a determination as to need and the ability to effectively utilize the funds, the Department of Labor decided to reallocate $185,162 of these Title VII funds to the following prime sponsors in the amounts indicated.

	Amount
Central Arkansas	$7,519
Texarkana Consortium	10,021
Ouachita Parish	9,385
Shreveport	11,644
Balance of State, Louisiana	6,752
Balance of State, Oklahoma	31,024
City of Dallas	9,514
Tarrant County	71,855
Gulf Coast Consortium	25,448
	185,162

Signed at Washington, D.C. this 29th day of September 1981.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 81-29490 Filed 10-8-81; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-364]

Alabama Power Co., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. NPF–8 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 2 (the facility) located in Houston County, Alabama. The amendment was effective September 27, 1981.

The amendment was authorized by phone on September 27 and 28, 1981, and was confirmed by letter dated September 29, 1981. The amendment grants temporary relief from diesel generator operability and surveillance frequency requirements. The amendment allows Unit 2 to continue operation for a total of seventeen days while repairs are accomplished on diesel generator 2c. During this time, Unit 1 is shutdown for major turbine generator overhaul and diesel generator 1c is also being repaired. The amendment was issued on an expedited basis to maintain the plant at a steady-state condition and avoid a shutdown transient shown by our evaluation to be unnecessary but required by Technical Specifications unless amended.

The application for the amendment complies with the standards and

requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the request for amendment dated September 28, 1981, (2) the Commission's letter to the licensee dated September 29, 1981, (3) Amendment No. 8 to License No. NPF-8, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of October, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-29502 Filed 10-8-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329 OM, 50-330 OM, 50-329 OL, 50-330 OL]

Consumers Power Co. (Midland Plant, Units 1 and 2); Appointment of Technical Interrogator

Notice is hereby given that, in accordance with the provisions of 10 CFR 2.722(a)(1), the Atomic Safety and Licensing Board in this consolidated proceeding has appointed Administrative Judge Jerry Harbour, a member of the Atomic Safety and Licensing Board Panel, as a technical interrogator with respect to seismic, geological and geotechnical issues. As provided by 10 CFR 2.722(a), this appointment is subject to the notice and disqualification provisions as described in 10 CFR 2.704.

Dated at Bethesda, Maryland this 2d day of October 1981.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 81-29503 Filed 10-8-81 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Availability of Final Environmental Statement for the Comanche Peak Steam Electric Station, Units 1 and 2

Notice is hereby given that the Final Environmental Statement (NUREG-0775) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Comanche Peak Steam Electric Station, Units 1 and 2 by Texas Utilities Generating Company. The station is located in Somervell County near Glen Rose, Texas.

The Final Environmental Statement (NUREG-0775) is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. 20555 and in the Somervell County Public Library, On The Square, P.O. Box 1417, Glen Rose, Texas 76043. The Final Environmental Statement is also being made available at the North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas 76011.

The notice of availability of the Draft Environmental Statement (DES) for the Comanche Peak Steam Electric Station, Units 1 and 2 and request for comments was published in the Federal Register on May 29, 1981 (46 FR 29012). The comments received from Federal, State and local agencies, and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG-0775) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 2nd day of October 1981.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 81-29509 Filed 10-8-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating Licensing No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina.

The amendment extends the date for full compliance with relief and safety valve testing to July 1, 1982. This amendment is effective as of its date of issuance.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company letter dated September 21, 1981, (2) Amendment No. 6 to Facility Operating License No. NPF-9 and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of items 2 and 3 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of September 1981.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 81-29504 Filed 10-8-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 SP and 50-251 SP]

Florida Power & Light Co. (Turkey Point Nuclear Generating Units Nos. 3 and 4); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this steam generator repairs proceeding to consist of the following members: Alan S. Rosenthal, Chairman; Dr. W. Reed Johnson; Stephen F. Eilperin.

Dated: October 2, 1981.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 81-29505 Filed 10-8-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on AC/DC Power Systems; Meeting

The ACRS Subcommittee on AC/DC Power Systems will hold a meeting on October 30, 1981, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review status of the activities associated with NUREG-0666, and the ongoing work on the availability of the AC Power. Notice of this meeting was published September 23.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: Friday, October 30, 1981—*8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: October 6, 1981.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 81-29498 Filed 10-8-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on Thursday, October 29, 1981 in Room 1046 at 1717 H Street, NW, Washington, DC. This Subcommittee combined with the TMI-2 Action Plans Subcommittee will be briefed on the current status of the NRC's Systematic Evaluation Program (SEP). Notice of this meeting was published September 23.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: Thursday, October 29, 1981—1:00 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634-1414) between 8:15 a.m. and 5 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: October 6, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-29499 Filed 10-8-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on St. Lucie Plant Unit No. 2; Meeting

The ACRS Subcommittee on St. Lucie Plant Unit No. 2 will hold a meeting on October 30 and 31, 1981, Holiday Inn, Century Village, 6255 Okeechobee Road, West Palm Beach, FL. The Subcommittee will review the application of Florida Power and Light Company for a license to operate St.

Lucie Plant Unit No. 2. Notice of this meeting was published September 23.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Friday, October 30, 1981—1:30 p.m. until the conclusion of business

Saturday, October 31, 1981—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Florida Power and Light Company, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber (telephone 202/634-3267) or Mr. Stuart K. Beal, Staff Engineer (202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act; 5 U.S.C. 552b(c)(4).

Dated: October 6, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-29500 Filed 10-8-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Three Mile Island Unit 2 Action Plans; Meeting

The ACRS Subcommittee on Three Mile Island Unit 2 Action Plans will hold a meeting on October 29, 1981 in Room 1046, 1717 H Street, NW., Washington, D.C. This Subcommittee combined with the Reactor Operations Subcommittee will review the proposed rule on "Licensing Requirements for Pending Operating License Applications". Notice of this meeting was published September 23.

In accordance with the procedures outlined in the Federal Register on September 30, 1981, (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Thursday, October 29, 1981, 8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with section 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: October 6, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-29501 Filed 10-8-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Letter to the Commissioner of Customs Concerning the Non-Member Import Quotas Under the International Sugar Agreement

Executive Order No. 12224 of July 1, 1980, delegated to the United States Trade Representative the powers and duties of the President under the International Sugar Agreement, 1977, Implementation (Pub. L. 96-236; 94 Stat. 336).

The attached letter was sent to the Commissioner of Customs implementing provisions revising non-member import quotas in accordance with Article 57 of the International Sugar Agreement.

Donald E. de Kieffer,

Acting U.S. Trade Representative.

The United States Trade Representative

October 5, 1981.

The Honorable William von Raab,

Commissioner of Customs, Washington, D.C. 20229

Dear Commissioner von Raab: Headnote 3 of Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) gives the United States Trade Representative or his designee the authority to allocate the sugar import quotas to the extent necessary to conform with provisions of the International Sugar Agreement (ISA). Recent declines in sugar prices requires a revision of those quotas.

The International Sugar Organization has notified the United States that imports from non-members should be limited to 55 percent of the relevant base quantities (i.e., the annual average levels of such imports during the 4-year period 1973-1976, disregarding the

year of lowest imports) effective September 16, 1981. Therefore, the U.S. non-member import quota for 1981 now becomes 5,109 metric tons under Article 57, subparagraph 1(B) and 95,729 metric tons under paragraph 2. This limitation was triggered when on September 16 the ISA prevailing price had remained below 13 U.S. cents per pound for five market days.

We would appreciate your expeditious implementation of these adjustments.

Sincerely,

Donald E. de Kieffer,

Acting.

[FR Doc. 81-29460 Filed 10-8-81; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18148; File No. SR-MCC-81-5]

Midwest Clearing Corp.; Proposed Rule Change By Self-Regulatory Organization

In the matter of proposed rule change relating to new terminal and line fees MST Communication System participants. Comments requested on or before October 30, 1981.

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 September 21, 1981, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is *MST System Administrative Bulletin* dated July 6, 1981.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements:

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The new terminal and line fees for MST Communication System participants are necessitated by a 16.4% increase levied by AT&T effective May 15, 1981. MCC is currently making inquiries of AT&T to determine the cause of this increase and the possibility of alternative equipment prices.

The new fees are consistent with the Act in the that they will be equitably allocated among all participants using the service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result 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 have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the 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, 500 North Capitol Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington D.C. 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 on or before October 30, 1981.

Dated: October 5, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-29470 Filed 10-8-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18147; File No. SR-MSTC-81-2]

Midwest Securities Trust Co.; Proposed Rule Change By Self-Regulatory Organization

In the matter of proposed rule change relating to new terminal and line fees for MST Communication System participants and fees for Fourth Party Interface Movements to Philadelphia Securities Depository participants. Comments requested on or before October 30, 1981.

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 September 21, 1981, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is *MST System Administrative Bulletin* dated July 6, 1981 and as Exhibit B, *MST System Administrative Bulletin* dated July 7, 1981.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The new terminal and line fees (Exhibit A) are necessitated by a 16.4 percent increase levied by AT&T. MSTC is currently making inquiries to AT&T to determine the cause of the increase and the possibility of alternative equipment prices.

The fees for Fourth Party Interface Movements (Exhibit B) were established because these movements require special handling, specifically, manual adjustments to participant accounts and special monitoring.

The fees established in Exhibits A and B are consistent with Section 17A of the Act. The line and terminal fees were established to offset the increase levied by AT&T. The fees for Fourth Party Interface Movements are commensurate with the special handling required for the prompt and accurate book entry movements of securities between the Midwest and Philadelphia depository facilities. The fees will be equitably allocated among all participants using the service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result 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 have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the 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, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C., will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W. Washington, D.C. 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 on or before October 30, 1981.

Dated: October 5, 1981.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-29163 Filed 10-8-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18149; File No. SR-NSCC-81-14]

National Securities Clearing Corp.; Proposed Rule Change By Self-Regulatory Organization

In the matter of proposed rule change relating to a revision to the Letter of Credit Form. Comments requested on or before October 30, 1981.

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 September 21, 1981, the National Securities Clearing Corporation 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 National Securities Clearing Corporation. 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

Modify the Letter of Credit form as follows:

[brackets indicate deletions]

italics indicate addition

(Letter of Credit Form)

(Letterhead of Issuer)

(Date of Issue of Credit)

(No. of Credit)

National Securities Clearing Corporation, 55 Water Street, New York, New York 10041

Attention: Secretary

Dear Sirs: At the request of (name of NSCC Settling Member) (the "Member"), we hereby establish our irrevocable credit in your favor, for the account of the Member, in the amount of available upon presentation to us of your sight draft accompanied by your signed statement certifying that the amount claimed under this Letter of Credit does not exceed the [difference between (i) the total amount of the member's required contribution to the Clearing Fund as of the date of such statement, and (ii) the amount of cash and the total market value on such date] *amount necessary to satisfy the Member's liabilities to you, as provided by the Rules of the SCC Division of the NSCC, after first applying to such liabilities any cash and/or the market value (as of the date of such statement)* of qualifying bonds, which the Member had deposited in the Clearing Fund or pledged to you as of such date; and either that:

(a) the Member has failed to meet an obligation to you which permits you to charge the Clearing Fund contribution of the Member, pursuant to the Rules of the SCC Division of National Securities Clearing Corporation (the "Rules"); or

(b) the Member has failed, within ten calendar days prior to the expiration date of this Letter of Credit, to make a substitution for this Letter of Credit in the amount required, effective upon or prior to the expiration of this Letter of Credit, in accordance with the Rules.

We hereby agree with you that drafts drawn under and in accordance with the terms of this Letter of Credit will be duly honored upon presentation and delivery of the document specified above.

This Letter of Credit expires at our counters, (address of Bank) at 3:00 p.m. Eastern Time on (the March 1st or September 1st which is no more than 12 months from the date of issuance of this Letter of Credit).

Partial drawings are permitted.

This Letter of Credit is issued under and governed by Article 5 of the New York Uniform Commercial Code.

Very truly yours,

(Issuer)

By: _____

(Authorized Signature)

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 National Securities Clearing Corporation ("NSCC") 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

The purpose of the proposed change is to conform the wording of the Letter of Credit Form with wording that appears in the Interpretation of the Board of Directors concerning acceptable form of Letter of Credit and Application for Approval and Agreement of Issuers and the Application Form itself. The proposed rule change is consistent with the Securities Exchange Act of 1934 and the rules and regulations thereunder applicable to NSCC in that, in the event of the insolvency of a Member or it a Member fails to timely substitute a Letter of Credit, it clarifies the ability of NSCC, pursuant to Rule 4, to protect itself and its Members by being able to draw upon the full amount, if necessary or appropriate, of a Letter of Credit deposited with NSCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments on the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the 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, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. 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 on or before October 30, 1981.

Dated: October 5, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-29469 Filed 10-8-81; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-18146; File No. SR-NSCC-81-12]

National Securities Clearing Corp.; Proposed Rule Change by Self-Regulatory Organization

In the matter of relating to extensions of time for OTC Buy-Ins of securities. Comments requested on or before October 30, 1981.

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 September 3, 1981, the National Securities Clearing Corporation 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 National Securities Clearing Corporation. 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 proposed rule change adds the following language to the end of Section B (Balance Order System) of Section IX (Execution of Buy-Ins) of the SCC Division Procedures.

Extensions of Time for Buy-Ins of OTC Securities

For the purposes of this Section of the Procedures, the term "listed security(ies)" shall be deemed to mean a security(ies) traded on the New York Stock Exchange, Inc. and/or The American Stock Exchange, Inc., and the term "OTC security(ies)" shall be deemed to mean a security(ies) traded other than on The New York Stock Exchange or The American Stock Exchange. Extensions of time for execution will be granted by the Corporation under the following conditions:

Member Originated Buy-In

A short Member who has received a buy-in notice from a Member for a balance order issued by the Corporation may take a seven (7) calendar day extension due to transit or transfer consistent with the NASD's Uniform Practice Code (UPC). Upon request, certificate numbers will be furnished by the short Member requesting the extension.

If the securities are in transfer and due to the transfer agent, transfer is delayed, the Corporation may grant an additional seven (7) calendar days. If the short Member cannot take the extension but retransmits a Member originated Buy-In to a non-member UPC broker and the UPC broker takes a UPC transfer or transit delay, the short Member will advise the Corporation which will extend the execution date for the same period of time.

Extensions of the execution of a Buy-In of a "listed security" will not be granted by the Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, National Securities Clearing Corporation 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. NSCC 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

The proposed rule change permits certain aspects of the operation of Buy-Ins of balance order securities transactions executed in the over-the-counter Market (OTC transactions) to be

accomplished in the SCC Division in a similar manner as these operations were formerly accomplished in the Corporation's NCC Division. When the SCC Division Rules were amended by filing SR–NSCC–77–10 (at Release No. 34–15142), operational features of the NCC Division and of the Corporation's ASECC Division were made available in the SCC Division. The differences in procedures between buy-ins in the SCC Division and buy-ins in the NCC Division were not reconciled at that time.

In order to address these differences the Corporation filed SR–NSCC–78–13. As proposed, that rule filing would have permitted the granting of extensions of time for OTC Buy-In of positions of both CNS eligible issues as well as balance order issues. It was believed at such time that the inclusion of provisions for extensions of time was necessary to prevent inequities which could result from the absence of these provisions in the clearance operations. Due to the time that has elapsed since SR–NSCC–78–13 was first filed, the Corporation now believes that while the necessity for such changes in the balance order system remains, the concerns expressed as to the operation of the CNS System have been mitigated. This is due to the high "fill-rate" experienced in the CNS System which makes actual execution of CNS Buy-Ins infrequent. Accordingly, the proposed rule change only contains the balance order provisions contained in the original filing, SR–NSCC–78–13, and omits those amendments previously proposed for the CNS System.

As currently proposed, the rule change addresses certain limited procedures for buy-ins regarding OTC balance orders only, which will be in conformity with the provisions of the Uniform Practice Code of the NASD. The specific provisions of the proposed rule change are: the availability of buy-in extensions for transfer or transit delays up to a maximum of fourteen (14) calendar days.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions for which the Corporation is responsible by continuing existing appropriate Buy-In procedures for transactions in securities executed in the over-the-counter market. The proposed rule change does not relate to the safeguarding of securities and funds in NSCC's custody or control because it only affects Members' rights to cause or delay buy-ins and does not affect the handling of securities by NSCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments on the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before November 13, 1981, 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 Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. 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 on or before October 30, 1981.

Dated: October 5, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-29471 Filed 10-8-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0155]

Golder, Thoma Capital Co.; Issuance of Small Business Investment Company License

On June 25, 1981, a notice was published in the Federal Register (46 FR 32982) stating that an application has been filed by Golder, Thoma Capital Company, 120 South LaSalle Street, Suite 630, Chicago, Illinois 60603, with the Samll Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license as a small business investment company.

Interested parties were given until close of business July 10, 1981, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0158 to Golder, Thoma Capital Company to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 2, 1981.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 81-29435 Filed 10-8-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0155]

Pathfinder Venture Capital Corp.; Issuance of Small Business Investment Company License

On March 25, 1981, a notice was published in the Federal Register (57 FR 18636) stating that an application has been filed by Pathfinder Venture Capital Corporation, 7300 Metro Blvd., Suite 585, Minneapolis, Minnesota 55435, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment

companies (13 CFR 107.102 (1980)) for a license as a small business investment company.

Interested parties were given until close of business April 9, 1981, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0155 to Pathfinder Venture Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 2, 1981.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 81-29486 Filed 10-8-81; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 196
Friday, October 9, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-333 Amdt. 3, October 1, 1981]

Notice of Additions and Closure of Items to the October 1, 1981 Board Meeting

TIME AND DATE: 9:30 a.m., October 1, 1981.

PLACE: Room 1027 (open), Room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

31. Application of Sterling Airways A/S for, a Statement of Authorization to operate a series of Fifth Freedom IT-type charters between points in Norway and Sweden and Miami; Motion of Scanair for referral of this item to the Board. (BIA)

32. Docket 39727: Application of Scanair for exemption authority to operate Scandinavian-originating IT-type charters to points in Florida Motion of Scanair for immediate action on its application. (BIA)

33. Negotiations with the Government of Brazil in Washington, D.C.—September 28–October 2, 1981. (BIA)

STATUS: 1–28 (open), 29–33 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S-1840-81 Filed 10-7-81; 3:45 pm]

BILLING CODE 6320-01-M

2

COMMISSION ON CIVIL RIGHTS

DATE AND TIME: Wednesday, October 14, 1981, 9:30 a.m.–5:00 p.m.

PLACE: Room 512, 1121 Vermont Avenue, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda.

II. Approval of Minutes of Last Meeting.

III. Review of Report on Race and Ethnic Discrimination in Federal Programs for Older Persons (Part I).

IV. Proposal for Baltimore Hearing on Minority Economic Development.

V. State Advisory Committee Interim Appointment:

A. Utah.

VI. Illinois Advisory Committee Report Entitled *Shutdown: Economic Dislocation and Equal Opportunity.*

VII. Action re: California Advisory Committee Report Entitled *Access to a Public Resource: Broadcast Ownership in California.*

VIII. Action re: Virginia State Advisory Committee Report Entitled *Sex Discrimination and Title VII in Virginia.*

IX. Staff Director's Report:

A. Status of Funds.

B. Personnel Report.

C. Office Directors' Reports.

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division (202) 254–6697.

[S-1537-81 Filed 10-7-81; 12:02 pm]

BILLING CODE 6335-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday, October 14, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Litigation. Audits. Personnel. Fiscal Year 1982 Management Plan.

* * * * *

DATE AND TIME: Thursday, October 15, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinion 1981-41—John Graff, Chairman, International Association of Amusement Parks and Attractions Political Action Committee
Pending legislation
Appropriations and budget
Classification actions
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-1533-81 Filed 10-7-81; 3:26 pm]

BILLING CODE 6715-01-M

4

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, October 15, 1981.

PLACE: 1700 G Street, N.W., board room, Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Application for Bank Membership—Keene Savings Bank, Keene, New Hampshire
Application for Bank Membership—Gardner Co-operative Bank, Gardner, Massachusetts
Change of Corporate Title—North Louisiana Federal Savings and Loan Association of Lake Providence, La., Lake Providence, Louisiana
Application for Bank Membership—Mason Village Savings Bank, Greenville, New Hampshire
Request for Waiver of I. R. 563.8(j)(1) Caguas Federal Savings and Loan Association of Puerto Rico, Caguas, Puerto Rico
Service Corporation Activity—AmeriFirst Federal Savings and Loan Association, Miami, Florida
Increase in Accounts of an Insurable Type (Merger)—Heart O'Lakes Savings and Loan Association, Rhinelander, Wisconsin *into* Security Savings and Loan Association, Milwaukee, Wisconsin
Increase in Accounts of an Insurable Type (Merger); Cancellation of Membership and Insurance and Transfer of Stock—First Federal Savings and Loan Association, Beeville, Texas INTO San Antonio Savings Association, San Antonio, Texas
Application for Authority to Incur Debt and Application for Approval to Acquire Control of—Colonial Savings and Loan Association, Lewisville, Texas AND Northwest Savings and Loan Association, Austin, Texas BY Colonial Financial Corporation, Fort Worth, Texas
Appointment of a Deputy Director, Office of Neighborhood Reinvestment
Proposed Fiscal Year 1982 Budget of the Office of Neighborhood Reinvestment
Request for a Commitment to Insure Accounts—Century Savings and Loan Association, Riverview, Michigan (New Stock)

Request for a Commitment to Insure Accounts—Financial Security Savings and Loan Association, Palm Beach County, Florida
Request for a Commitment to Insure Accounts—Cypress Savings and Loan Association, Plantation, Florida (New State-Stock)
Application for Insurance of Accounts—Spindletop Savings and Loan Association (Non-operating Stock), Beaumont, Texas
Request for a Commitment to Insure Accounts—Territory Savings and Loan Association of Seminole, Seminole, Oklahoma (New Stock Association)
Bank Membership and Insurance of Accounts—Stanford Savings and Loan Association, Palo Alto, California (New Stock Association)

No. 544, October 7, 1981.

[S-1536-81 Filed 10-7-81; 10:27 am]

BILLING CODE 6720-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., October 15, 1981.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Damar Cargo Services, Inc.—Applicant for an Independent Ocean Freight Forwarder License (B-491).
2. Proposed Rule Outlining Procedures for Implementation of the Energy Policy and Conservation Act.
3. Draft Consumer Affairs Programs—Proposed Implementation of Executive Order 12160.

Portion closed to the public:

1. Docket No. 81-44—Petition of Virginia Port Authority for Declaratory Order Regarding Lease Agreement No. T-3896—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523-5725.

[S-1539-81 Filed 10-7-81; 3:27 pm]

BILLING CODE 6730-01-M

6

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

TIME: 9:00 a.m. to 5:00 p.m.; 9:00 a.m. to 4:30 p.m., respectively.

DATE: October 22 and 23, 1981.

PLACE: Washington Marriott Hotel, Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Chairman's Opening Remarks; Review of Agenda; Approval of Minutes; Legislative/Public Awareness Committee Report; LSCA Oversight Hearings; White House Conference on Library and Information Services' Resolutions—Update; WHCLIST, Detroit Meeting Report; NCLIS Brochure; Dissemination of Federal Information; Executive Director's Report; NCLIS/Special Libraries Association Networking Task Force Report; Update on Standards; Futures/Planning Committee Report; Personnel Committee Report; Finance/Fund Raising Committee Report; Presentation, Discussion, and Acceptance of Final Report of Public/Private Sector Relations Task Force; Marketing/Technology Transfer; Community Information and Referral Task Force; Confirmation of Future Commission Dates and Locations; Old Business; New Business; Commissioners' Comments; Summary and Final Remarks.

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman, Executive Director.

October 5, 1981.

[S-1535-81 Filed 10-7-81; 10:09 am]

BILLING CODE 7327-01-M

Friday
October 9, 1981

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Alabama: AL81-1273	July 31, 1981.
Arkansas:	
AR81-4040	June 19, 1981.
AR81-4042	June 19, 1981.
AR81-4043	June 19, 1981.
California: CA81-5154	Sept. 25, 1981.
Colorado: CO81-5149	Sept. 4, 1981.
Florida:	
FL81-1185	Feb. 13, 1981.
FL81-1190	Mar. 6, 1981.
FL81-1270	July 17, 1981.
FL81-1240	June 5, 1981.
Kansas: KS80-4054	July 18, 1980.
New York: NY81-3033	June 5, 1981.
Kansas: KS81-4033	May 15, 1981.
Oklahoma:	
OK81-4066	Aug. 21, 1981.
OK81-4051	July 10, 1981.
OK81-4054	July 10, 1981.
OK81-4069	Sept. 4, 1981.
OK81-4067	Aug. 21, 1981.
OK81-4070	Sept. 4, 1981.
OK81-4071	Sept. 11, 1981.
OK81-4072	Sept. 4, 1981.
OK81-4056	July 17, 1981.
Louisiana:	
LA81-4024	May 1, 1981.
LA81-4027	May 1, 1981.
LA81-4046	July 6, 1981.
Pennsylvania:	
PA81-3051	Sept. 4, 1981.
PA80-3056	Sept. 12, 1980.
PA81-3058	Aug. 28, 1981.
Texas:	
TX81-4037	June 5, 1981.
TX81-4038	June 5, 1981.
Washington: WA81-5126	July 6, 1981.
Delaware: DE81-3028	May 8, 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.

Alabama:	
AL81-1123 (AL81-1295)	Dec. 30, 1980.
AL81-1266 (AL81-1296)	July 24, 1981.
Connecticut: NY80-3079 (NY81-3075)	Dec. 30, 1980.
Delaware: NY80-3079 (NY81-3075)	Dec. 30, 1980.
Idaho: ID81-5125 (ID81-5157)	June 5, 1981.
Indiana: IN79-2007 (IN81-2060)	Mar. 9, 1979.

Maine: NY80-3079 (NY81-3075)	Dec. 30, 1980.
Maryland:	
MD81-3026 (MD81-3074)	Apr. 24, 1981.
NY80-3079 (NY81-3075)	Dec. 30, 1980.
Massachusetts: NY80-3079 (NY81-3075)	Dec. 30, 1980.
New Hampshire: NY80-3079 (NY81-3075).	Dec. 30, 1980.
New Jersey:	
NY80-3079 (NY81-3075)	Dec. 30, 1980.
NJ79-3029 (NJ81-3053)	Jan. 4, 1980.
New York: NY80-3079 (NY81-3075)	Dec. 30, 1980.
Ohio: OH80-2004 (OH81-2061)	Feb. 29, 1980.
Pennsylvania:	
NY80-3079 (NY81-3075)	Dec. 30, 1980.
PA80-3027 (PA81-3076)	Apr. 18, 1980.
PA80-3038 (PA81-3077)	May 23, 1980.
Rhode Island: NY80-3079 (NY81-3075)	Dec. 30, 1980.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 2nd day of October 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. AL81-1273 - MOD. # 2

(46 FR 39364 - July 31, 1981)

Mobile County, Alabama
Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
SHEET METAL WORKERS	$12.85	.85	.96		.08

DECISION #AR81-4040-Mod. #4
46FR32179 - June 19, 1981
Union & Ouachita Counties, Arkansas

CHANGE:

BRICKLAYERS	$11.75		1.00		

DECISION #AR81-4042-Mod. #4
46FR32187 - June 19, 1981
Pulaski County, Arkansas

CHANGE:

PAINTERS:					
Painters, paperhangers & steam cleaners, sheetrock finishers and wall cover hangers	10.15		.50		.03
Spray gun operators and sandblasterers	10.75		.50		.03
All skeleton steel and all work on stages, structural steel over 30 feet high	10.40		.50		.03

DECISION #AR81-4043-Mod. #4
46FR32175 - June 19, 1981
Jefferson County, Arkansas

CHANGE:

PAINTERS:					
Painters, paperhangers & steam cleaners, sheetrock finishers and wall cover hangers	10.15		.50		.03
Spray gun operators and sand blasterers	10.75		.50		.03
All skeleton steel and all work on stages, structural steel over 30 feet high	10.40		.50		.03

DECISION NO. CA81-5154 - Mod. #1
(46 FR 47384 - September 25, 1981)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Cos., California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Roofers:					
Area 4	$16.52	1.32	3.45		.065
Area 5	16.68	1.17	1.20		.065

DECISION NO. CO81-5149 - Mod. #1
(46 FR 44620 - September 4, 1981)
Statewide, Colorado

Change:					
Carpenters:					
Carpenters:					
Zone 1	$12.44	$1.10	$1.00	$1.00	.10
Zone 2	12.94	1.10	1.00	1.00	.10
Underground Carpenters:					
Zone 1	12.64	1.10	1.00	1.00	.10
Zone 2	13.14	1.10	1.00	1.00	.10
Working on creosoted coated lumber or other toxic materials, Sawmen continuously assigned to 1½ HP saw at job site - $0.30 above journeyman rate					
High work 35' above ground or above permanent floor or deck - $0.35 above journeyman rate					

DECISION NO. FL81-1185 - MOD. #4 (46 FR 12406-12407 - February 13, 1981) Dade County, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters & Soft Floor Layers	$11.60	.90	.55		.08
Electricians'	15.25	.85	8%		1%
Laborers: (Permit value $500,000 & over)					
Air Tool Operators, Mason Tenders, Mortar Mixers, & Pipelayers	8.77	1.07	.50		
Plasterers' Tenders	8.95	1.07	.50		
Unskilled	8.67	1.07	.50		
Laborers: (Permit value up to $500,000)					
Air Tool Operators, Mason Tenders, Mortar Mixers, & Pipelayers	7.07	1.07	.50		
Plasterers' Tenders	7.25	1.07	.50		
Unskilled	6.97	1.07	.50		
Linemen:					
Lineman	13.37	.45	4.6%		1%
Groundman	7.75	.45	4.6%		1%
Painters:					
Tapers, Paperhangers	10.35	.55	.60		.07
Piledrivers	12.15	.70	.70		.10
Refrigeration & A/C Mechanics:					
A/C Units over 10 tons	15.14	1.23	1.15		.15
A/C Units over 7.5 tons but under 10 tons	11.52	1.23	1.15		.15

DECISION NO. FD81-1190 - MOD. #5 (46 FR 15643 - March 6, 1981) Palm Beach & Martin Counties Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and 'or Appr. Tr.
Change:					
Bricklayers - Bricklayers, Cement Masons, Marble Setters, Plasterers, Stonemasons, Tile & Terrazzo Workers	$13.20	.65	.70		.04
Carpenters & Soft Floor Layers:					
Zone I	11.60	.90	.55		.08
Zone II	11.60	.90	.55		.08
Electricians:					
Wiremen	14.80	4.5%	9%	6%	1.5%
Cable Splicers	16.28	4.5%	9%	6%	1.5%
Laborers: (Permit value $500,000 & over):					
Air Tool Operators, Mason Tenders, Mortar Mixers & Pipelayers	8.75	1.07	.50		.01
Plasterers' Tenders	8.93	1.07	.50		.01
Unskilled Laborers	8.65	1.07	.50		.01
Laborers: (Permit value up to $500,000):					
Air Tool Operators, Mason Tenders, Mortar Mixers, & Pipelayers	7.05	1.07	.50		.01
Plasterers' Tenders	7.23	1.07	.50		.01
Unskilled Laborers	6.95	1.07	.50		.01
Painters:					
Brush	9.78	.75	.80		.05
Paperhanger, Roller	10.03	.75	.80		.05
Spray & Taper	10.18	.75	.80		.05
Piledrivers	12.15	.70	.70		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION NO. FL81-1270 - MOD. #2 (46 FR 37166 - July 17, 1981) Broward County, Florida					
Change:					
Carpenters & Soft Floor Layers	$11.60	.90	.55		.08
Laborers: (Permit value $500,000 & over)					
Air Tool Operators, Mason Tenders, Mortar Mixers, & Pipelayers	8.75	1.12	.50		
Plasterers' Tenders	8.93	1.12	.50		
Unskilled Laborers	8.65	1.12	.50		
Laborers: (Permit value up to $500,000)					
Air Tool Operators, Mason Tenders, Mortar Mixers, & Pipelayers	7.05	1.07	.50		
Plasterers' Tenders	7.23	1.07	.50		
Unskilled Laborers	6.95	1.07	.50		
Piledrivermen	12.15	.70	.70		.10
Refrigeration & A/C Mechanics:					
A/C Units over 10 tons	15.44	1.23	1.15		.15
A/C Units under 10 tons	11.52	1.23	1.15		.15
DECISION NO. FL81-1240 - MOD. #3 (46 FR 30428 - June 5, 1981) Duval County, Florida					
Change:					
Asbestos Workers	13.93	.65	1.10		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision No. KS80-4054, Mod. #3 (45 FR 48409, July 18, 1980) Shawnee County, KANSAS Building Construction					
CHANGE:					
Glaziers	12.23	.90	1.41	2.74	.05
Laborers:					
General Laborers	8.65	.70	.50	.50	.05
Power tool operators, compactors, concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy.	8.85	.70	.50	.50	.05
Mason tenders, plaster tenders, mortar mixers for plasterers, masons and cement finishers, all stocking scaffold, clean up for masons (building and wrecking	8.95	.70	.50	.50	.05
Sand and concrete gun nozzlemen, powdermen	9.05	.70	.50	.50	.05
DECISION NO. NY81-3033 - Mod. #2 (46 FR 30277 - June 5, 1981) Broome & Chenango Counties, New York					
CHANGE:					
PLUMBERS & STEAMFITTERS					
Total project cost over $500,000	12.73	.72	.55	5%+.64	.21
Total project cost under $500,000	9.91	.72	.55	5%+.64	.21

DECISION NO. KS81-4033, Mod. #1,
46 FR 27048 - May 15, 1981
Douglas, Jefferson, Leavenworth,
Miami and Shawnee Counties, Kansas
Highway Construction

CHANGE
Truck Drivers:
Douglas & Shawnee
Counties to Read:

Truck drivers:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Douglas, Jefferson & Shawnee Counties:					
Group 1	8.25	.40	.50		
Group 2	8.35	.40	.50		
Group 3	8.50	.40	.50		

CLASSIFICATION DEFINITIONS

Truck Drivers

Group 1 - Pickups, panel trucks, station wagons, flat beds, dump and batch trucks, single axle.
Group 2 - Tandem trucks, warehousemen or partsmen, mechanic helpers and servicemen.
Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, and and bottom dump; tournarockers; athoys, dumpsters and similar off-road equipment and mechanics on such equipment.

DECISION #OK81-4066-Mod.#2
46 FR 42610 - Aug.21, 1981
Garfield County, Oklahoma

CHANGE the State listed in Mod. #1 published in Oct. 2, 1981 FR to read "Oklahoma".

OMIT:
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

ADD:
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (ATTACHED)

POWER EQUIPMENT OPERATORS:					
GROUP IX	$11.80	.85	1.00		.15

CHANGE:

POWER EQUIPMENT OPERATORS:					
GROUP I	14.20	.85	1.00		.15
GROUP II	13.70	.85	1.00		.15
GROUP III	13.20	.85	1.00		.15
GROUP IV	12.95	.85	1.00		.15
GROUP V	12.70	.85	1.00		.15
GROUP VI	12.45	.85	1.00		.15
GROUP VII	12.20	.85	1.00		.15
GROUP VIII	11.20	.85	1.00		.15
ROOFERS	12.15	.60	.50		.04

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)
GROUP II
All crane type equipment with 200-300' of boom (including jib)
GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV
Side boom (booms 30' and over); Guy Derrick
GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); graddll; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade); side boom (under 30')
GROUP VI
Fork lift (35' and over); dozer (engine hp 65 or over; Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller & compactors with dozer blade
GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 500 cu. ft. & under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-frame; roller all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction ofoperating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when and if required; operator for rotary drilling machines when operated from console or machines, Mechanic helper & welder helper.
GROUP VIII
Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler driver or crane oiler; conveyor operator-single continuour belt bulk handling; asphalt lay machine back end man.
GROUP IX
Greasor and tilt top trailer operator

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).

DECISION #OK81-4051 - Mod. #4
46FR35886 - July 10, 1981
Pittsburg County, Oklahoma

Decision #OK81-4054 - Mod. #3
46FR35888 - July 10, 1981
Muskogee, Adair, Cherokee and Okmulgee Counties, Oklahoma

DECISION #OK81-4069 - Mod. #2
46FR444646 - September 4, 1981
Wagoner County, Oklahoma

DECISION #OK81-4067 - Mod. #3
46FR42613 - August 21, 1981
Oklahoma, Cleveland, Caddo, Canadian, Kingfisher, Lincoln, Logan, McClain, Grady, Seminole and Pottawatomie Counties, Oklahoma

DECISION #OK81-4070 - Mod. #2
46FR44651 - September 4, 1981
Comanche County, Oklahoma

DECISION #OK81-4071 - Mod. #3
46FR455535 - September 11, 1981
McIntosh County, Oklahoma

DECISION #OK81-4072 - Mod. #2
46FR44648 - September 4, 1981
Latimer, Leflore, Haskell, Sequoyah and Pushmataha Counties, Oklahoma

DECISION #OK81-4056 - Mod. #3
46FR37209 - July 17, 1981
Tulsa, Delaware, Creek, Craig, Ottawa, Mayes and Roger Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS					
ADD:					
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (ATTACHED)					
POWER EQUIPMENT OPERATORS:					
GROUP IX	$11.80	.85	1.00		.15
CHANGE:					
POWER EQUIPMENT OPERATORS:					
GROUP I	14.20	.85	1.00		.15
GROUP II	13.70	.85	1.00		.15
GROUP III	13.20	.85	1.00		.15
GROUP IV	12.95	.85	1.00		.15
GROUP V	12.70	.85	1.00		.15
GROUP VI	12.45	.85	1.00		.15
GROUP VII	12.20	.85	1.00		.15
GROUP VIII	11.20	.85	1.00		.15
ROOFERS	12.15	.60	.50		.04

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)

GROUP II
All crane type equipment with 200-300' of boom (including jib)

GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV
Side boom (booms 30' and over); Guy Derrick

GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade,; side boom (under 30')

GROUP VI
Fork lift (35' and over); dozer (engine hp 65 or over; Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller & compactors with dozer blade

GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 500 cu. ft. & under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-frame; roller all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction ofoperating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when and if required; operator for rotary drilling machines when operated from console or machines, Mechanic helper & welder helper.

GROUP VIII
Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler driver or crane oiler; conveyor operator-single continuour belt bulk handling; asphalt lay machine back end man.

GROUP IX
Greaser and tilt top trailer operator

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

Modification Page 11

DECISION NO. LA81-4024 - MOD. #9 (46 FR 24820 - May 1,1981) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers - Zone 1	$15.36	.825	1.23		.05
Zone 3	13.00	.75	1.40		.07
Electricians:					
Zone 7 - Electricians	14.30	2.20	3%		1%
Cable splicers	14.80	2.20	3%		1%
Line construction:					
Zone 7:					
Linemen, operators	14.30	2.20	3%		1%
Cable splicers	14.80	2.20	3%		1%
Groundmen	12.30	2.20	3%		1%
Marble, tile & terrazzo workers & finishers:					
Zone 6 - Marble, tile & terrazzo workers	15.75				
Painters:					
Zone 6 - Painters, tape & float, vinyl,paperhangers	11.15	.60	.30		.05
Power equipment operators					
Zone 2 - Group 1	8.82	.65	1.10		.10
Group 2	9.73	.65	1.10		.10
Group 3	9.82	.65	1.10		.10
Group 4	10.24	.65	1.10		.10
Group 5	12.17	.65	1.10		.10
Group 6	11.92	.65	1.10		.10

POWER EQUIPMENT OPERATORS - ZONE 2 CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; Asphalt plant op.; Bulldozers, D-4 & equivalent &-under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Boswell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes, Derricks; Ditching or tronching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease servicoman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractor-vators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)

GROUP 6 - Well point system & unit operator

Modification Page 12

DECISION NO. LA81-4027 - MOD. #8 (46 FR 24834 - May 1, 1981) Bossier, Caddo & Calcasieu Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers:					
Calcasieu Parish	$15.36	.825	1.23		.05
Electricians:					
Bossier & Caddo Parishes					
Electricians	14.30	2.20	3%		1%
Cable splicers	14.80	2.20	3%		1%
Painters:					
Bossier & Caddo Parishes					
Painters, tape & float, vinyl & paperhangers	11.15	.60	.30		.05

DECISION NO. LA81-4046 - MOD. #5 (46 FR 34974 - July 6, 1981) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Pars., Louisiana					
CHANGE:					
Electricians:					
Zone 3 - Electricians	$14.30	2.20	3%		1%
Cable splicers	14.80	2.20	3%		1%
Line construction:					
Zone 3 - Group 1	14.30	2.20	3%		1%
Group 2	14.80	2.20	3%		1%
Group 3	12.30	2.20	3%		1%
Painters - Zone 4	11.15	.60	.30		.05

DECISION NO. PA81-3051 MOD. NO. 2 (46 FR 44653 - September 4, 1981) Luzerne County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Asbestos Workers	$13.83	.80	.45		.01
POWER EQUIPMENT OPERATORS:					
Group 1	14.14	9.5%	10.3%	a	1.8%
Group 2	13.85	9.5%	10.3%	a	1.8%
Group 3	12.97	9.5%	10.3%	a	1.8%
Group 4	12.20	9.5%	10.3%	a	1.8%
Group 5	11.72	9.5%	10.3%	a	1.8%
Group 6	10.80	9.5%	10.3%	a	1.8%
Group 7	14.39	9.5%	10.3%	a	1.8%
Group 7-A	14.64	9.5%	10.3%	a	1.8%
Group 7-B	14.89	9.5%	10.3%	a	1.8%
DECISION NO. PA80-3056 MOD. NO. 9 (45 FR 60748 - Sept. 12, 1980) Lackawanna, Susquehanna, Wayne & Wyoming Counties, Pennsylvania					
CHANGE:					
Asbestos Workers	$13.83	.80	.45		.01
Glaziers	11.85	.75	1.20		
POWER EQUIPMENT OPERATORS:					
Group 1	14.14	9.5%	10.3%	a	1.8%
Group 2	13.85	9.5%	10.3%	a	1.8%
Group 3	12.97	9.5%	10.3%	a	1.8%
Group 4	12.20	9.5%	10.3%	a	1.8%
Group 5	11.72	9.5%	10.3%	a	1.8%
Group 6	10.80	9.5%	10.3%	a	1.8%
Group 7	14.39	9.5%	10.3%	a	1.8%
Group 7-A	14.64	9.5%	10.3%	a	1.8%
Group 7-B	14.89	9.5%	10.3%	a	1.8%

DECISION NO. PA81-3058 MOD. NO. 4 (46 FR 43596 - August 28, 1981) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Zone 1 (Heavy Construction)					
Group 1	$14.14	9.5%	10.3%	a	1.8%
Group 2	13.85	9.5%	10.3%	a	1.8%
Group 3	12.97	9.5%	10.3%	a	1.8%
Group 4	12.20	9.5%	10.3%	a	1.8%
Group 5	11.72	9.5%	10.3%	a	1.8%
Group 6	10.80	9.5%	10.3%	a	1.8%
Group 7	14.39	9.5%	10.3%	a	1.8%
Group 7-A	14.64	9.5%	10.3%	a	1.8%
Group 7-B	14.89	9.5%	10.3%	a	1.8%
DECISION NO. TX81-4037 - MOD. #4 (46 FR 30284 - June 5,1981) Wichita County, Texas					
CHANGE:					
Plumbers & pipefitters:					
Zone 1	$13.25	.60	1.00		.05
Zone 2	13.75	.60	1.00		.05
DECISION NO. TX81-4038 - MOD. #7 (46 FR 30287 - June 5,1981) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
CHANGE:					
Plasterers:					
Zone 1	12.45	.45	1.00		.04
Zone 2	13.93				.01

DECISION NO. WA81-5126 - Mod #7
(46 FR 35029 - July 6, 1981)
Statewide Washington

CHANGE:
POWER EQUIPMENT OPERATORS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum, and the Southern portion of Pacific County

GROUP	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$14.15	14.75	15.20	15.70	16.65	17.40
2	14.32	14.92	15.37	15.87	16.82	17.57
3	14.46	15.06	15.51	16.01	16.96	17.71
4	14.65	15.25	15.70	16.20	17.15	17.90
5	14.68	15.28	15.73	16.23	17.18	17.93
6	14.78	15.38	15.83	16.33	17.28	18.03
7	14.85	15.45	15.90	16.40	17.35	18.10
8	14.97	15.57	16.02	16.52	17.47	18.22
9	15.05	15.65	16.10	16.60	17.55	18.30
10	15.13	15.73	16.18	16.68	17.63	18.38
11	15.15	15.75	16.20	16.70	17.65	18.40
12	15.23	15.83	16.28	16.78	17.73	18.48
13	15.33	15.93	16.38	16.88	17.83	18.58
14	15.52	16.12	16.57	17.07	18.02	18.77
15	15.72	16.32	16.77	17.27	18.22	18.97
16	15.95	16.55	17.00	17.50	18.45	19.20
17	16.13	16.73	17.18	17.68	18.63	19.38
18	16.35	16.95	17.40	17.90	18.85	19.60
19	16.52	17.12	17.57	18.07	19.02	19.77

FRINGE BENEFITS:

Health and Welfare	1.30
Pension	1.47
Vacation	1.00
Apprenticeship Training	.10

DECISION NO. DE81-3028
MOD. NO. 6
(46 FR 25909 - May 8, 1981)
State of Delaware

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Laborers, Building Construction:					
Class 1	$10.95	.90	1.10		
Class 2	11.20	.90	1.10		
Class 3	11.45	.90	1.10		
Class 4	11.55	.90	1.10		
Class 5	12.20	.90	1.10		
Laborers:					
Heavy Construction:					
Kent & Sussex Counties:					
Common laborers, landscapers, planters, seeder, aborists, asphalt tampers, rakers, concrete pitman, puddlers, rubber magazine tenders, railroad trackmen, signal men	7.50	.90	1.10		
Pipelayers	7.65	.90	1.10		
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caissons & coffer dams (open-air, below 8')	7.80	.90	1.10		

SUPERSEDEAS DECSION

STATE: ALABAMA COUNTY: MONTGOMERY
DECISION NUMBER: AL81-1295 DATE: Date of Publication
Supersedes Decision No.: AL81-1123, December 30, 1980 in 45 FR 86184.
DESCRIPTION OF WORK: Building Construction (does not include residential construction consisting of single family homes and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	7.15				
CARPENTERS	8.44				
GLAZIERS	10.20	.60	.80	a	
IRONWORKERS, Reinforcing	5.45				
LABORERS	4.19				
PAINTERS, Brush	6.00				
PLUMBERS & PIPEFITTERS	7.00				
ROOFERS	7.00				
SHEET METAL WORKERS	6,00				
SPRINKLER FITTERS	6.45				
TILE SETTERS	7.80				
POWER EQUIPMENT OPERATORS:					
Spreader	5.25				
Screed	5.00				
Roller	5.20				
Asphalt raker	5.00				
WELDERS - Rate for Craft					

FOOTNOTES:
a. Six paid holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTIES: Lawrence, Limestone, and Morgan
DECISION NO: AL81-1296 DATE: Date of Publication
Supersedes Decision No.: AL81-1266, dated July 24, 1981 in 46 FR 38241.
DESCRIPTION OF WORK: Building Construction projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANIC	$ 6.00				
BRICKLAYERS	11.00				
CARPENTERS:					
Carpenters	9.85	.60	.55		.07
Millwrights	10.50	.60	.55		.07
CEMENT MASONS	6.29				
ELECTRICIANS	13.00	.65	3% + .70		
IRONWORKERS	10.00				
LABORERS	5.00				
PAINTERS, Brush	6.10				
PLUMBERS & PIPEFITTERS	13.85	.85	1.00		.13
ROOFERS	9.20				
SHEET METAL WORKERS	6.50				
SHEETROCK FINISHERS	6.00				
SHEETROCK HANGERS	5.50				
STEAMFITTERS	5.00				
TRUCK DRIVERS	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Idaho COUNTIES: Statewide
DECISION NUMBER: ID81-5157 DATE: Date of Publication
Supersedes Decision No. ID81-5125 dated June 5, 1981, in 46 FR 30250
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:*					
Area 1	$16.84	.85	$1.45		.04
Area 2	16.11	.77	1.52		
BOILERMAKERS:*					
Area 1	18.01	1.30	1.25	1.00	.04
Area 2	14.71	1.30	1.25	1.00	.04
BRICKLAYERS; STONEMASONS; and MARBLE SETTERS:*					
Area 1	15.00		1.00		
Area 2	15.38	.80	1.00		.05
Area 3	14.19	1.00	1.10		.05
Area 4	12.25	.90	1.00		
Area 5	14.65	.90	.60		
Area 6	13.85	.90	.75		
CARPENTERS:*					
Area 1:					
Carpenters; Lathers	15.66	.96	1.20		.10
Piledrivers; Saw Filer; Stationary Power Woodworking Tool Operator	15.81	.96	1.20		.10
Boom Man; Carpenters working on burned, charred, creosoted, or similarly treated material	15.91	.96	1.20		.10
Piledriver (creosoted material)	16.06	.96	1.20		.10
Millwrights and Machine Erectors	16.16	.95	1.20		.10
Area 2:					
Zone 1:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator; Acoustical material; Lathers	12.10	1.25	1.30	1.00	.20

*See AREA DESCRIPTIONS - Page 3
*See ZONE DESCRIPTIONS following TRUCK DRIVERS Classifications

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:* (Cont'd)					
Area 2: (Cont'd)					
Zone 1: (Cont'd)					
Saw Filer; Stationary Machine Operator; Piledrivermen; Bridgeman and Wharf Builders; Automatic Pile Threader	$12.27	$1.25	$1.30	$1.00	.20
Millwrights and Machine Erector; Piledriverman's Boom Man	12.39	1.25	1.30	1.00	.20
Zone 2:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator; Acoustical material; Lathers	13.60	1.25	1.30	1.00	.20
Saw Filer; Stationary Machine Operator; Piledriverman; Bridgeman and Wharf Builders; Automatic Pile Threader	13.77	1.25	1.30	1.00	.20
Millwrights and Machine Erector; Piledriverman's Boom Man	13.89	1.25	1.30	1.00	.20
Zone 3:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator; Acoustical material; Lathers	13.85	1.25	1.30	1.00	.20
Saw Filer; Stationary Machine Operator; Piledriverman; Bridgeman and Wharf Builders; Automatic Pile Threader	14.02	1.25	1.30	1.00	.20
Millwrights and Machine Erector; Piledriverman's Boom Man	14.14	1.25	1.30	1.00	.20

*See AREA Descriptions - Page 3
*ZONE Descriptions - following Truck Drivers' Classifications

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Latah, Lewis, Kootenai, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties

BOILERMAKERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latha, Lewis,Nez Perce, and Shoshone Counties
Area 2: Remaining Counties

BRICKLAYERS; STONEMASONS; and MARBLE SETTERS:
Area 1: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 2: Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 4: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls Counties
Area 5: Bingham County (north of City of Blackfoot); Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties
Area 6: Bannock and Bear Lake Counties; Bingham County (south of the City of Blackfoot); Caribou, Franklin, Oneida, and Power Counties

CARPENTERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties and Idaho County (south of the 46th Parallel)

CEMENT MASONS* (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$14.55	$15.70	$16.15	$16.85	$17.50
2	15.05	16.20	16.65	17.35	18.00
3	15.55	16.70	17.15	17.85	18.50

FRINGE BENEFITS:	
Health and Welfare	$ 1.00
Pension	1.75
Apprenticeship Training	0.15

Group 1: Rodding, Tamping, Floating, Troweling, Patching, Stoning, Rubbing, Sack Rubbing; All exposed aggregate finishing; Setting of Screeds, Screed Forms, curb and gutter and sidewalk forms; Preparation of all concrete for caulking of the joints and the caulking of expansion joints; Preparation of concrete for the application of hardeners, sealers and curing compounds and their application; Grouting and dry packing of machine base; Removal of Snap Ties and She-bolts prior to patching of concrete

Group 2: Power Troweling Machine Operator; Troweling of magnesite, torganal or material with epoxy bases or oxichloride base; All power Grinders, Bushing Hammer, Chipping Gun; Gunnite Nozzleman; All Sandblasting for architectural finishes and exposing of aggregate for finish; Concrete sawing and cutting for expansion joints and scoring for decorative pattern; Operating of Clary-type Floats, Longitudinal Floats, Rodding Machines, and Belting Machines; Scarifiers

Group 3: Grinding, Bushing or Chipping of toxic materials or high-density concrete; Operating of power tools on a scaffold

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

CEMENT MASONS* (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

GROUPS	ZONE 1	ZONE 2	ZONE 3
1	$11.64	$13.14	$13.39
2	11.84	13.34	13.59

FRINGE BENEFITS:

Health and Welfare	$ 1.04
Pensions	1.00
Vacation	1.50
Apprenticeship Training	0.25

Group 1: Cement Mason (including but not limited to hand chipping and patching; All types grouting and painting of all concrete construction; Screed setting including screed pins; Dry packing of all concrete including Embeco; Plugging and filling all voids, etc., concrete construction; Water-proofing of concrete with thoroseal or similar materials)

Group 2: Cement Mason (magnesite, terrazzo and mastic composition, two component epoxies); Clary and similar type screed operator; Jackson Vibrator and similar type Screed Operator; Sandblasting of concrete for architectural finishes only; Power Chipping and Bush-hammer; All color concrete work; Power Trowel Operator; Power Grinder Operator; Gunite and composition floor layer)

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:*					
Area 1:					
Electricians	$18.85	.95	3%+1.00		.02
Cable Splicers	19.25	.95	3%+1.00		.02
Area 2:					
Electricians	14.55	1.00	3%+1.00		1%
Cable Splicers	15.94	1.00	3%+1.00		1%
Area 3:					
Electricians; Technicians	14.90	.75	3%+1.00		1%
Cable Splicers	16.39	.75	3%+1.00		1%
ELEVATOR CONSTRUCTORS:*					
Area 1:					
Mechanics	18.555	1.345	1.085	a	.035
Helpers		1.345	1.085	a	.035
Probationary Helpers	9.28				
Area 2:					
Mechanics	12.91	1.195	.95	a	.035
Helpers	9.04	1.195	.95	a	.035
Probationary Helpers	6.455				
GLAZIERS:*					
Area 1	12.74	.84	1.00	b	
Area 2	13.70	.64	.70	b	.02
Area 3	12.81	.49	.30		
Area 4	10.05	.42	.10	b	
IRONWORKERS:*					
Ornamental; Reinforcing; Structural:					
Area 1	17.04	1.00	2.15		.15
Area 2	16.73	1.00	2.15		.15
Area 3	14.87	1.05	1.60		.04
PAINTERS:*					
Area 1:					
Brush	14.98	.84	1.20		.02
Spray; Steel; Steam Cleaning	15.48	.84	1.20		.02
Swing Stage or high work over 30'	15.68	.84	1.20		.02
Bitumastic; Sandblast; Bridge; Towers; Stacks; Steeples; Tanks on Legs	15.78	.84	1.20		.02
Tapers	15.23	.84	1.20		.02

*See AREA DESCRIPTIONS - Page 7

AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 3: Remaining Counties

ELEVATOR CONSTRUCTORS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties, except Adams, Lemhi, Valley, and Washington Counties

GLAZIERS:
Area 1: Benewah and Clearwater Counties; Idaho County (the north part, from a line running east and west through the north limits of Elk City); Latah, Lewis, and Nez Perce Counties
Area 2: Bonner, Boundary, Kootenai, and Shoshone Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, and Gem Counties; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (the south part from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley and Washington Counties
Area 4: Remaining Counties and Gooding County (the western part, from a line running north and south through the eastern limits of the City of Bliss)

IRONWORKERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho, Kootenai, Latha, Lewis, Nez Perce, and Shoshone Counties
Area 2: The portions of Adams, Valley, and Washington Counties located north of the Weiser-Gibbonsville Line
Area 3: Remaining Counties and those portions of Adams, Valley and Washington Counties located south of the Weiser-Gibbonsville Line

PAINTERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (the north part, from a line running east and west through the north limits of Elk City); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2:					
Painters and Tapers	$12.25	.78	.60		.03
Area 3:					
Painters and Tapers	12.37	.63	.50		
Area 4:					
Work within 28 ft. of the surface:					
Painters and Tapers	11.39	.84	.70		1%
Spray	12.15	.84	.70		1%
Sand Blasting; Steel	12.10	.84	.70		1%
Work over 28 ft. in height, or downhole more than 28 feet:					
Painters and Tapers	12.39	.84	.70		1%
Spray	13.15	.84	.70		1%
Sand Blasting; Steel	13.10	.84	.70		1%
PLASTERERS:*					
Area 1	14.93	1.00	1.75		.15
Area 2	10.71	1.04	.85	1.25	.20
PLASTERERS' TENDERS:*					
Area 1	13.62	1.12	1.30		.10
PLUMBERS:*					
Area 1	18.98	.90	1.45		.12
Area 2	14.67	1.24	2.40		.10
ROOFERS:*					
Area 1	14.51	.95	1.65		.10
Area 2:					
Roofers and Kettlemen	13.40	.95	.45		.05
Roofers working with coal tar and pitch products	15.40	.95	.45		.05
Area 3	12.95	.95	.60		
SHEET METAL WORKERS:*					
Area 1	17.41	3%+.83	1.50		.20
Area 2	14.86	.83	.96		.16
Area 3	14.58	1.48	1.21		.16

*See AREA DESCRIPTIONS - page 9

AREA DESCRIPTIONS

PAINTERS:
Area 2: Ada, Adams, Boise, and Canyon Counties; Elmore County (except Mt. Home AFB); Gem County; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (the south part, from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley, and Washington Counties
Area 3: Elmore County (Mt. Home AFB)
Area 4: Bannock, Bear Lake, Binghan, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, and Fremont Counties; Gooding County (the east part, from a line running north and south through the eastern limits of the City of Bliss); Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, and Twin Falls Counties

PLASTERERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Remaining Counties

PLASTERERS' TENDERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

PLUMBERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, and Shoshone Counties.
Area 2: Remaining Counties (excluding Idaho and Lewis Counties)

ROOFERS:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada and Adams Counties; Blaine County (northern part); Boise, Camas, Canyon, Custer, Elmore, Gem, and Gooding Counties; Idaho County (south of a line running east and west through the City of Grangeville); Jerome, Lemhi, Lincoln, Owyhee, Payette, Valley, Twin Falls, and Washington Counties
Area 3: Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, and Teton Counties

SHEET METAL WORKERS:
Area 1: Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties
Area 2: Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Idaho, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, Valley, and Washington Counties
Area 3: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:*					
Area 1	$11.75	.69	$1.10		
Area 2	13.49	.69	.60		
Area 3	11.74	.69	.50		
SPRINKLER FITTERS	15.84	.95	1.40		.08
TERRAZZO WORKERS and TILE SETTERS:*					
Area 1	15.00		1.00		
Area 2	15.10	1.05	2.00		
Area 3	14.19	1.00	1.10		.05
Area 4	12.25	.90	1.00		
Area 5	14.65	.90	.60		
Area 6	12.15	.90	.75		
IRRIGATION and LANDSCAPE CONSTRUCTION:*					
Area 1:					
Laborers	8.66	1.10	1.40		
Plumbers	10.62	.90	.30	1.00	.11
Power Equipment Operators	10.96	1.20	1.75		
*See AREA DESCRIPTIONS - Page 11					

WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidential

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for 5 years' service, 6% of basic hourly rate for 6 months' to 5 years' service, as Vacation Pay Credit. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; and Christmas Day
b. All employees who have been employed for a period of one year shall have 2 weeks' vacation with pay, also seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; and Christmas Day; and Veterans' Day

AREA DESCRIPTIONS

SOFT FLOOR LAYERS:
Area 1: Clearwater County; Idaho County (the north part from a line running east and west through the north limits of Elk City); Latah, Lewis, and Nez Perce Counties
Area 2: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, and Gem Counties; Gooding County (the west part, from a line running north and south through the eastern limits of the City of Bliss); Idaho County (the south part, from a line running east and west through the north limits of Elk City); Owyhee, Payette, Valley, and Washington Counties

TERRAZZO WORKERS and TILE SETTERS:
Area 1: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties
Area 2: Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties
Area 3: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington Counties
Area 4: Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls Counties
Area 5: Bingham County (north of the City of Blackfoot); Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties
Area 6: Bannock and Bear Lake Counties; Bingham County (south of the City of Blackfoot); Caribou, Franklin, Oneida, and Power Counties

IRRIGATION and LANDSCAPE CONSTRUCTION:
Area 1: Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LABORERS: (AREA 1): Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties:					
Building Construction:					
Group 1	$13.07	$1.12	$1.30		.10
Group 2	13.32	1.12	1.30		.10
Group 3	13.57	1.12	1.30		.10
Group 4	13.82	1.12	1.30		.10

Heavy and Highway Construction

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$13.07	$14.22	$14.67	$15.37	$16.02
2	13.32	14.47	14.92	15.62	16.27
3	13.57	14.72	15.17	15.87	16.52
4	13.82	14.97	15.42	16.12	16.77

FRINGE BENEFITS:

Health and Welfare	$1.12
Pensions	1.30
Apprenticeship Training	0.10

*See ZONE Descritpions - following TRUCK DRIVERS' Classifications

LABORERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Building, Heavy and Highway Construction

Group 1: Brush Hog Feeder; Carpenter Tender; Cement Handler; Concrete Crewman (includes stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, Pumpcrete Machine, Signaling, handling the Nozzle of Squeezecrete or similar machine - 6 inches and smaller); Concrete Signalman; Crusher Feeder; Demolition (includes clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector (includes guard rails, guide and reference posts, sign posts and right-of-way markers); Form Cleaning Machine Feeder, Stacker; General Laborer; Grout Machine Header Tender; Bullgang, Concrete Crewman, Dumpman and Pumpcrete Crewman, including distributing pipe, assembly and dismantle, and Nipper; Nipper; Riprap Man; Sandblast Tailhoseman; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural mover (includes separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Cement Finisher Tender; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Driller Tender (when required to move and position machine); Form Setter, paving; Grade Checker using level; Jackhammer Operator; Brakeman, Finisher, Vibrator and Form Setter; Nozzleman (includes squeeze and flow-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker, under 90 lbs.; Pipelayer, corrugated metal culvert; Pipelayer, multi-section; Pot Tender; Powderman Tender; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic;

Rodder and Spreader; Tamper (includes operation of Barco, Essex and similar tampers); Trencher, Shawnee; Tugger Operator; Wagon Drills; Water Pipe Liner; Wheelbarrow, power-driven

Group 3: Air Track Drill; Brush Machine (includes horizontal construction joint clean-up brush machine, power-propelled); Caisson Worker, free air; Chain Saw Operator and Faller; Concrete Stack (includes laborers whenworking on free-standing concrete stacks for smoke or fume control above 40 ft. high); Gunite (includes operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (includes Grade Checkers and Elevation control); Miner, Nozzleman for concrete, and Laser Beam Operator on tunnels; Monitor Operator, air track or similar mounting; Mortar Mixer; Nozzleman (includes Jet Blasting Nozzleman, over 1200 lbs., Jet Blast Machine, power-propelled, Sandblast Nozzle); Pavement Breaker, 90 lbs. and over; Pipelayer (includes working Topman, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, Value or Meter Installer, Tamper); Pipewrapper; Vibrators, all

Group 4: Drills with dual masts; Raise and Shaft Miner, Laser Beam Operator on raises and shafts; Powderman (receives, $0.25 additional per hour); Welder, electric, manual or automatic

LABORERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$10.16	$11.66	$11.91
2	10.26	11.76	12.01
3	10.36	11.85	12.11
4	10.46	11.96	12.21
5	10.51	12.01	12.26
6	10.76	12.26	12.51
7	11.01	12.51	12.76
	Underground Work:		
8	10.31	11.81	12.06
9	10.46	11.96	12.21
10	10.76	12.26	12.51

FRINGE BENEFITS:	
Health and Welfare	$ 1.025
Pensions	1.69
Vacation	.70
Apprenticeship Training	.175

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

LABORERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: General Laborers; Sloper, clearing and grading; Form Stripper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Hopper Tender; Heater Tender; Stake Jumper; Choker Setter; Spreader and Weighman; Power Wheelbarrow; Scouring Concrete; Rip Rap Man (hand placed); Fence Erector and Installer, manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Crusher Tender; Cribbing and Shoring (in open ditches); Machinery and parts Cleaner; Leverman, manual or mechanical; Demolition, salvage; Landscaper; Tool Room Man

Group 2: Chuck Tender; Driller Tender; Air Tampers; Gunite Nozzleman Tender; Pipewrapper; Tar Pot Tender; Concrete Sawyer; Signalman, handling cement; Dumpman; Steam Nozzleman; Air and water Nozzleman (Green Cutter, concrete); Vibrator (less than 4"); Pumpcrete and Grout Pump Crew; Hydraulic Monitor

Group 3: Pipelayer, including sewer, drainage, sprinkler systems and water lines; Free Air Caisson; Jackhammer; Paving Breaker; Powderman Tender; Asphalt Raker; Gasoline powered Tamper; Electric Ballast Tamper; Sand Blasting; Form Setter, airport paving; Gunman (Gunite); Manhole Setter; Hand guided machines, such as Roto Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc.; Form Setter (highway, curb and gutter); Vibrator (4" and over); Timber Faller and Bucker; Metal Pan Installer

Goup 4: Hod Carrier; Mason Tender; Plaster Tender; Mason Tender (concrete); Terrazzo-Tile Tender

Group 5: Highscaler; Wagon Drill; Grade Checker; Gunite Nozzleman

Group 6: Diamond Drills; Drillers on Drills with Manufacturers' rating 3" or over

Group 7: Powderman

UNDERGROUND WORK

Group 8: Reboundman; Chucktender; Nipper; Dumpman; Vibrator (less than 4"); Brakeman; Mucker; Bullgang

Group 9: Form setter and Mover

Group 10: Miners; Machinemen; Timbermen; Steelmen; Drill Doctors; Spaders and Tuggers; Spilling and/or Caisson Workers; Vibrator (over 4")

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
(AREA 1):					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Cable Splicers; Leadman Pole Sprayer	$17.71	.45	3%+1.70	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	16.00	.45	3%+1.70	.10	1/2%
Tree Trimmer	14.44	.45	3%+1.70	.10	1/2%
Line Equipment Man	13.78	.45	3%+1.10	.10	1/2%
Head Groundman (Chipper): Head Groundman; Powderman; Jackhammer Man	12.05	.45	3%+1.10	.10	1/2%
Groundman	11.32	.45	3%+1.10	.10	1/2%
(AREA 2): Remaining Counties:					
Lineman	14.42	.45	3%+.75		1/2%
Line Equipment Mechanic:					
Base Shop	12.73	.45	3%+.75		1/2%
Right-of-way	13.63	.45	3%+.75		1/2%
Line Equipment Serviceman	12.73	.45	3%+.75		1/2%
Line Equipment Operator	12.95	.45	3%+.75		1/2%
Groundman	10.58	.45	3%+.75		1/2%
Cable Splicer	15.92	.45	3%+.75		1/2%

ZONE PAY for AREA 1 ONLY:
Each classification will receive the base rate plus ZONE A-$1.25, Zone B-$2.00, Zone C-$2.75, Zone $-$4.00

BASE ZONE - 0 to 3 miles from geographical center of towns listed below.
ZONE A - 3 to 20 miles radius from geographical center of towns listed below
ZONE B - 20 to 35 miles radius from geographical center of towns listed below
ZONE C - 35 to 50 miles radius from geographical center of towns listed below
ZONE D - in excess of 50 miles from geographical center of towns listed below

Spokane, Coeur d'Alene, Kellogg
Orofino, Sand Point, Lewiston

POWER EQUIPMENT OPERATORS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$ 13.10	$ 14.25	$ 14.70	$ 15.40	$16.05
2	13.40	14.55	15.00	15.70	16.35
3	13.95	15.10	15.55	16.25	16.90
4	14.10	15.25	15.70	16.40	17.05
5	14.25	15.40	15.85	16.55	17.20
6	14.50	15.65	16.10	16.80	17.45
7	14.75	15.90	16.35	17.05	17.70
8	15.75	16.90	17.35	18.05	18.70

FRINGE BENEFITS:

Health and Welfare	$ 1.30
Pension	2.00
Apprenticeship Training	0.10

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors (under 2,000 CFM, gas, diesel or electric power); Crusher Feeder (mechanical); Deckhand; Driller's Tender; Fireman and Heater Tender; Grade Checker; Tender, Mechanic or Welder, H.D.; Hydro-seeder, Mulcher, Nozzleman; Oiler; Oiler and Cable Tender; Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar or compacting vibrator) except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or stationary Scraper; Belt Finishing Machine; Blower Operator (cement); Cement Hog; Compressor (2,000 CFM or over, 2 or more, gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float, Mixer (portable, concrete); Pavement Breaker (Hydra-hammer and similar); Power Broom; Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job only); Tractor (farm type R/T with attachments, except Backhoe); Tugger Operator

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Batch Plant and Wet Mix Operator, single unit (concrete); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Bending Machine; Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (pipeline); Deck Engineer; Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevating Grader type Loader (Dumor, Adams or similar); Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Mixermobile; Mucking Machine; Post Hole Auger or Punch; Pump (Grout or Jet); Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (to D-6 or equivalent and Traxcavator); Traverse Finishing Machine; Turnhead Operator

Group 4: Blade Operator (Motor Patrol and attachments); Concrete Pumps (Squeeze-crete, Flow-crete, Pump-crete, Whitman and similar); Drills (Churn, Core, Calyx or Diamond); Equipment Serviceman, greaser and oiler; Hoist (2 or more drums or Tower Hoist); Loaders (Overhead and Front End, under 4 yds. R/T); Pave or Curb Extruders (asphalt or concrete); Refrigeration Plant Engineers (under 1,000 tons); Rubber-tired Skidders (R/T with or without attachments); Screed Operator; Surface Heater and Planer Machine; Trenching Machines (under 7 ft. depty capacity); Turnhead (with re-screening); Vacuum Drill (Reverse Circulation Drill, under 8 in. bit)

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 5: Backhoe (under 1 yd.); Cranes (25 tons and under); Derricks and Stifflegs (under 65 tons); Drilling equipment (8 inch bit and over) (Robbins, Reverse Circulation and similar); Hoe Ram; Piledriving Engineers; Paving (dual drum); Railroad Track Liner Operator (self-propelled); Refrigeration Plant Engineer (1,000 tons and over); Signalman (Whirleys, Highline, Hammerheads or similar)

Group 6: Asphalt Plant Operator; Automatic Sub-grader (Ditches and Trimmers)(Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (1 yd. to 3 yds.); Batch Plant (over 4 units); Batch and Wet Mix Operator (multiple units, 2 and including 4); Blade (finish and bluetop)(Automatic, CMI, ABC and similar when used as automatic); Boat Operator; Boom Cats (side); Cableway Controller (dispatcher); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes (over 25 tons, including 45 tons); Crusher, Grizzle and Screening Plant Operator; Draglines (under 3 yds.); Drill Doctor; H.D. Mechanic; H.D. Welder; Loader Operator (Front-end and Overhead, 4 yds. including 8 yds.); Multiple Dozer units with single blade; Quad-track or similar equipment; Rollerman (finishing pavement); Rubber-tired Scrapers (one motor with one scraper, under 40 yds.); Rubber-tired Scrapers, multi-engine power with one scraper (Euclid, TS 24 and similar); Rubber-tired Scraper, one motor with one scraper (40 yds. and over); Rubber-tired Scraper, multiple-engine power with one scraper (Euclid, TS 24 and similar); Push Pull or Help Mate in use; Rubber-tired Scraper, multiple engines with two scrapers; Shovels (under 3 yds.); Tractors (D-6 and equivalent and over); Trenching Machines (7 ft. depth and over)

Group 7: Backhoe (3 yds. and over); Cableway Operators; Clamshell Operator (3 yds. and over); Cranes (over 45 tons, to 85 tons); Derricks and Stifflegs (65 tons and over); Draglines (3 yds. and over); Elevating Belt (Holland type); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (Overhead and Front-end, over 8 yds. to 10 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yards and over); Whirleys and Hammerheads, all

Group 8: Cranes (85 tons and over, and all climbing, rail and tower); Loaders (Overhead and Front-end, 10 yds. and over); Helicopter Pilot

POWER EQUIPMENT OPERATORS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$12.16	$13.66	$13.91
2	12.32	13.82	14.07
3	12.69	14.19	14.44
4	13.00	14.50	14.75
5	13.17	14.67	14.92
6	13.35	14.85	15.10
7	13.71	15.21	15.46
8	13.94	15.44	15.69
9	14.17	15.67	15.92
10	14.41	15.91	16.15

FRINGE BENEFITS:	
Health and Welfare	$ 1.18
Pensions	1.67
Apprenticeship Tr.	0.10

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: Brakemen; Crusher Plant Feeder (mechanical); Deckhand; Drill Tenders; Grade Checkers; Heater Tender; Land Plane; Pumpman

Group 2: Air Compressor; Asphalt Refrigeration Plant Operator; Bell Boy; Bit Grinder; Blower Operator (cement); Bolt Threader Machine Operator; Broom; Cement Hog; Concrete Mixer; Concrete Saw, multiple cut; Discing - harrowing or mulching (regardless of motive power); Distributor Leverman; Drill Steel Threader machine Operator; Fireman - all; Heavy Duty Mechanic Tender or Welder Tender; Hoist - single drum; Hydraulic Monitor Operator, Skid-mounted; Oiler (single piece of equipment); Pugmixer, Box or Screed Operator; Spray Curing Machine; Tractor, rubber-tired farm-type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Ross Carrier, Hyster on construction jobs); Belt Finishing Machine; Cable Tenders (underground); Chip Spreader Machine (self-propelled); Hoist, 2 or more drums or Tower Hoist; Hydralift - Fork Lift and similar (when hoisting); Oiler (underground); Power Loader (Bucket Elevator, Conveyors); Road Roller (regardless of motive power)

Group 4: Boring Machine (earth or rock) (Quarry Master, Joy) (tractor mounted); Drills: Churn, Core, Calyx or Diamond; Front End and Overhead Loaders and similar Machines (up to and including 4 yds.) (rubber-tired); Grout Pump; Hydra-hammer; Longitudinal Float Machine; Mixermobile; Spreader Machine; Tractor, rubber-tired, using Backhoe; Transverse Finishing Machine, Trenching Machine, Waggoner Compactor and similar; Asphalt Spreaders

Group 5: Concrete Plant Operator; Concrete Road Paver (dual); Elevating Grader Operator; Euclid Elevating Loader; Generator Plant Operator, mechanic (diesel, electric); Post Hole Auger or Punch Operator; Power Shovels and Draglines, under 1 yard; Pump-crete; Refrigeration Plant Operator; Road Roller (finishing high-type pavement); Service Oiler; Skidder, rubber-tired; Subgrader; Multiple station Beltline Operator (Teton Dam Project only)

POWER EQUIPMENT OPERATORS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 6: Asphalt Pavers, self-propelled; Asphalt Plant Operator; Blade Operator (motor patrol); Concrete Slip Form Paver; Cranes, up to and including 50 tons; Crusher Plant Operator; Derrick Operator; Drilling Equipment (Bit under 8 inches) (Robbins Reverse Circulation and similar); Front End and Overhead Loaders and similar Machines (over 4 yds. to and including 7 yds.); Koehring Scooper; Heavy Duty Mechanic or Welder; Mucking Machine (underground); Multi-batch Concrete Plant Operator; Piledriver Engineer; Power Shovels and Draglines (1 yd. to and including 3½ yds.); Tractor, Crawler type, including all attachments; Refrigeration Plant Operator (over 1,000 tons); Trimmer Machine Operator; Tournapulls, Euclid and similar, to and including 40 yards

Group 7: Cableway Operator; Continuous Excavator (Barber Greene WL-50); Cranes, over 50 tons; Dredges; Drilling Equipment (Bit 8 inches and over) (Robbins Reverse Circulation and similar); Fine Grader, CMI or equivalent; Front End and Overhead Loaders and similar Machines (over 7 yds.); Power Shovels and Draglines (over 3½ yds.); Quad type Tractors with all attachments; Tournapulls, Euclid and similar, over 40 yds. to and including 50 yds.; Multiple Scraper Units; Tower Crane Operator

Group 8: Tournapulls, Euclid and similar, over 50 yards to and including 75 yards

Group 9: Tournapulls, Euclid and similar, over 75 yards to and including 100 yards

Group 10: Tournapulls, Euclid and similar, over 100 yards

TRUCK DRIVERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idano County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Groups	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$14.52	$15.67	$16.12	$16.82	$17.47
2	14.56	15.71	16.16	16.87	17.51
3	14.62	15.77	16.22	16.92	17.57
4	14.71	15.86	16.31	17.01	17.66
5	14.92	16.07	16.52	17.22	17.87
6	14.96	16.11	16.56	17.26	17.91
7	15.02	16.17	16.62	17.32	17.97
8	15.06	16.21	16.66	17.36	18.01
9	15.17	16.32	16.77	17.47	18.12
10	15.21	16.36	16.81	17.51	18.16
11	15.52	16.67	17.12	17.77	18.47
12	15.66	16.81	17.26	17.96	18.61
13	15.82	16.97	17.42	18.12	18.77
14	15.96	17.11	17.56	18.26	18.91

FRINGE BENEFITS:

Health and Welfare	$ 1.34
Pension	1.47
Apprenticeship Training	0.09

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 1)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties

Group 1: Flat Bed Truck, single rear axle; Fork Lift, 3,000 lbs. and under; Swamper; Leveeperson loading trucks at bunkers; Pickup hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber-tired pulling Trailer or similar equipment); Water Tank Truck 1,800 gallons and under

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yards and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flaherty Spreader, Box Driver, Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, Bootperson, Leverperson Tender); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Burner, Cutter and Welder; Oil Distributor Driver (road, Bootperson, Leverperson); Service Greaser; Tireperson No. 2; Trucks, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame; Water Tank Truck (8,001 to 8,000 gallons)

Group 7: Dumptor (over 6 yds.); Semi-truck and Trailer, 50 tons and under Lowboy; Transit Mixers and Trucks hauling concrete (6 yds. to and including 10 yds.); Trucks, side, end and bottom dump (over 12 yds. to and including 20 yds.)

TRUCK DRIVERS (AREA 1) (Cont'd)
Benewah, Bonner, Boundary, and Clearwater Counties; Idaho County (north of the 46th Parallel); Kootenai, Lath, Lewis, Nez Perce, and Shoshone Counties

Group 8: Low Boy (over 50 tons); Tractor with steer trailer; Truck-mounted Crane (with load-bearing surface, either mounted or pulled); Water Tank Truck (8,001 to 10,000 gallons)

Group 9: Flaherty Spreader Box Driver; Flowboys; Fork Lift, 16,000 lbs. and over; Semi-end Dumps; Transit Mixers and Trucks hauling concrete (over 10 yds. to and including 15 yds.); Trucks, side, end, and bottom dump (over 20 yds. to and including 30 yds.); Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

Group 11: Tournarocker, D. W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, whichever is greater; Transit Mixers and Trucks hauling concrete (over 15 yards to and including 20 yards); Trucks, side, end and bottom dump (over 30 yards to and including 40 yards); Water Tank Trucks (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yards); Trucks, side, and and bottom dump (over 40 yards to and including 50 yards)

Group 13: Trucks, side, end and bottom dump (over 50 yards to and including 100 yards)

Group 14: Trucks, side, end and bottom dump (over 100 yards); Helicopter Pilot hauling employees or material

TRUCK DRIVERS (AREA 2)
Remaining Counties and Idaho County(south of the 46th Parallel)

Groups	Zone 1	Zone 2	Zone 3
1	$11.38	$12.88	$13.13
2	11.44	12.94	13.19
3	11.50	13.00	13.25
4	11.56	13.06	13.31
5	11.61	13.11	13.36
6	11.87	13.37	13.62
7	11.93	13.43	13.68
8	11.99	13.49	13.74
9	12.10	13.60	13.85
10	12.16	13.66	13.91
11	12.22	13.72	13.97
12	12.28	13.78	14.03
13:			
Class A	11.76	13.26	13.51
Class B	11.97	13.47	13.72
Class C	12.10	13.60	13.85
Class D	12.28	13.78	14.03
Class E	12.39	13.89	14.14
Class F	12.51	14.01	14.26
Class G	12.79	14.29	14.54
Class H	13.02	14.52	14.77
Class I	13.25	14.75	15.00
14	12.67	14.17	14.42

FRINGE BENEFITS:	
Health and Welfare	$ 1.15
Pension	1.40
Vacation	0.90
Apprenticeship Training	0.25

*See ZONE Descriptions - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 2)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 1: Leverman loading at Bunkers; Pilot Car or Escort Driver

Group 2: Flat Bed, 2 axle and Pickup hauling materials; Water Tank Truck (1,800 gallons and under); Fork Lift (3,000 and under)

Group 3: Flat Bed, 3 axle; Fuel Truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggymobile; Man Haul (Shuttle truck or bus)

Group 4: Transit Mix Truck, 3 yds. and under; Truck Tenders; Slurry or Concrete Pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 4,000 gallons); Semi-trailer, Low Boy, up to 96,000 lbs. GVW; Bulk Cement Tanker, up to 96,000 lbs. GVW; Fork Lift, over 3,000 lbs. (Bull Lift, Hydro Lift); Ross Hyster and similar straddle equipment; "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift)

Group 6: Transit Mix Truck, over 3 yds. to 6 yds.

Group 7: Water Tank Truck, over 4,000 gallons; Fuel Truck, over 1,000 gallons

Group 8: Transit Mix Truck, over 6 yds. to 8 yds.; Dumptors

Group 9: Distributor or Spreader Truck; Field Tireman, Serviceman; Snow Plow (truck mounted); Transit Mix Truck, over 8 yds. to 10 yds.

Group 10: Low Boy, 96,000 lbs. GVW and over; Bulk Cement Tanker, 96,000 lbs. GVW and over

Group 11: Transit Mix Truck, over 10 yds.

TRUCK DRIVERS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (south of the 46th Parallel)

Group 12: Turnarocker and similar equipment

Group 14: Truck, side, end and bottom dump:
Class A: 6 yards and under
Class B: Over 6 yards - including 14 yards
Class C: Over 14 yards - including 20 yards
Class D: Over 20 yards - including 30 yards
Class E: Over 30 yards - including 40 yards
Class F: Over 40 yards - including 50 yards
Class G: Over 50 yards - including 75 yards
Class H: Over 75 yards - including 100 yards
Class I: Over 100 yards

Group 14: Truck Mechanic

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))

ZONE DESCRIPTIONS
for CEMENT MASONS, LABORERS (Heavy and Highway Construction), POWER EQUIPMENT OPERATORS, and TRUCK DRIVERS

AREA 1

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 mile radius from the center of the Cities listed below

Zone 3: Area within 30-45 mile radius from the center of the Cities listed below

Zone 4: Area within 45-90 mile radius from the center of the Cities listed below

Zone 5: Area over 90 mile radius from the center of Cities listed below

Spokane Coeur d'Alene Lewiston

ZONE DESCRIPTIONS
For CARPENTERS, CEMENT MASONS, LABORERS, POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

AREA 2

Zone 1: That area within the State of Idaho located within 20 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Pocatello to a point approximately 1 mile south of the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 2: That area within the State of Idaho located over 20 miles and within 50 miles on either side of I-84 from the Oregon-Idaho State Line on the west to the intersection of I-84 and I-86 in Cassia County, then following I-86 to Pocatello, then following I-15 north to Idaho Falls, then following State Highway #191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg, Idaho); then following I-15 south from the City of Downey, Idaho, which point is located by extending the northerly boundary of Franklin County to the west

Zone 3: The remaining area of that portion of the State of Idaho south of Parallel 46 (the Washington-Oregon State Line extended eastward to Montana) that is not included in Zone 1 or Zone 2 as described above.

SUPERSEDEAS DECISION

STATE: INDIANA COUNTY: MARION
DECISION NUMBER IN81-2060 DATE: Date of Publication
Supersedes Decision No. IN79-2007, dated March 9, 1979 in 44 FR 13220
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 6.49				
BRICKLAYERS	9.32				
CARPENTERS	7.40				
CEMENT MASONS	8.41				
DRYWALL HANGERS	10.00				
DRYWALL FINISHERS/TAPERS	10.00				
ELECTRICIANS	6.84				
HEATING MECHANICS	6.43				
INSULATORS	5.50				
LABORERS	5.06				
LANDSCAPE LABORERS	5.06				
PAINTERS	6.00				
PLUMBERS AND PIPEFITTERS	7.04				
ROOFERS	6.00				
SHEET METAL WORKERS	8.88				
SOFT FLOOR LAYERS	7.80				
TILE SETTERS	8.00				
TRUCK DRIVERS	8.03				

SUPERSEDEAS DECISION

STATE: MARYLAND COUNTIES: ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND, AND FOR HEAVY CONSTRUCTION PROJECTS IN HARFORD & HOWARD COUNTIES, MARYLAND
DECISION NO.: MD81-3074 DATE: DATE OF PUBLICATION
Supersedes Decision No. MD81-3026 dated April 24, 1981 in 46 FR 23382
DESCRIPTION OF WORK: Building Construction (does not include single family houses and apartments up to and including 4-stories) and Heavy Construction Projects (does not include sewer and water lines)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.60	1.20	1.45		.02
BOILERMAKERS	16.025	1.275	1.25		.04
BRICKLAYERS	14.33	.90	.75		.07
CARPENTERS, SOFT FLOOR LAYERS, MILLWRIGHTS, PILEDRIVERS, DIVERS AND DIVER'S TENDERS					
Zone 1 - Anne Arundel County (the City of Annapolis and that portion of the county south and east of the following line: beginning at Rte. 3 and the Patuxent River, north of Rte. 3 to the junction of Benfield Rd., then right on Benfield Rd. to the junction of Jumpers Hole Rd. left on Jumpers Hole Rd. to the junction of Ritchie Hwy., left on Ritchie Hwy. to the junction of Rte. 100, right on Rte. 100 to Rte. 177 and continuing in an easterly direction on Rte. 177 to Gibson Island):					
Carpenters & soft floor layers	13.42	.80	.70		.05
Millwrights	14.05	.80	.70		.05
Piledriver	13.72	.80	.70		.05
Divers	23.20	.80	.70		.05
Diver's Tenders	15.00	.80	.70		.05

DECISION NO. MD81-3074	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS, SOFT FLOOR LAYERS, MILLWRIGHTS, PILEDRIVERS, DIVERS & DIVER'S TENDERS: CONT'D					
Zone 2 - Anne Arundel (remainder of county), Baltimore, Baltimore City, Harford and Howard Counties:					
Carpenters, soft floor layers, resilient floor layers, pile drivers and diver's tenders	12.30	.80	.99		.07
Divers	24.35	.80	.99		.07
Millwrights	12.90	.80	.99		.07
CEMENT MASONS	12.69	.83	1.00		.04
ELECTRICIANS:					
Zone 1 - From Baltimore City Hall to 25 miles	14.10	.90	3%+1.50		.5%
Zone 2 - Over 25 miles to 45 miles from Baltimore City Hall	14.35	.90	3%+1.50		.5%
Zone 3 - Over 45 miles from Baltimore City Hall	14.60	.90	3%+1.50		.5%
ELEVATOR CONSTRUCTORS					
Mechanics	13.60	1.345	.95	a+b	.035
Helpers	9.52	1.345	.95	a+b	.035
Helpers (Probationary)	6.80				
GLAZIERS	9.97	.80	1.53		.06
IRONWORKERS:					
Ironworkers, finishers, rodmen; pre-cast & pre-stress erectors	13.86	.90	2.35		.06
Fence Erectors	14.11	.90	2.35		.06
Sheeters	13.51	.90	2.35		.06

DECISION NO. MD81-3074	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, BUILDING:					
Common Laborers	9.10	.40	.60		.075
Power Tool Operators	9.20	.40	.60		.075
Pipelayers (concrete & clay)	9.30	.40	.60		.075
Wagon Drill Operator, Jackhammer Oper. (80 and over) Barco Tampers	9.35	.40	.60		.075
Plasterers Laborers	9.25	.40	.60		.075
Hod Carriers, Gunnite Nozzle and Gun Operator	9.40	.35	.60		.075
Burners (demolition)	9.60	.35	.60		.075
LABORERS, HEAVY (EXCLUDING TUNNEL CONSTRUCTION):					
Laborers	7.75	.40	.60		.075
Power tool operators	7.85	.40	.60		.075
Pipelayers, Wagon drill operators, air track driller, burners (demolition)	8.25	.40	.60		.075
Jackhammer Operator - 80 lbs and over	8.00	.40	.60		.075
LATHERS	11.34		.35	c	.01
LEAD BURNERS	12.60	.65			.01
LINE CONSTRUCTION:					
Zone 1 - From Baltimore City Hall to 25 miles:					
Linemen, cable splicers, digging & equipment operator	15.00	.70	8%		½ of 1%
Winch trucks & trucks with pole or steel handling	10.05	.70	8%		½ of 1%
Trucks without winch	9.38	.70	8%		½ of 1%
Groundmen	9.45	.70	8%		½ of 1%
Zone 2 - From 25 miles to 45 miles from Baltimore City Hall:					
Linemen, cable splicers, digging and equipment operator	15.25	.70	8%		½ of 1%

DECISION NO. MD81-3074	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: CONT'D					
Winch trucks & trucks with pole or steel handling	10.30	.70	8%		½ of 1%
Truck without winch	9.63	.70	8%		½ of 1%
Groundmen	9.70	.70	8%		½ of 1%
Zone 3 - Over 45 miles from Baltimore City Hall:					
Linemen, cable splicers, digging and equipment operator	15.50	.70	8%		½ of 1%
Winch trucks & truck with pole or steel handling	10.55	.70	8%		½ of 1%
Truck without winch	9.88	.70	8%		½ of 1%
Groundmen	10.05	.70	8%		½ of 1%
MARBLE SETTERS	12.58	.90	.75		.07
MASON TENDERS:					
Mason tenders	9.10	.30	.50		.075
Scaffold builders	9.35	.30	.50		.075
PAINTERS:					
Brush, roller, spackling, taping and wallcovering	11.20	1.10	.70		.09
Steel, spray, swinging stages, boarswain chain, sand and waterblasting, steam cleaning, and epoxies	11.95	1.10	.70		.09
Ames tool-bazooka	12.20	1.10	.70		.09
PLASTERERS	12.50	.60	.60		
PLUMBERS	14.12	1.12	1.24		.16
ROOFERS	11.05	.80	.45		.10
SHEET METAL WORKERS	12.72	1.23	.92		.12
SIGN ERECTORS	9.18		3%	d	1%

DECISION NO. MD81-3074	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS:					
Baltimore City including a 10 mile radius beyond the city limits	15.20	.95	1.40		.08
Harford & Howard Counties and the remainder of Anne Arundel and Baltimore Counties	14.88	.95	1.40		.08
STEAMFITTERS	14.62	.87	1.54		.16
TILE & TERRAZZO WORKERS	11.56	1.00	.75		.07
TILE, MARBLE & TERRAZZO FINISHERS	8.90	.55	.25		
TRUCK DRIVERS: BUILDING					
Euclid wagon and dumpster	10.66	1.15	1.15	f+g	
Dropframe gooseneck and trailers	10.53	1.15	1.15	f+g	
Pump	10.29	1.15	1.15	f+g	
Pick-up	10.02	1.15	1.15	f+g	
TRUCK DRIVERS: HEAVY					
Euclid wagons & dumpsters	9.74	1.15	1.15	f+g	
Drop Frame, gooseneck & trailers	9.60	1.15	1.15	f+g	
Dump; sweeper, boring machine and miscellaneous equipment; water trucks, fuel and lube truck	9.37	1.15	1.15	f+g	
Pick-up	9.11	1.15	1.15	f+g	
POWER EQUIPMENT OPERATORS:					
Group I	14.38	1.00	1.25	e	.15
Group II	13.15	1.00	1.25	e	.15
Group III	12.48	1.00	1.25	e	.15
Group IV	11.84	1.00	1.25	e	.15
Group V	10.55	1.00	1.25	e	.15

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POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Operators handling or setting steel, stone prestressed concrete or machinery. Tower cranes.

Group II - Backfiller, backhoe, batching plants, boat captain, cableway, case type hoe (with a front end bucket over 1-1/4 yds.), concrete mixing plants, concrete paver, crane, derrick boat, double concrete pump, dragline, Eimco type overhead loader, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), gradall, grader, hoist (2 active drums or more), multiple conveyor, pile driving machine, power shovel, repair mechanic, shield, standard gauge locomotive, trenching machine, tunnel mucking machine, twin engine scraper, welder, whitley rig and bulldozers (D-9 or equivalent and above)

Group III - Asphalt spreader, bull float, Case type backhoe (with a front end bucket 1-1/4 yds. and under), concrete mixer (with skip), concrete pump, concrete spreader, excavating scoop (under 25 yds.), finishing machine, front end tractor loader (under 1-3/4 yds.), hi-lift fork lift, longitudinal float, narrow gauge locomotive, one drum hoist, power roller on hot mix asphalt, screeding machine, stone crusher, stone spreader, sub-grader, tractor with attachments (2 or more provided both attachments are being used) and all bulldozers except D-9 or equivalent and above.

Group IV - Caterpillar type tractor, compressors, elevator operator, firemen, fuel truck, grease truck, grout pump, light plant, mighty midget with compressor, single conveyor, space heaters, welding machines, well-drill, wellpoint system, and all power rollers except on hot mix asphalt.

Group V - Deck hands, oilers (all types)

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Welders - receive rates prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Christmas Eve; H- Good Friday.

FOOTNOTES:
a. Holidays: A through F.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of the basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. Employee working Christmas Eve shall work 4 hours and receive 8 hours pay.
d. Holidays: A through F, H, Friday after Thanksgiving, and employee's birthday, vacation: One week per year after 1 year of service, 2 weeks after 3 years of service and 3 weeks after 10 years of service.
e. Holidays: A through F.
f. Employee with 1 year of service - 1 week's paid vacation; 2 - 3 weeks paid vacation, provided the employee has worked during the holiday week).
g. Holidays: A through H plus the employee's birthday; (provided the employee has worked oneday and has been available for work during holiday week).

SUPERSEDEAS DECISION

STATE: NEW JERSEY COUNTIES: BELOW *
DECISION NO.: NJ81-3053 DATE: DATE OF PUBLICATION
Supersedes Decision No. NJ79-3029 dated January 4, 1980 in 43 FR 1350
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Project Construction

* BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITION & REFRIGERATION MECHANIC: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); installation of air-cooled air conditioning that does not exceed 15 tons	9.10	.065	.31		.04
ASBESTOS WORKERS:					
ZONE 1	13.125	1.00	1.50		.025
ZONE 2	15.04	1.41	1.67		.04

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Hunterdon (Alexander, Bethlehem, Bloomsburry, Clinton, Delaware, East Armwell, Flemington, Franklin, Frenchtown, Glen Garden, Hampton, High Bridge, Holland, Kingwood, Lambertville, Labanon, Milford, Raritan, Readington, Stockton, Union, and West Armwell Townships); Middlesex (Cranbury, East Brunswick, Helmetta, Jamesburg, Milltown, Monroe, North Brunswick, Plainsboro, South Brunswick and Spotswood Townships); Somerset (Branchburg, Franklin Hillsborough, Manville, Millstone, Montgomery and Rocky Hill Townships); and Warren (Franklin, Greenwich, Hamony, Lopatcong, Oxford, Phillipsburg, Pohotcong, Washington and White Townships) Counties.

ZONE 2 - Bergen, Essex, Hudson, Hunterdon (remainder of county), Middlesex (remainder of county), Morris, Passaic, Somerset (remainder of county), Sussex, Union and Warren (remainder of county) Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	14.97	8%	20%+.25	10%	.04
BRICKLAYERS, STONE MASONS, CEMENT MASONS & PLASTERERS:					
ZONE 1	13.71	1.00	2.00		.05
ZONE 2	12.10	.84	.90		.02
ZONE 3	13.13	1.57	2.37		.03
ZONE 4					
Bricklayers & Stone Masons	12.96	.87	.75		
Cement Masons	14.10	.75	1.35		
Plasterers	14.10	.75	1.35		.05
ZONE 5	13.90	1.00	.95		
ZONE 6	13.92	.85	1.05		.02
ZONE 7	14.25	.90	.70		.02
ZONE 8	13.81	.95	1.10		.04
ZONE 9	13.65	1.15	1.15		.02
ZONE 10	14.03	.85	1.15		.02
ZONE 11	13.92	.85	1.15		.02
ZONE 12	13.15	1.35	1.45		.02

AREA COVERED BY BRICKLAYERS, STONEMASONS, ETC. ZONES

ZONE 1 - Bergen (North Arlington, Lyndhurst - East of Ridge Rd. and North to Rutherford Avenue and Barry's Creek West of the Hackensack River); Essex (Except Millburn Township); Hudson that portion West of the Hackensack River).

ZONE 2 - Bergen (Wallington, part of East Patterson; Garfield, Lodi, North Arlington and part of Lyndhurst); Morris (Pompton Plains, Pequannock, Lincoln Part, Kinnelon, Butler and Riverdale); Passaic and Sussex (that portion north of a line along Route #521 from Dingmans Ferry to Tuttles Corner, along Route #206 to Lafayette, then along North Church Road to Route #23, then along Route #23 to Passaic County Line) Counties.

ZONE 3 - Bergen (remainder of county) County.

ZONE 4 - Hudson (remainder of county) County.

ZONE 5 - Middlesex (except Dunellen, South Plainfield, New Market, Middlesex and Oak Tree) and Somerset (Franklin Park only) Counties.

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AREA COVERED BY BRICKLAYERS, STONEMASONS, ETC. ZONES CONT'D

ZONE 6 - Essex (Millburn Township), Morris (Gillette & Sterling, Shore Hills Twps.), Union (New Providence Springfield Summit & Union Twps).

ZONE 7 - Hunterdon (Califon, Oldwick, Annadalle, Lebanon, White House Station, Readington, Stantion and Three Bridges Townships) and Somerset (remainder of county) Counties.

ZONE 8 - Hunterdon (remainder of county), Morris (Stephensburg, Pleasant Grove, Middle Valley and Parker Townships), Sussex (Branchville, Flatbrookville, Swartswood, Halsey, Newton and Stillwater Townships) and Warren Counties.

ZONE 9 - Morris (remainder of county) and Sussex (remainder of county) Counties.

ZONE 10 - Somerset (Remainder of County) Hunterdon Co. at Old Millend, Rt. 32 following Passaic River to Dead River to Brownmills at Pluckemin thence Oldwick to Fairmont, across county line to Long Valley in Morris County thence 3 miles North of Chester to Muskrat to Ralston in Morris to Mendham Twp. across Morris County Line to Somerset back to Old Mill in Bernardsville Route 23 in Somerset County.

ZONE 11 - Union (Plainfield, Scotch Plains).

ZONE 12 - Union (Remainder of County).

DECISION NO. NJ81-3053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS, INSULATORS & MILLWRIGHTS:					
ZONE 1	11.60	1.27	1.55		.06
ZONE 2	12.35	.70	1.40	.50	.05
ZONE 3					
Carpenters & Insulators	12.57	8%	7%		½%
Millwrights	12.82	8%	7%		½%
ZONE 4					
Carpenters & Insulators	14.10	8%	7%		½%
Millwrights	14.60	8%	7%		½%
ZONE 5					
Carpenters & Insulators	12.57	8%	7%		½%
Millwrights	12.82	8%	7%		½%

AREA COVERED BY CARPENTERS, ETC. ZONE

ZONE 1 - Bergen County (east of the Hackensack River including but not limited to Cliffside, Fort Lee, Grant Wood, Palisades Park, Ridgefield, Edgewater, Fairview, Leonia and Coytesville) and that part of Hudson County east of the Hackensack River.

ZONE 2 - Hunterdon (starts at the south of the town of Frenchtown on the Delaware River, thence following the line in the center of the road to Baptistown to Croton to the City of Flemington to Flemington Junction to Three Bridges, thence following the Somerset County Line northward, all territory south of this line including the City of Flemington) and Somerset (all territory south of a line beginning at Amwell on the County Line to Zion to Fairview to Dutchtown to Plainsville to Bell Mead to Griggstown to the Delaware and Raritan Canal) Counties.

ZONE 3 - Hunterdon (remainder of county), Middlesex, Morris, Passaic, Somerset (remainder of county), Sussex, Union and Warren Counties.

ZONE 4 - Essex County and that part of Hudson County west of the Hackensack River.

ZONE 5 - Bergen (remainder of county) County.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DOCK BUILDERS & PILEDRIVERMEN	13.25	1.85	1.78	1.01	.05
DRYWALL TAPERS & FINISHERS	10.60	1.50	.50		.10
ELECTRICIANS & CABLE SPLICERS:					
ZONE 1	14.57	9%	17%		½%
ZONE 2	14.88	7%	6%+1.50		.02
ZONE 3	16.78	7%	3%+1.90		.015
ZONE 4	16.18	7%	6.5%+ 2.00		.02
ZONE 5	17.00	7%	9%		5%
ZONE 6					
Wiremen	16.78	7%	10%+.50		
Cable Splicers	17.85	7%	10%+.50		
ZONE 7	16.94	7%	3%+1.20		
ZONE 8	16.45	7%	3%+1.90		.015
ZONE 9	16.41	7%	3%+2.25		.02
ZONE 10	16.73	7%	3%+1.90		.015
ZONE 11	16.66	7%	9%		.02
ZONE 12	15.00	7%	3%+1.00		.02
ZONE 13	14.25	8%	3%+1.20		

AREA COVERED BY ELECTRICIANS & CABLE SPLICERS ZONES

ZONE 1 - Essex County

ZONE 2 - Union (that portion east and north of a line running in a southerly direction from Morris Avenue along Baltusrol Way, across Baltusrol County Club to Baltusrol Rd., along Baltusrol Rd. and Summit Lane in Mountainside to and along New Providence Rd., to and along the Mountainside Line, to and along Washington Valley Road, to and along Diamond Hill Rd., to and along Park Ave. in Scotch Plains, and continuing along Martine Ave., to and northeast along the Raritan Rd., to and easterly along the Westfield-Scotch Plains Line, to the Lehigh Valley Railroad and southwest on the railroad to the County Line) County.

ZONE 3 - Union (that portion south and west of a line running east from Somerset County on Mountain Ave., in New Providence Boro, to the Diamond Hill Rd, south on that road to and along Park Ave. in Scotch Plains and continuing along Martine Ave., to and northeast along the Raritan Rd., to and easterly along the Westfield-Scotch Plains Line to the Lehigh Valley Railroad and southwest on the railroad to Middlesex County Line) County.

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AREA COVERED BY ELECTRICIANS & CABLE SPICERS ZONES CONT'D

ZONE 4 - Union (remainder of county) County.

ZONE 5 - Bergen and Hudson Counties.

ZONE 6 - Passaic County.

ZONE 7 - Morris and Sussex Counties.

ZONE 8 - Hunterdon and Somerset Counties.

ZONE 9 - Middlesex (that portion south and west of a line extending east from the Raritan River along the Philadelphia and Reading Railroad to Stelton Road, south on Stelton Rd. to Lincoln Highway, along Lincoln Highway to Vineyard Road to Old Post Road, along Old Post Road to Mill Road, along Mill Road to the Raritan River along the Raritan River to the South River, along the South River to the southern boundary of the Borough of South River, along this boundary to the Cranbury South River Turnpike, along this road and continuing on the Washington Road and Maplewood Avenue in Cranbury to Scott Avenue, along Scott Avenue to Main Street, on Main Street and the Turnpike to the Millstone River) County.

ZONE 10 - Middlesex (that portion north and west of a line following the Philadelphia and Reading Railroad east from the Raritan River to Dismal Rd., northeast on Dismal Rd. to Park Ave., north on Park Ave. to the Lehigh Valley Railroad, and northeast along that railroad to the Union County Line) County.

ZONE 11 - Middlesex (remainder of county) County.

ZONE 12 - Warren (from Pahaquarry, Blairstown, Knowlton, Hope, Liberty, White, Oxford, Washington, Hamony, Franklin, Lopatcong, Greenwich, Pohatcong Townships, and that portion of Mainsfield Township west of Line following the Point Mt. - Port Murray Rd. to Independence Township) County.

ZONE 13 - Warren (remainder of county) County.

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		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Construction:					
Mechanics	13.21	1.195	.82+a	b+c	.035
Helpers	9.91	1.195	.82+a	b+c	.035
Probationary Helpers	6.605	1.195	.82+a	b+c	.035
Modernization:					
Mechanics	11.23	1.195	.82+a	b+c	.035
Helpers	8.42	1.195	.82+a	b+c	.035
Probationary Helpers	5.615	1.195	.82+a	b+c	.035
Contract Repair:					
Mechanics	11.23	1.195	.82+a	b+c	.035
Helper	8.42	1.195	.82+a	b+c	.035
Probationary Helpers	5.615	1.195	.82+a	b+c	.035
GLAZIERS:					
ZONE 1	11.17	.80	2.00	1.25	.03
ZONE 2	11.50	.91	.65		.02
ZONE 3	14.60	1.10	2.50		.05

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Bergen and Passaic Counties

ZONE 2 - Middlesex, Somerset (Bernardsville, Basking Ridge and Watchung) and Union (Carteret, Port Reading, Fords and Woodbridge) Counties.

ZONE 3 - Essex, Hudson, Morris, Somerset (remainder of county), Sussex, Union (remainder of county) and Warren Counties.

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		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS - STRUCTURAL REINFORCING & ORNAMENTAL:					
Warren County	12.10	.84	1.36		
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex & Union Counties	13.35	1.05	2.85	1.15	.11
LABORERS, BUILDING CONSTRUCTION:					
ZONE 1					
Laborers, Air Tool Ops. (jackhammers, vibrators), Mason Tenders, Mortar Mixers, Pipelayers (concrete & clay), & Plasterer Tenders	8.40	.85	.85		.07
ZONE 2					
Laborers, Air Tool Op. (jackhammers, vibrators), Mason Tenders, Mortar Mixers, Pipelayers (concrete & clay), Plasterer Tenders, Wrecking & Excavation	8.25	1.10	.75		.07
ZONE 3					
Laborers	10.35	.70	.80		.10
Mortar Mixers, Scaffold Men, Pneumatic Hammer Ops., Bell men & Carpenter Tenders	10.60	.70	.80		.10
ZONE 4					
Laborers	9.20	.80	.50		.10
ZONE 5					
Laborers	8.90	.75	.85		.10
ZONE 6					
Laborers, Air Tool Ops., Mason Tenders, Mortar Mixers, & Pipelayers (concrete & clay)	8.50	.75	1.25		.10
ZONE 7					
Laborers	9.50	.90	.85		.10
ZONE 8					
Laborers	9.50	.40	.60		.10
ZONE 9					
Laborers	9.20	.55	.75		.10

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LABORERS, BUILDING CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 10 Laborers, Wrecking, Demolition, Concrete Mixers W/O Hoppers, Drill Runners, Jackhammers, Mason Tenders, Mortar Mixers, Excavation & Foundations, Scaffold Builders, Carpenter Tenders & Grading for Concrete	9.50	.50	.50		.10
ZONE 11 Laborers, Air Tool Ops. (jackhammer, vibrator), Mason Tenders, Mortar Mixers, Plasterer Tenders, Pipelayers, Wreckers & Excavation	10.30	.75	.70		.10
ZONE 12 Laborer, Tenders, Scaffolds, Excavation, Bituminous Concrete & Aggregates, Pipelayers, Underpinning, Lagging, Bracing & Wrecking	8.90	.85	.75		.10
ZONE 13 Laborers	8.90	.75	.85		.10
ZONE 14 Laborers	10.00	.85	.75		.10
ZONE 15 Laborers	8.80	.85	.85		.10
ZONE 16 Laborers, Air Tool Ops., Mason Tenders, Plasterer Tenders, & Mortar Mixers	8.90	.75	.85		.10
ZONE 17 Laborers, Hod Carriers, Power Tool Ops. & Plasterer Tenders	10.35	.65	.55		.10

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LABORERS BUILDING CONSTRUCTION ZONES

ZONE 1 - Bergen (Garfield, Passaic and Wallington Townships, Lodi, Athenia, Allwood, Dellawanna, and Clifton (to Piaget Ave.)) and Passaic Counties.

ZONE 2 - Bergen (remainder of county) County.

ZONE 3 - Essex (City of East Orange, Townships of South Orange and Maplewood) County.

ZONE 4 - Essex (Orange and Montclair) County.

ZONE 5 - Essex (Millburn) and Union (Springfield and Union Townships) Counties.

ZONE 6 - Essex (remainder of county) and Hudson (Kearny, East Newark and Harrison) Counties.

ZONE 7 - Hudson (remainder of county) County.

ZONE 8 - Middlesex (Perth Amboy, Carteret, Woodbridge and Metuchen Townships) County.

ZONE 9 - Middlesex (remainder of county) and Somerset (East Millstone and Franklin Townships) Counties.

ZONE 10 - Morris (Boonton, Boonton Township, Montville, Lincoln Park Boro., Butler, Kinnelon Boro., Pin Brook, Towaco, Danville, Mountain Lakes, Pequannock, Pompton Plains and Riverdale Boro.) County.

ZONE 11 - Morris (Jefferson, Rockaway, Mt. Arlington, Rockaway Boro., Wharton, Mine Hill, Dover, Netcong, Roxbury, Mt. Oliver and Randolph Townships) and Sussex Counties.

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LABORERS BUILDING CONSTRUCTION ZONES CONT'D

ZONE 12 - Morris (Morristown, Morris Township, Morris Plains, Mendham, Ralston, Chester, Brookside, Flanders, Ironia, Mt. Freedom, Mt. Tabor, Parsippany, Troy Hills, Pine Brook, Ced Knools, Whippany, Hanover Township and Long Valley) County.

ZONE 13 - Morris (remainder of county) County.

ZONE 14 - Somerset (Townships of Bernardsville, Peapack, Gladstone, Far Hills, Bernards and Bedminster) County.

ZONE 15 - Somerset (Townships of Bridgewater, Branchburg, Raritan, Bound Brook, Somerville, Manville, Hillsboro, Millstone, Montgomery and Rocky Hill) County.

ZONE 16 - Somerset (remainder of county) and Union (remainder of county) Counties.

ZONE 17 - Hunterdon and Warren Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, HEAVY & HIGHWAY CONSTRUCTION:					
GROUP 1	11.80	1.25	1.15	d	.10
GROUP 2	11.25	1.25	1.15	d	.10
GROUP 3	11.00	1.25	1.15	d	.10
GROUP 4	11.25	1.25	1.15	d	.10
GROUP 5	11.00	1.25	1.15	d	.10
GROUP 6	10.80	1.25	1.15	d	.10
GROUP 7	10.50	1.25	1.15	d	.10
GROUP 8	10.30	1.25	1.15	d	.10
GROUP 9	10.30	1.25	1.15	d	.10

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CLASSIFICATION DEFINITIONS FOR
LABORERS, HEAVY AND HIGHWAY CONSTRUCTION

GROUP 1 - Blasters

GROUP 2 - Finishers, Rammers, Pavers, Gunite Nozzle Men and Stonecutters.

GROUP 3 - Timbermen

GROUP 4 - Formsetters

GROUP 5 - Wagon Drill Operators, Drill Masters, Jackhammers, Chipping Hammers, Pavement Breakers, Power Buggies, Concrete Cutters, Asphalt Cutters, Sheet Hammer and Tree Cutter Operators, Sandblasting, Cutting, Burning, and such other power tools used to perform work usually done manually by Laborers.

GROUP 6 - Sewer Pipe, Laser Men, Conduit and Duct Line Layers.

GROUP 7 - Wagon Drill Operator Helpers, Drill Master Helpers, Powder Carriers and Magazine Tenders.

GROUP 8 - Wrapping and Coating of all pipe.

GROUP 9 - Common Laborers; Landscape Laborers, Railroad Track Laborers, Pitmen and Dumpmen, Waterproofing, Rakers and Tampers on cold Patch Work.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS - FREE AIR TUNNEL JOBS:					
GROUP 1	11.75	1.25	1.15		.10
GROUP 2	11.35	1.25	1.15		.10
GROUP 3	11.15	1.25	1.15		.10
GROUP 4	10.70	1.25	1.15		.10

CLASSIFICATION DEFINITIONS
FOR LABORERS ON FREE AIR TUNNEL JOBS

GROUP 1 - Blasters

GROUP 2 - Skilled Men (including Miners, Drill Runners, Iron Men, Maintenance Men, Conveyor Men, Safety Miners, Riggers, Block Layers, Cement Finishers, Rodmen, Caulkers, Powder Carriers, All other skilled men).

GROUP 3 - Semi-Skilled Men (including Miner's Helpers, Chuck Tenders, Trackmen, Nippers, Brakemen, Derail Men, Cable Men, Hose Men, Grout Men, Gravel Men, Form Men, Bell or Signal Men (top or bottom), Form Workers and Movers, Concrete Workers, Shaft Men, Tunnel Laborers, Caulkers' Helpers, All other Semi-skilled Men).

GROUP 4 - All other (including Power Watchmen, Changehouse Attendents, Top Laborers).

LABORERS, ASPHALT CONSTRUCTION:					
ZONE 1					
Street:					
Head Raker	9.05	1.01	.89	d	.10
Rakers & Screen Men	8.90	1.01	.89	d	.10
Tampers, Smoothers, Kettlemen, Painters, Top Shovelers & Roller Boys	8.65	1.01	.89	d	.10
Plant:					
Scale Mixer & Burner Men	8.90	1.01	.89	d	.10
Feeders & Dust Men	8.65	1.01	.89	d	.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, ASPHALT CONSTRUCTION: (CONT'D)					
ZONE 2					
Street:					
Head Rakers	9.00	1.00	1.00	d	.10
Rakers and Screed Men	8.85	1.00	1.00	d	.10
Tampers, Smoothers, Kettlemen, Painters, Shovelers and Roller Boys	8.60	1.00	1.00	d	.10
Plant:					
Scale Mixer and Burner Men	8.85	1.00	1.00	d	.10
Feeders and Dust Men	8.60	1.00	1.00	d	.10

AREA COVERED BY LABORERS ON ASPHALT CONSTRUCTION ZONES

ZONE 1 - Bergen, Essex, Hudson, Hunterdon, Middlesex (northern half of county), Morris, Passaic, Somerset, Sussex, Union and Warren Counties.

ZONE 2 - Middlesex (remainder of county) County.

LATHERS	11.40	.15	.40		.02
LINE CONSTRUCTION (EXCLUDING RAILROAD CONSTRUCTION):					
ZONE 1					
Line men, Cable Splicers, Line Equipment Operators, Line Truck Operators, Groundmen and Welders	15.13	9%	12%		3/4%
ZONE 2					
Linemen and Equipment Operators	16.78	7%	10%		3/4%
Cable Splicers	17.85	7%	10%		3/4%
Groundmen	70%JR				

DECISION NO. NJ81-3053	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (CONT'D)					
ZONE 3					
Linemen, Cable Splicers, Equipment Operators and Groundmen	15.35	12%	9%+.58		3/4%
ZONE 4					
Linemen, Cable Splicers, Line Equipment Operators and Groundmen	16.18	7%	6.5%+ 2.00		3/4%
ZONE 5					
Linemen, Cable Splicers, Line Equipment Operators and Groundmen	16.18	7%	6.5%+ 2.00		3/4%
ZONE 6					
Linemen, Cable Splicers, Line Equipment Operators and Groundmen	13.84	7%	3%+.80		3/4%
ZONE 7					
Linemen and Equipment Operators	16.94	8%	3%+1.20		3/4%
Groundmen and Line Truck Operators	15.10	8%	3%+1.20		3/4%
ZONE 8					
Linemen and Equipment Operators	16.45	7%	3%+1.90		3/4%
Groundmen	14.59	7%	3%+1.90		3/4%
ZONE 9					
Linemen and Equipment Operators	14.01	7%	3%+.80		3/4%
Groundmen	12.15	7%	3%+.80		3/4%
ZONE 10					
Linemen, Cable Splicers & Groundmen	16.73	7%	3%+1.90		3/4%
ZONE 11					
Linemen, Cable Splicers	16.41	7%	3%+2.25		3/4%
Groundmen	15.56	7%	3%+2.25		3/4%

DECISION NO. NJ81-3053	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D					
ZONE 12					
Linemen, Equipment Operators & Cable Splicers	16.66	14%	9%		3/4%
Groundmen Winch Operators	15.76	14%	9%		3/4%
ZONE 13					
Linemen, Line Truck Operators, Equipment Operators and Cable Splicers	13.50	8%	3%+1.00		3/4%
Groundmen	7.434	8%	3%+1.00		3/4%
ZONE 14					
Linemen, Line Truck Operators, Equipment Operators and Cable Splicers	14.25	8%	3%+1.20		3/4%
Groundmen	60%JR				

LINE CONSTRUCTION ZONES

ZONE 1 - Essex County

ZONE 2 - Passaic County

ZONE 3 - Bergen and Hudson Counties

ZONE 4 - Union (that portion east and north of a line running in a southerly direction from Morris Ave. along Baltusrol Way, across Baltusrol County Club to Baltusrol Rd., along Baltusrol Rd. and Summit Lane in Mountainside to and along New Providence Rd. to and along the Mountainside Line, to and along Washington Valley Rd., to and along Diamond Hill Rd., to and along Park Ave. in Scotch Plains, and continuing along Martine Ave., to and northeast along the Raritan Rd., to and easterly along the Westfield-Scotch Plains Line, to the Lehigh Valley Railroad and southwest on the railroad to the County Line) County.

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LINE CONSTRUCTION ZONES (CONT'D)

ZONE 5 - Union (that portion south and west of a line running east from Somerset County on Mountain Ave. in New Providence Boro. to the Diamond Hill Rd. south on that road to and along Park Avenue in Scotch Plains and continuing along Martine Ave., to and northeast along the Raritan Road, to and easterly along the Westfield-Scotch Plains Line to the Lehigh Valley Railroad and Southwest on the railroad to the Middlesex County Line) County.

ZONE 6 - Union (remainder of county) County.

ZONE 7 - Morris and Sussex Counties.

ZONE 8 - Hunterdon (except Tewksbury Township and Califon Boro.) and Somerset (that portion south of a line following Mountain Ave. from the Union County Line west to Hillcrest Ave. in Union Village; north on Hillcrest Ave. to and west on the Passaic River, west on the Dead River, west on Allen Rd., north on Somerville Rd., west on Howell Rd, southwest on Mount Prospect Rd., west on Martinsville-Pluckemin Rd., west on Klines Mill Rd., north on John Kane Road to Hunterdon County Line, and also that portion of Mohtgomery Township West and south of a line following U.S. Highway #206 north from Mercer County to the Harlingen Rd., West along that road the Dutchtown - Zine Rd. to Hillsboro Township Line) Counties

ZONE 9 - Hunterdon (remainder of county) and Somerset (remainder of county) Counties.

ZONE 10 - Middlesex (that portion south and west of a line, extending east from the Raritan River along the Philadelphia and Reading Railroad to Stelton Road, south on Stelton Rd. to Lincoln Hwy. to Vinyard Rd. to Old Post Rd., along Old Post Rd. to Mill Rd., along Mill Rd. to the Raritan River, along Raritan River to the South River, along the South River to the southern boundary of the Borough of South River, along this boundary to the Cranbury South River Turnpike, along this road and continuing onto the Washington Rd. and Maplewood Ave. in Cranbury to Scott Ave., along Scott Ave. to Main St., on Main St. and the Turnpike to the Millstone River) County.

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LINE CONSTRUCTION ZONES CONT'D

ZONE 11 - Middlesex (that portion north and west of a line following the Philadelphia and Reading Railroad east from the Raritan River to Dismal Rd., northeast on Dismal Rd. to Park Ave., north on Park Ave., to the Lehigh Valley Railroad, and northeast along that railroad to the Union County Line) County.

ZONE 12 - Middlesex (remainder of county) County.

ZONE 13 - Warren (from Pahaquarry, Blairstown, Knowlton, Hope, Liberty, White, Oxford, Washington, Harmony, Franklin, Lopatcong, Greenwich, Pohatcong Twps. and that portion of Mansfield Twp. west of line following the Point Mt. - Port Murray Rd. to Independence Twp.) County.

ZONE 14 - Warren (remainder of county) County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (RAILROAD ONLY):					
STATEWIDE:					
Linemen	10.74	7%	7%		3/4%
Line Equipment Operator	10.22	7%	7%		3/4%
Groundmen	6.68	7%	7%		3/4%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLESETTERS, TERRAZZO WORKERS & TILESETTERS:					
ZONE 1	12.04	.85	.75		.11
ZONE 2					
Marble Setters	10.00	1.13	1.19	f	
Terrazzo Workers	11.18	1.21	1.50		
Tile Setters	9.15	.80	2.10		

MARBLESETTERS, TERRAZZO WORKERS & TILESETTERS ZONES

ZONE 1 - Hunterdon (remainder of county), Morris (Stephensburg, Pleasant Grove, Middle Valley and Parker Twps.), Sussex (Branchville, Flatbrookville, Swartswood, Halsey, Newton and Stillwater Twps.) and Warren County.

ZONE 2 - Bergen, Essex, Hudson, Hunterdon (Wertsville, Roaville, Flemington, Hamden, Clinton, Penwell and cities east thereof to the County Line), Middlesex, Morris (remainder of county), Passaic, Somerset, Sussex (remainder of county) and Union Counties.

MARBLESETTERS, TERRAZZO WORKERS & TILESETTERS FINISHERS:					
ZONE 1					
Marble Setters Finishers	8.28	1.09	1.23	f	
Terrazzo Workers Finishers	9.84	.76	1.95		
ZONE 2					
Tile Setters Finishers	9.35	.90	.90		

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MARBLESETTERS FINISHERS, ETC. ZONES

ZONE 1 - Bergen, Essex, Hudson, Hunterdon (Wertsville, Reaville, Flemington, Hamden, Clinton, Penwell and Cities east thereof to the County Line), Middlesex, Morris, Passaic, Somerset, Sussex (Colesville, Beemerville, Mt. Pisah, Swartswood, Huntsburg and all cities inclusive to the Morris and Passaic County Line) and Union Counties

ZONE 2 - Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex and Union Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
ZONE 1					
Painters and Tapers	12.30	1.35	2.60		.06
Steel outside	13.30	1.35	2.60		.06
Spray	13.85	1.35	2.60		.06
ZONE 2					
Brush and Roller	12.89	1.10	1.20		.11
Spray	14.07	1.10	1.20		.11
ZONE 3					
Painters on new construction and major alterations	12.40	.80	.90		.08
Painters on repaint work	11.40	.80	.90		.08
Spraying or application of hazardous or dangerous materials on repaint work	12.00	.80	.90		.08
Exterior work exceeding 3 stories in height for painting of open structural steel and tanks under 3 stories in height except flat tanks on the ground and on interior work which requires painting higher than 20' above the ground or floor (this shall not be applicable to machinery or equipment located therein)	12.55	.80	.90		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS CONT'D:					
Repaint work as described above	11.55	.80	.90		.08
On bridges, television and radio towers, structural steel and tanks above 3 stories in height (30' or over), smoke stacks, water towers, sandblasting, steamcleaning, spraying or application of hazardous materials	13.00	.80	.90		.08
ZONE 4					
Group 1 - Interior industrial and commercial work, paperhangers, tapers, coverers, spacklers, preparatory and cleaning work	12.25	1.15	1.00	.50	.05
Group 2 - Extension ladder work (36' or over), scaffold work; and boatswain chair	12.75	1.15	1.00	.50	.05
Group 3 - Structural steel tanks; bridges; towers, smokestacks; radio towers, TV Towers, flagpoles (steel or wood), fire escapes, cable work, and Hazardous Work	12.75	1.15	1.00	.50	.05
Group 4 - Sandblasting & spraying	13.25	1.15	1.00	.50	.05
Group 5 - Painting high rise & old warehouse with scaffold or extension ladders	10.40	1.15	1.00	.50	.05

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PAINTERS ZONES

ZONE 1 - Bergen, Passaic and Sussex Counties.

ZONE 2 - Middlesex (Edison Twp., South of Metuchen, Highland Park, New Brunswick, North Brunswick, East Brunswick and South Brunswick Twps, and Monroe Twp.) and Somerset (Franklin Twp.) Counties.

ZONE 3 - Essex, Hudson (west half of county), Hunterdon, Middlesex (remainder of county), Morris, Somerset (remainder of county) Union and Warren Counties.

ZONE 4 - Hudson (remainder of county)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS:					
ZONE 1	12.00	1.00	1.90	1.00	.25
ZONE 2	14.67	1.03	2.20	1.47	.10
ZONE 3	15.31	1.04	1.20		.08

PIPEFITTER'S ZONE DEFINITIONS

ZONE 1: Bergen, Hudson, Morris (remainder); Passaic, Sussex, and Warren (excluding area given below in Zone 2 for the same county) Counties.

ZONE 2 - Essex, Hunterdon (Alexandria, Alexandria Twp, Alexauken, Allens Corner, Allertown, Amsterdam, Annandale, Anthony, Baptistown, Bellewood, Bethlehem Twp., Bissell, Bloomsburg, Bunnvale, Buttonwood Corners, Centerville, Charlestown, Cherryville, Clinton, Clinton Twps, Cokebury, Coles Mills, Croton, Delaware Twp, Dilts Corner, East Amwell Twp., Evittstown, Fairmount, Farmersville, Franklin Twps, Frenchtown, Glen Gardner, Grandin, Hamden, Hampton, Higginsville, High Bridge, Hoffmans, Holland Twp, Hughesville, Johnsons, Jutland, King, Kingwood Twp, Klinesville, Landsdowne, Lebanon, Lebanon Twp, Little Brooke, Little Neck, Little York, Ludlow, McPherson, Milford, Mountainville, Mount Joy, Mount Pleasent, Mount Salem, Muirshead, New Germantown, New Hampton, Newport, Norton, Oak Grove, Oldwick, Palmyra, Palmyra Corners, Pattenburg, Perryville, Pittstown, Pleasent Run, Polktown, Potterstown, Quakertown, Raritan Township, Readington, Readington Twp,

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PIEPFITTER'S ZONE DEFINITIONS CONT'D

ZONE 2 (CONT'D): Reaville, Rileyville, Riverside, Rockafellows, Rowland Mills, Sidney, Snydertown, Spring Mills, Stanton, Stanton Station, Sunnyside, Sutton, Tewksburg, Tewksburg Twp, The Point, Three Bridges, Treasure Island, Tumble, Union, Union Township, Unionville, Van Syckle, Warren Paper Mills, Wertsville, West End, West Portal, Whitehouse, Whitehouse Station, and Woodglen), Mercer (Hopewell and Hopewell Twp. only), Middlesex (Dunellen Boro, East Bound Brook, Middlesex, New Market, Oak Tree, Piscataway Twp., and South Plainfield Only), Morris (Bartley, Berkshire Valley, Bertrand Island, Brookside, Chatham, Chatham Township, Chester, Chester Township, Cooks Bridge, Crestmoore, Gillette, Harding Twp, Ironia, Logansville, Long Valley, Malapardis, Mendham, Mendham Twp, Middle Valley, Millington, Milltown, Milton, Mount Freedom, Mount Olive Twp, Mount Paul Myersville, Naughright, New Veron, Parker, Passaic Twp, Pleasent Grove, Ralston, Schooleys, Mt Stanley, Stephensburg, Stirling, and Washington Twp), Somerset (Amwell, Basking Ridge, Bedminister, Bedminister Twp, Bernards Twp, Bernardsville, Blaziers Corner, Bound Brook, Bradley Gardens, Branchburg Township, Bridgewater Township, Burnt Mill, Centerville, Chimney Rock, Claver Hill, Dutchtown, Far Hills Boro, Finderne, Flagtown, Frank Fort, Franklin Park, Franklin Twp, Gallia, Gladstone, Greater Cross Roads, Hamilton, Harmony, Harmony Colony, Higgins Mills, Hillsborough Twp, Lamington, Lanes Crossing, Liberty Corners, Lyons, Madisonville, Manville, Manville Boro, Martinsville, Mettler, Millstone, Mine Brook, Montgomery, Montgomery Twp, Mount Bethel, Mount Horeb, Neshanic, Neshanic Station, North Branch, North Branch Depot, North Plainfield, Peapack, Peapack-Gladstone, Plainville, Pluckemin, Pottersville, Raritan, Ravine Lake, Rock Mill, Round Top, Roycefield, Royce Valley, Sealey Mills, Smalleytown, Somerset, Somerville, Stone House, Sunset Lake, Union Village, Vliettown, Watchung, West Millington, Weston, White Bridge, Woodfern, Zarepath, and Zion), Union and Warren (Anderson, Asbury, Beattystown, Brainards, Brass Castle, Broadway, Buttzville, Carpentersville, Changewater, Cornish, Finesville, Foul Rift, Franklin Twp, Greenwich Twp, Harmony, Harmony Station, Harmony Twp, Haszen, Hope Twp, Hutchinson, Karrville, Kennedy, Lopatcong, Lopatcong Twp, Lower Harmony, Mansfield Twp, Montana, New Village, Oxford, Oxford Twp, Pequest, Pleasent Valley, Post Colden, Port Murray, Riegelsville, Rockport, Rocksbury, Roxburgh, Springtown, Stewartsville, Still Valley, Vulcanite, Warren Glen, Washington, Washington Twp, and White Twp) Counties.

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PIPEFITTER'S ZONE DEFINISTIONS CONT'D

ZONE 3 - Hunterdon (excluding area given above in Zone 2 for the same county), Mercer (excluding Hopewell and Hopewell Twp.) Middlesex (excluding Dunellen Boro, East Bound Brook, Middlesex, New Market, Oak Tree, Piscataway Twp., and South Plainfield), and Somerset (excluding area given above in Zone 2 for the same county)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
ZONE 1	15.78	1.00	1.65		.25
ZONE 2	15.425	1.60	2.65		.25
ZONE 3	15.31	1.04	1.20		.08

PLUMBERS' ZONES DEFINITIONS

ZONE 1 - Bergen, Hudson (excluding East Newark, Harrison and Kearney), Morris (excluding area given below in Zone 2 for the same County), Passaic, Sussex and Warren (excluding area given below in Zone 2 for same county) Counties.

ZONE 2 - Essex, Hudson (East Newark, Harrison and Kearney only), Hunterdon (Alexandria, Alexandria Twp, Alexauken, Allens Corner, Allertown, Amsterdam, Annandale, Anthony, Baptistown, Bellewood, Bethlehem Twp, Bissell, Bloomsbury, Bunnvale, Buttonwood Corners, Centerville, Charlestown, Cherryville, Clinton, Clinton Twps, Cokebury, Coles Mills, Croton, Delaware Twp, Dilts Corner, East Amwell Twp, Everittstown, Fairmount, Farmersville, Franklin Twps, Frenchtown, Glen Gardner, Grandin, Hamden, Hampton, Higginsville, High Bridge, Hoffmans, Holland Twp, Hughesville, Johnsons, Jutland, King, Kingwood Twp, Klinesville, Landsdowne, Lebanon, Lebanon Twp, Little Brook, Little Neck, Little York, Ludlow, McPherson, Milford, Mountainville, Mount Joy, Mount Pleasent, Mount Salem, Muirshead, New Germantown, New Hampton, Newport, Norton, Oak Grove, Oldwick, Palmyra, Palmyra Corners, Pattenburg, Perryville, Pittstown, Pleasent Run, Polktown, Potterstown, Quakertown, Raritan Township, Readington, Readington Twp, Reaville, Rileyville, Riverside, Rockafellows, Rowland Mills, Sidney, Snydertown, Spring Mills, Stanton, Stanton Station, Sunnyside, Sutton, Tewksbury, Tewksbury Twp, The Point, Three Bridges, Treasure Island, Tumble, Union, Union Township, Unionville, Van Syckle, Warren Paper Mills, Werts-

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PLUMBERS' ZONES DEFINISTIONS CONT'D

ZONE 2 (CONT'D): Ville, West End, West Portal, Whitehouse, Whitehouse Station, and Woodglen), Mercer (Hopewell and Hopewell Twp. only), Middlesex (Dunellen Boro, East Bound Brook, Middlesex, New Market, Oak Tree, Piscataway Twp., and South Plainfield only), Morris (Bartley, Bershire Valley, Bertrand Island, Brookside, Chatham, Chatham Township, Chester, Chester Township, Cooks Bridge, Crestmoore, Gillette, Harding Twp, Ironia, Logansville, Long Valley, Malapardis, Mendham, Mendham Twp, Middle Valley, Millington, Milltown, Milton, Mount Freedom, Mount Oliver Twp, Mount Paul, Myersville, Naughright, New Vernon, Parker, Passaic Twp, Pleasent Grove, Ralston, Schooleys, Mt Stanley, Stephensburg, Stirling, and Washington Twp), Somerset (Amwell, Basking Ridge, Bedminister, Bedminister Twp, Bernards Twp, Bernardsville, Blaziers Corner, Bound Brook, Bradley Gardens, Branchburg Township, Bridgewater Township, Burnt Mill, Centerville, Chimney Rock, Claver Hill, Dutchtown, Far Hills Boro, Finderne, Flagtown, Frank Fort, Franklin Park, Franklin Twp, Gallia, Gladstone, Greater Cross Roads, Hamilton, Harmony, Harmony Colony, Higgins Mills, Hillsborough Twp, Lamington, Lanes Crossing, Liberty Corners, Lyons, Madisonville, Manville, Manville Boro, Martinsville, Mettler, Millstone, Mine Brook, Montgomery, Montgomery Twp, Mount Bethel, Mount Horeb, Neshanic, Neshanic Station, North Branch, North Branch Depot, North Plainfield, Peapack, Peapack-Gladstone, Plainville, Pluckemin, Pottersville, Raritan, Ravine Lake, Rock Mill, Round Top, Roycefield, Royce Valley, Seeley Mills, Smalleytown, Somerset, Somerville, Stone House, Sunset Lake, Union Village, Vliettown, Watchung, West Millington, Weston, White Bridge, Woodfern, Zarepath, and Zion), Union and Warren (Anderson, Asbury, Beattystown, Brainards, Brass Castle, Broadway, Buttzville, Carpentersville, Changewater, Cornish, Finesville, Foul Rift, Franklin Twp, Greenwich Twp, Harmony, Harmony Station, Harmony Twp, Haszen, Hope Twp, Hutchinson, Karrville, Kennedy, Lopatcong, Lopatcong Twp, Lower Harmony, Mansfield Twp, Montana, New Village, Oxford, Oxford Twp, Pequest, Pleasent Valley, Port Colden, Port Murray, Riegelsville, Rockport, Rocksbury, Roxburgh, Springtown, Stewartsville, Still Valley, Vulcanite, Warren Glen, Washington, Washington Twp, and White Twp) Counties

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PLUMBERS' ZONES DEFINITIONS CONT'D

ZONE 3: Hunterdon (excluding area given above in Zone 2 for the same County), Mercer (excluding Hopewell and Hopewell Twp.), Middlesex (excluding Dunellen Boro, East Bound Brook, Middlesex, New Market, Oak Tree, Piscataway Twp., and South Plainfield) and Somerset (excluding area given above in Zone 2 for the same county) Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (EXCLUDING STEEL ERECTION; TANK ERECTION AND OILOSTATIC MAINLINES & TRANSPORTATION PIPE LINES):					
CLASS A	17.37	1.80	1.40	f	.20
CLASS B	16.18	1.80	1.40	f	.20
CLASS C	14.87	1.80	1.40	f	.20
CLASS D	13.64	1.80	1.40	f	.20
CLASS E	12.73	1.80	1.40	f	.20
CLASS F	19.19	1.80	1.40	f	.20

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POWER EQUIPMENT OPERATORS (EXCLUDING STEEL ERECTION TANK ERECTION AND OILOSTATIC MAINLINES & TRANSPORTATION PIPE LINES)

CLASS A - Autograde - Combin. Subgrader, Base Mtl. Spreader & Base Trimmer (CMI & Similar Types), Autograde Placer-Trimmer-Spreader - Combn. (CMI & Similar Types), Autograde Slipform Paver (CMI & Similar Types), Backhoe, Central Power Plants (All Types), Concrete Paving Machines, Cranes (All Types, Including Overhead & Straddle Travelling Type), Cranes, Gantry, Derricks (Land or Floating), Drillmaster, Quarrymaster (Down the Hole Drill) Rotary Drill, Self Propelled Hydraulic Drill, Self-Powered Drill, Draglines, Elevator Graders, Front End Loaders (5 yds. and over), Gradalls, Grader, Rago, Helicopters, Co-Pilot, Helicopters, Communications Engineer, Locomotive (Large), Mucking Machines, Pavement & Concrete Breaker, i.e., Superhammer & Hoe Ram, Pile Driver, Length of Boom Including Length of Leads, shall determine premium Rate Applicable, Roadway Surface Grinder, Scooper (Loader and Shovel), Shovels, Tree Chopper with Boom, and Trench Machines

CLASS B - "A" Frame, Backhoe (Combination), Boom Attachment on Loaders (Rate Based on size of Bucket) Not applicable to Pipehook, Boring and Drilling Machines, Brush Chopper, Shredder, and Tree Shredder, Cableways, Carryalls, Concrete Pump, Concrete Pumping System, Pumperete & Similar Types, Conveyors, 125 ft. and over, Drill Doctor (Duties include Dust Collector, Maintenance), Front End Loaders (2 yds. but less than 5 yds.), Graders (Finisher), Groove Cutting Machine (Ride on Type), Heater Planer, HOISTS: (All Type Hoists, shall also include Steam, Gas; Diesel; Electric; Air Hydraulic, Single and Double Drum, Concrete, Brick Shaft Caisson, Snorkel Roof, and/or any other Similar Type Hoisting Machines, Portable or Stationary, except Chicago Boom Type) Long Boom Rate to be applied if Hoist is "Outside Material Tower Hoist"., Hoists (Chicago Boom Type), Hydraulic Cranes -- 10 Tons and Under, Hydro-Axle, Jacks, Screw Air Hydraulic Power Operated Unit or Console Type (not Hand Jack or Pile Load Test Type), Log Skidder, Pahs, Pavers (all) Concrete, Pumperete Machines, Squeezecrete & Concrete Pumping (Regardless of Size), Scrapers, Side Booms, "Straddle" Carrier, Ross and Similar Types, and Winch Truck (Hoisting)

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POWER EQUIPMENT OPERATORS (EXCLUDING STEEL ERECTION TANK ERECTION AND OILOSTATIC MAINLINES & TRANSPORTATION PIPE LINES) CONT'D

CLASS C - Asphalt Curbing Machine, Asphalt Plant Engineer, Asphalt Spreader, Autograde Tube Finisher & Texturing Machine (CMI & Similar Types), Autograde Curecrete Machine (CMI & Similar Types), Autograde Curb Trimmer & Sidewalk, Shoulder, Slipform (CMI & Similar Types), Bar Bending Machines (Power), Batchers, Batching Plant & Crusher on Site, Belt Conveyor Systems, Boom Type Skimmer Machines, Bridge Deck Finisher, Bulldozers (All), Car Dumpers (Railroad), Chief of Party, Compressor and Blower Type Units (Used independently or Mounted on Dual Purpose Trucks, on Job Site or in conjunction with Job Site, in Loading and Unloading of Concrete, Cement, Fly Ash, Instanbrete, or Similar Type Materials), Compressor (2 or 3)--Battery, Concrete Breaking Machines, Concrete Finishing Machines, Concrete Saws & Cutters (Ride on type), Concrete Spreaders, Hetzel, Roxomatic and Similar Types-Concrete Vibrators, Conveyors, Under 125 ft., Crushing Machines, Ditching Machine, Small (Ditchwitch or Similar Type), Dope Pots (Mechanical with or without Pump), Dumpsters, Elevator, Fireman, Fork Lifts (Economobile, Lull & Similar Types of Equipment), Front End Loaders (1 yd. and over but less than 2 yds.), Generators (2 or 3) in Battery, Giraffe Grinders, Graders & Motor Patrols, Gunnite Machines (Excluding Nozzle), Hammer Vibratory (In Conjunction with Generator), Hoists (Roof, Tugger, Aerial Platform Hoist and House Cars), Hoppers, Hopper Doors (Power Operated), Ladders (Motorized), Laddervator, Locomotive, Dinky Type, Maintenance, Utility Man, Mechanics, Mixers (Excepting Paving Mixers), Motor Patrols & Graders, Pavement Breakers, Small, Self-Propelled Ride On Type (also maintains Compressor or Hydraulic Unit), Pavement Breaker, Truck Mounted, Pipe Bending Machine (Power), Pitch Pump, Plaster Pump (Regardless of Size), Post Hole Digger (Post Pounder and Auger), Rod Bending Machines (Power), Roller, Black Top, Scales, Power, Seaman Pulverizing Mixer, Shoulder Widener, Silos, Skimmer Machines (Boom Type), Steel Cutting Machine, Services & Maintans, Tractors, Tug Captain, Vibrating Plants (Used in conjunction with Unloading), and Welder & Repair Mechanics

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POWER EQUIPMENT OPERATORS (EXCLUDING STEEL ERECTION TANK ERECTION AND OILOSTATIC MAINLINES & TRANSPORTATION PIPE LINES) CONT'D

CLASS D - Brooms and Sweepers, Chippers, Compressor (Single), Concrete Spreaders (Small Type), Conveyors (Under 125 ft.), Conveyor Loaders (Not including Elevator Graders), Engines, Large Diesel (1620 H.P.) and Staging Pump, Farm Tractors, Fertilizing Equipment (Operation and Maintenance of), Fine Grade Machine (Small Type), Form Line Graders (Small Type), Front Loader (Under 1 yd.), Generator (Single), Grease, Gas, Fuel and Oil Supply Trucks, Heaters (Nelson or other Type Including Propane, Natural Gas or Flowtype Units), Lights, Portable Generating Light Plants, Mixers, Concrete Small, Mulching Equipment (Operation and Maintenance of), Pumps (4 inch Suction and over Including Submersible Pumps)--Pumps- (2 of less than 4" suction & over including subm. pumps) --Pumps (Diesel Engine & Hyd.) immaterial of power Road Finishing Machines (Small Type), Rollers, Grade, Fill or Stone Base, Seeding Equipment (Operation and Maintenance of), Sprinkler and Water Pump Trucks (Used on Job Site or in Conjunction with Job Site), Steam Jennies and Boilers, Irrespective of Use, Stone Spreader, Tamping Machines, Vibrating Ride on, Temporary Heating Plant (Nelson or other Type, Including Propane, Natural Gas or Flow Type Units), Water and Sprinkler Trucks (Used on Job Site or in Conjunction with Job Site), Welding Machines (Gas, Diesel, and/or Electric Converters of any type, Single; Two or Three in a Battery), Welding System, Multiple (Rectifier Transformer Type), Wellpoint Systems (Including Installation by Bull Gang and Maintenance of)

CLASS E - Assistant Engineer/Oiler, Tire Repair and Maintenance and Transit/Instrument Man

CLASS F - HELICOPTERS-Pilot and HELICOPTER-Engineer

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POWER EQUIPMENT OPERATORS STEEL ERECTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	19.19	1.80	1.40	f	.20
CLASS B	18.28	1.80	1.40	f	.20
CLASS C	17.34	1.80	1.40	f	.20
CLASS D	15.28	1.80	1.40	f	.20
CLASS E	13.19	1.80	1.40	f	.20
CLASS F	21.00	1.80	1.40	f	.20

POWER EQUIPMENT OPERATORS STEEL ERECTION

CLASS A - Cranes - (all cranes, land or floating with booms including jib, 140 ft. and over, above ground), Derricks - (all derricks, land or floating with booms including jib, 140 ft. and over, above ground), Helicopter - Co-Pilot and Helicopter - Communications Engineer

CLASS B - Cranes - (all cranes, land or floating with booms including jib, less than 140 ft. above ground), Derricks - (all derricks, land or floating with booms including jib, less than 140 ft. above ground)

CLASS C - "A" Frame, Cherry Pickers 10 tons and under, Hoists: All type hoists shall also include steam, gas, diesel, electric, air hydraulic, single and double drum, concrete, brick shaft caisson, or any other similar type hoisting machines, portable or stationary, except Chicago Boom Type, Jacks - screw air hydraulic power operated unit or console type (not hand jack or pile load test type) and Side Booms

CLASS D - Aerial Platform used as Hoist, Compressors, 2 or 3 in Battery, Elevators or House Cars, Conveyors and Tugger Hoists, Chief of Party, Fireman, Forklift, Generators, 2 or 3, Maintenance - Utility Man, Rod Bending Machine (Power), Welding Machines - (gas or electric, 2 or 3 in Battery, including Diesels), Captain - Power Boats, Tug Master - Power Boats, Compressor, Single, Welding Machines, Single, gas, electric converter of any type, diesel, Welding System Multiple (Rectifier Transformer Type) and Generator, Single

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POWER EQUIPMENT OPERATORS STEEL ERECTION CONT'D

CLASS E - Assistant Engineer/Oiler and Straddle Carrier

CLASS F - Helicopter--Pilot and Helicopter--Engineer

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS TANK ERECTIORS:					
CLASS A	19.86	1.80	1.40	f	.20
CLASS B	19.02	1.80	1.40	f	.20
CLASS C	21.00	1.80	1.40	f	.20
CLASS D	19.19	1.80	1.40	f	.20
CLASS E	18.33	1.80	1.40	f	.20
CLASS F	13.92	1.80	1.40	f	.20

POWER EQUIPMENT OPERATORS TANK ERECTION

CLASS A - Operating Engineers--On all Cranes, Derricks, etc. with Booms including jib, 140 ft. or more above the ground

CLASS B - Operating Engineers---On all equipment, including Cranes, Derricks, etc. with Booms Including jib, less than 140 ft. above the ground; (See Article IV-1. of Agreement)

CLASS C - Helicopter--Pilot Engineer

CLASS D - Helicopter--Co-Pilot and Helicopter--Communications Engineer

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POWER EQUIPMENT OPERATORS TANK ERECTION CONT'D

CLASS E - Air Compressors, welding machines and generators are defined as and cover; gas, diesel, or electric driven equipment and sources of power from a permanent plant, i.e., steam, compressed air, hydraulic or other power, for the operating of any machine or automatic tools used in the erection, alteration, repair and dismantling of tanks and any and all "dual purposes" trucks used on the construction job site, or in conjunction with the job site. Employees covered hereunder shall man and operate such permanent plant from which source of power is supplied. In the event that the Employer is unable to arrange this, Engineers shall man all valves or other outlets of such source of power as is used by the Employer and shall be paid the rate of wages applicable to the classification of work in which he is employed.

CLASS F - Oiler/Assistant Engineer

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS OILOSTATIC MAINLINES & TRANSPORTATION PIPE LINES:					
CLASS A	18.00	1.80	1.40	f	.20
CLASS B	16.75	1.80	1.40	f	.20
CLASS C	15.21	1.80	1.40	f	.20
CLASS D	14.11	1.80	1.40	f	.20
CLASS E	13.19	1.80	1.40	f	.20
CLASS F	19.93	1.80	1.40	f	.20

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POWER EQUIPMENT OPERATORS OILOSTATIC MAINLINES & TRANSPORTATION PIPE LINES

CLASS A - Backhoe, Cranes (all types), Drag Line, Front End Loaders (5 yds. & over), Gradalls, Helicopters---Co-Pilot, Helicopters---Communications Engineer, Scooper (Loader & Shovel) Koehring and Trench Machines

CLASS B - "A" Frame, Backhoe (combination hoe loader), Boring & Drilling Machines, Ditching Machine, small, Ditchwitch or similar type, Fork Lifts, Front End Loaders (2 yds. & Over but less than 5 yds.), Graders, Finsh (Fine), Hydraulic Cranes--10 Tons & Under (Over 10 Tons Crane rate applies), Side Booms, Winch Trucks (Hoisting)

CLASS C - Backfiller, Brooms & Sweepers, Bulldozers, Compressors (2 or 3 in Battery), Chief of Party, Front End Loaders (1 yd. & over but less than 2 yds.), Front End Loaders (Under 2 yds.), Front End Loaders (Under 1 yd.), Generators, Giraffe Grinders, Graders & Motor Patrols, Mechanic, Pipe Bending Machine (Power), Tractors, Water & Sprinkler Trucks--used on job site or in conjunction with job site, welder & Repair Mechanic, Captain (Power Boats), Tug Master (Power Boats)

CLASS D - Compressor (Single), Dope Pots (Mechanical with or without pump), Dust Collectors, Farm Tractors, Pumps (4 inch suction & over), Pumps (2 of less than 4 inch suction), Pumps, Diesel Engine & Hydraulic (Immaterial of power), Welding Machines, gas or electric converters of any type-single, Welding Machines, gas or electric converters of any type--2 or 3 in Battery multiple welders Wellpoint Systems (Including installation & maintenance)

CLASS E - Assistant Engineer/Oiler and Grease, Gas, Fuel & Oil Supply Trucks and Tire Repair & Maintenance

CLASS F - Helicopter--Pilot/Engineer

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
ZONE 1					
Compostion	14.35	1.34	1.00		
ZONE 2					
Composition, Waterproofing, slate & asphalt shingle	12.62	1.33	.80		
ZONE 3					
Composition, damp & waterproofing, slate & tile	16.47	1.00	1.00		
ZONE 4					
Slate and tile	12.15	1.00	1.30		
Slate & tile helpers	8.85	1.00	1.30		
ZONE 5					
Composition, damp and waterproofing	15.40	1.50	1.50		
Slate and Tile	15.525	1.50	1.50		
ZONE 6					
Composition, damp & waterproofing	9.85	1.59	2.65	.65	

ROOFERS ZONES

ZONE 1 - Bergen and Passaic Counties

ZONE 2 - Hunterdon and Somerset (Rocky Hill, Harlingen, Belle Meade, Neshanic, Clover Hill, Montgomery, Zion, Skillman, Stoutsburg, Blawenburg, Centerville and Kingston) Counties

ZONE 3 - Essex, Hudson (west of the Hackensack River), Morris, Somerset (Pottersville, Peapack, Gladstone, Bernardsville, Basking Ridge, Bedminister, Far Hills, Mine Brook, Lyons, Liberty Corner, Pluckamin, Mt. Bethel and Watchung), Sussex, Union (remainder of county) and Warren Counties

ZONE 4 - Bergen, Pssaic and Sussex Counties

ZONE 5 - Middlesex, Somerset (remainder of county) and Union (Scotch Plains, Planfield, Clark and Rahway) Counties

ZONE 6 - Hudson (remainder of county) County

DECISION NO. NJ81-3053	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Middlesex County	12.09	6%	8%+.11	8%	.04
Essex and Passaic Counties	14.20	4%+.75	9%+.83	8%	.05
Bergen and Hudson Counties	12.80	1.22	4%+1.24	.58	.02
Warren County	11.66	3%+1.02	1.18		.14
Morris, Somerset, Sussex and Union Counties	11.85	1.10	1.80		.15
Hunterdon County	12.63	3%+1.33	1.04		.04
SOFT FLOOR LAYERS	12.73	7%	5%	4%	
SPRINKLER FITTERS:					
ZONE 1	16.03	.95	1.40		.07
ZONE 2	16.24	.95	1.40		.08

SPRINKLER FITTERS ZONES

ZONE 1 - Bergen, Essex, Hudson, Middlesex (New Brunswick, Milltown, Old Bridge, Browntown and North thereof), Morris, Passaic, Somerset (Bernardsville, Basking Ridge, Mine Brook, Far Hills, Lyons, Mt. Bethel, Watchung, North Plainfield, Martinville and Somerville) and Union Counties

ZONE 2 - Hunterdon, Middlesex (remainder of county), Somerset (remainder of county), Sussex and Warren Counties

DECISION NO. NJ81-3053	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
ZONE 1					
GROUP 1	7.27	.68	.75	h+i	
GROUP 2	7.50	.68	.75	h+i	
GROUP 3	7.55	.68	.75	h+i	
GROUP 4	7.65	.68	.75	h+i	
GROUP 5	7.75	.68	.75	h+i	
ZONE 2					
GROUP 1	9.12	k	1.03	h+i	
GROUP 2	9.35	k	1.03	h+i	
GROUP 3	9.40	k	1.03	h+i	
GROUP 4	9.50	k	1.03	h+i	
GROUP 5	9.60	k	1.03	h+i	
ZONE 3					
GROUP 1	9.12	.88	.975	h+i	
GROUP 2	9.35	.88	.975	h+i	
GROUP 3	9.40	.88	.975	h+i	
GROUP 4	9.50	.88	.975	h+i	
GROUP 5	9.60	.88	.975	h+i	

DECISION NO. NJ81-3053

CLASSIFICATION DEFINITIONS FOR
TRUCK DRIVERS - ZONE 1, 2, and 3

GROUP 1 - Mechanic Helper

GROUP 2 - Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pickups, Container Haulers, Fuel, Water Sprinkler, Road Oil, Stringer, Bead, Hot Pass, Bus Dumpcrete, Transit Mixers, Agitator Mixer, Half Truck, Winch Truck, Side-O-Matic, Dynamite, Powder, X-Ray, Welding, Skid, Jeep, Station Wagon, Stringer, A-Frame, All Dual Purpose Trucks, trucks with mechanical tail gates, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (intransit), Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor and Spreader, Nipper, Fuel Trucks (drivers on Fuel Trucks including handling of hose and nozzle-entire unit), Team Drivers, Vacuum or Vac-all Trucks (entire unit), Skid Truck (debris container - entire unit), concrete Mobile Trucks (entire unit), Expediter (parts chaser), Beltcrete Trucks, Pump Crete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tack Trucks, Warehousemen, Warehouse Parts-Men, Yardmen, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checker, Receivers, Shippers, Binning Men (Materials), Cardex Man, Helper when required on Broyhill Coal Tar Epoxy Truck and Asphalt and Bituminous Distributor Truck, Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little Ford Bituminous Distributor, Slurry Seal Truck or Vehicle, Thiokol Track Master Pickup (Swamp Cat Pickup), Bucket Loader Dump Truck and any Rubber Tired Tractor used in pulling and towing Farm Wagons and Trailers of any description, similar type vehicles, Off-site and On-site Repair Shop

GROUP 3 - Drivers on straight 3-Axle Materials: Trucks and Floats

DECISION NO. NJ81-3053

CLASSIFICATION DEFINITIONS FOR
TRUCK DRIVERS - ZONE 1, 2 and 3

GROUP 4 - Drivers on all Euclid Type Vehicles: Euclids, International Harvesters, Wabcos, Caterpillar, Koehring, Tractors and Wagons, Dumpsters, Straight, Bottom, Rear and Side Dumps, Carryalls and Scrapers (not self loading-loading over the top), Water Sprinkler Trailers, Water Pulls and similar types of Vehicles; Drivers on Tractors and Trailer type vehicles: Flat, Floats, I-Beams, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel, Bottom Dump Hopper, Rear Dump, Office, Shanty, Epoxy, Asphalt, Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole, Spread, Bituminous Distributor, Water Pulls (entire unit) (Tractor Trailer), Reel Trailer, and similar types of vehicles

GROUP 5 - Winch Trailers Drivers

TRUCK DRIVERS ZONES

ZONE 1 - Bergen, Hudson and Passaic Counties

ZONE 2 - Essex, Morris, Sussex and Union (remainder of county) Counties

ZONE 3 - Hunterdon, Middlesex, Somerset, Union (up to Woods Ave. south of Cranford), and Warren Counties

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental

DECISION NO. NJ81-3053

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $8.00 per day per employee to an Annunity Fund.

b. Holidays: A through F; plus Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Armistice Day

c. Employees with 6 months of service but less than 5 years of service receive 2 weeks vacation;5 or more years of service receive 3 weeks vacation.

d. Holidays: A through F, plus Washington's Birthday, Veterans' Day and Presidential Election Day providing the employee works on 3 days for the same employer within a period of 10 working days, consisting of 5 working days before and 5 working days after the day upon which the holiday falls or is observed as such.

f. Holiday: A half day's pay for Labor Day.

g. Holidays: A through F, plus Washington's Birthday, Presidential Election Day and Veterans' Day Providing the employee works any of the 3 days in the 5 days preceeding the holiday and the first work day after the recognized holiday.

h. Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Good Friday, General Election Day, Columbus Day and Veterans' Day, provided the employee has been assigned to work or "shapes" one day of the calendar week during which the holiday falls.

i. Employees working or receiving pay for 80 days within a year receive one week's vacation (48 hours); 126 days receive two weeks vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours).

DECISION NO. NJ81-3053

FOOTNOTES: (CONT'D)

j. Holidays: A through F, plus Armistice Day and Washington's Birthday.

k. Employer contribution of $124 per month per employee to Health & Welfare funds.

Unlisted classifications needed for work not included with the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATES: CONNECTICUT, DELAWARE, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, PENNSYLVANIA & RHODE ISLAND
DECISION NO.: NY81-3075 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY80-3079 dated December 30, 1980, in 45 FR 86192
DESCRIPTION OF WORK: All Dredging on the Atlantic Coast from the Canadian Border to the southerly border of the State of Maryland & tributary waters emptying into the Atlantic Ocean, the Cheaspeake & Delaware Canal, Baltimore City & Baltimore County, Md.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DIPPER & CLAMSHELL DREDGES:					
Operator	13.57	.83	.80	7%+a	
Engineer	13.47	.83	.80	7%+a	
Craneman	13.22	.83	.80	7%+a	
Maintenance Engineer	13.04	.83	.80	7%+a	
Welder	12.86	.83	.80	7%+a	
Mate	12.26	.83	.80	7%+a	
Fireman and Oiler	11.36	.83	.80	7%+a	
Deckhand, Handyman and Tug Deckhand	11.10	.83	.80	7%+a	
Scowman and Rodman	10.98	.83	.80	7%+a	
HYDRAULIC DREDGES:					
Leverman	13.35	.83	.80	7%+a	
Engineer and Derrick Operator	13.22	.83	.80	7%+a	
Maintenance Engineer	13.04	.83	.80	7%+a	
Boilerman; Dredge Carpenter; Dredge Blacksmith; Electricians and Dredge Welder	12.86	.83	.80	7%+a	
Spider Barge Operator	12.74	.83	.80	7%+a	
Mate	12.26	.83	.80	7%+a	
Fireman and Oiler	11.36	.83	.80	7%+a	
Tug Deckhand	11.10	.83	.80	7%+a	
Deckhand; Handyman; Shoreman and Rodman	10.98	.83	.80	7%+a	
COMPANY LEAD DREDGEMAN:					
Lead Dredgeman	13.35	.83	.80	7%+a	
TUG Boats over 400 H.P. (with master or captain having license endorsed for 200 miles off shore):					
Tug Engineer	12.81	.83	.80	7%+a	
Tug Deckhand	11.15	.83	.80	7%+a	
TUG Boats over 400 H.P. (without master or Captain having license endorsed for 200 miles off shore):					
Tug Engineer	12.34	.83	.80	7%+a	
Tug Deckhand	11.10	.83	.80	7%+a	

DECISION NO. NY81-3075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRILL BOATS:					
Engineer	14.41	.83	.80	b	
Blaster	14.56	.83	.80	b	
Driller, Welder or Machinist	14.42	.83	.80	b	
Fireman	13.97	.83	.80	b	
Oiler	13.74	.83	.80	b	

FOOTNOTES:

a. Paid holidays includes New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday and Veterans Day.

b. Paid Holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and Christmas Day
Vacation: 6½ days vacation with pay for 84 days of service, plus one additional day for each additional period of 21 2/3 days of service, all in one calendar year. Employees not qualifying for vacation as set forth above will receive one day's vacation with pay for each full 20 days of service in one calendar year.

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NO.: OH81-2061
COUNTIES: *SEE BELOW
DATE: Date of Publication
Supersedes Decision No. OH80-2004, dated February 29, 1980 in 45 FR 13603
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 stories

*Delaware, Fairfield, Franklin, Licking, Madison, & Pickaway

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$8.21				
BRICKLAYERS	9.73				
CARPENTERS	7.08				
CEMENT MASONS	9.07				
DRYWALL FINISHERS	9.24				
DRYWALL HANGERS	8.27				
ELECTRICIANS	8.34				
LABORERS:					
Laborers	5.72				
Mason Tenders	6.19				
PAINTERS	6.65				
PLUMBERS	8.33				
ROOFERS	8.08				
SHEET METAL WORKERS	7.47				
SOFT FLOOR LAYERS	7.55				
TILE SETTERS	7.55				
TRUCK DRIVERS	7.24				
POWER EQUIPMENT OPERATORS:					
Backhoes	10.40				
Bulldozers	10.22				
Front End Loaders	9.73				
Graders	9.52				
Pavers	11.64				
Rollers	9.98				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)·(1) (ii)).

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA81-3076
COUNTY: Schuylkill
DATE: Date of Publication
Supersedes Decision No. PA80-3027, dated April 18, 1980, in 45 FR 26654.
DESCRIPTION OF WORK: Building, Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$14.01	1.12	.90		.01
Boilermakers	16.67	1.275	1.00		.02
Bricklayers & stonemasons	11.60	.70	1.45		
Carpenters	12.72	.70	.90		.05
Cement masons	11.60	.70	1.45		
Electricians:					
North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twps.	14.49	.78	3%+.64		.04
Pine Grove & Tremont Twps.	12.34	.65	3%+.67		1/4 of 1%
North Union, East Union, West Mahony, (excluding Frackvill Bouroug), Mahony, Delano, Lline, Rush, Ryan, Blythe, Schuylkill, Walker Rahn, East Brunswick and West Penn. Twps.	13.27	.65	3%+1.00	a	.05
Remainder of County	13.65	.60	3%+ .40		.05
Glaziers	9.19	.40	.40		.01
Ironworkers	14.30	1.49	1.46		.05
Laborers:					
Unskilled laborers & window cleaners	8.10	.50	.50		
Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling & using cutting or burning torches in the wrecking of buildings, blasters, plasterer-tenders, mason tenders, scaffold builders and removal & power buggies	8.25	.50	.50		.05
Lathers	12.72	.70	.90		.01
Lead burners	10.75	.40	.25	c	.01

DECISION NO. PA81-3076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Lineman, heavy equipment operator	$13.37	.55	3%		3/8%
Winch truck operators	9.38	.55	3%		3/8%
Groundman	8.97	.55	3%		3/8%
Marble setters & terrazzo workers	10.60	.70	1.45		
Millwrights	14.42	.70	.90		.05
Painters:					
Townships of North Union, East Union, Union, Mahonoy, West Mahonoy, Butler, Kline, Delano, Ryan, Rush, Rahn, West Penn., and City of Tamaqua					
Brush	10.85	.75	.60		.10
Tapers	11.51	.75	.60		.10
Hazardous	12.51	.75	.60		.10
Painters: (Remainder of County)					
Brush	11.05	1.20	1.05		
Steel	12.05	1.20	1.10		
Stray	12.05	1.20	1.05		
Piledrivermen	12.97	3.13	1.40	d	.13
Plasterers	11.60	.70	1.45		
Plumbers	13.59	.95	1.55		.10
Roofers:					
Barry Branch, Butler, Delano, East Brunswick, East Union, Eldred, Foster, Frily, Hegins, Hubley, Kline, New Castle, North Union, Porter, Hahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Penn:					
Composition	11.15	.90	.85		
Remainder of County:					
Composition, damp waterproofing	15.67	1.40	.95	e	
Roofers Assistant	7.75	1.40	.95	e	
Sheet metal workers	13.21	.80	.86		.04
Soft floor layers	10.98	.70	.90		.05
Sprinkler fitters	15.56	.95	1.40		.08
Steamfitters	13.59	.70	1.80		.10
Tile setters	10.60	.70	1.45		

DECISION NO. PA81-3076

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: July 4th, Labor Day; Thanksgiving Day and Good Friday.

c. Holidays: A through F, plus Washington's Birthday' Good Friday and Christmas Eve provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular schedule work days immediately preceding and following the holiday.

d. Holiday: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

e. Holiday: Independence Day.

Welders - rate for craft

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))."

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1.	$14.27	10%	10.3%	a	1.3%
GROUP 2	13.98	10%	10.3%	a	1.3%
GROUP 3	13.11	10%	10.3%	a	1.3%
GROUP 4	12.34	10%	10.3%	a	1.3%
GROUP 5	11.87	10%	10.3%	a	1.3%
GROUP 6	10.96	10%	10.3%	a	1.3%
GROUP 7	14.52	10%	10.3%	a	1.3%
GROUP 7-A	14.77	10%	10.3%	a	1.3%
GROUP 7-B	15.01	10%	10.3%	a	1.3%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a, Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lancaster
DECISION NO. PA81-3077 DATE: Date of Publication
Supersedes Decision No. PA80-3038 dated May 23, 1980, in 45 FR 35148.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.01	1.12	.90		.01
BOILERMAKERS	16.67	1.275	1.00		.02
BRICKLAYERS	11.05	.65	.45		
CARPENTERS	12.72	.70	.90		.05
CEMENT MASONS	9.94	.35	.25		.01
ELECTRICIANS:					
W. Calico, E. Calico, Brecknock, E. Carl, & Caernarvon Twps.	14.49	.78	3%+.64		104
That portion northwest of a line extending from the Susquehanna River to the intersection of State Highways 441 and 241 along 241 to the Borough of Elizabethtown around the limits of Elizabethtown on the west and north side, but including the Masonic Homes in Elizabethtown continuing along State Highway 241 to Lebanon County and that portion north of the Pennsylvania Turnpike, but including all building on the turnpike, from Lebanon County line West Cocalico township	13.56	.65	3%+.67		½ of 10
Remainder of County	11.75	.60	3%		.03
ELEVATOR CONSTRUCTORS	12.84	1.345	1.085	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.345	1.085	a+b	.035
ELEVATOR CONSTRUCTORS' HELPER (PROB.)	50%				
GLAZIERS	11.71	.70	.65		.01
IRONWORKERS	14.265	1.49	1.46		.045
LABORERS:					
General Laborers	8.10	.50	.77		
Operators of Jackhammer	8.30	.50	.77		
Wagon Drill	8.40	.50	.77		
Handling of all materials	8.35	.50	.77		
Laborers assisting tile	8.15	.50	.77		
Handling & using dynamite	8.45	.50	.77		

DECISION NO. PA81-3077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Caisson Work (Top Men)	$8.35	.50	.77		
Caisson Work (Bottom Men)	8.55	.50	.77		
Mixer Man	8.50	.50	.77		
LATHERS	12.72	.70	.90		.05
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen	14.23	.60	3%		3/8 of 1%
Cable Splicers	14.23	.60	3%		3/8 of 1%
Groundman	8.54	.60	3%		3/8 of 1%
Winch truck operators	9.96	.60	3%		3/8 of 1%
MARBLE SETTERS	9.84	.65	.55		3/8 of 1%
MILLWRIGHTS	14.42	.70	.90		.05
PAINTERS:					
Elizabeth Dowetal Township					
Brush	10.77	.55	.38		.02
Steel	11.22	.55	.38		.02
Spray	11.52	.55	.38		.02
Remainder of County:					
Brush	11.05	1.10	1.00		
Steel	12.05	1.10	1.00		
Spray	12.05	1.10	1.00		
Roller	11.05	1.10	1.00		
PILEDRIVERMEN	12.97	3.13	1.40	d	.13
PLASTERERS	8.60	.35	.25		.01
PLUMBERS	13.30	1.02	1.00		.11
ROOFERS:					
Composition, damp & waterproofing	15.67	1.40	.95	e	
ROOFERS, ASSISTANT	7.75	1.40	.95	e	
SHEET METAL WORKERS	11.66	1.44	1.18		.14
SPRINKLER FITTERS	15.56	.95	1.40		.08
SOFT FLOOR LAYERS	10.98	.70	.90		.05
STEAMFITTERS	13.30	1.02	1.00		.11
STONEMASONS	11.05	.65	.55		
TERRAZZO WORKERS	9.84	.65	.55		
TILE SETTERS	9.84	.65	.55		

DECISION NO. PA81-3077

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F, Plus the Friday after Thanksgiving Day,

c. Nine paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceeding and following the holidays.

d. Paid Holiday: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

e. Paid Holidays: Election Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP 1	$14.27	10%	10.3%	a	1.3%
GROUP 2	13.98	10%	10.3%	a	1.3%
GROUP 3	13.11	10%	10.3%	a	1.3%
GROUP 4	12.34	10%	10.3%	a	1.3%
GROUP 5	11.87	10%	10.3%	a	1.3%
GROUP 6	10.96	10%	10.3%	a	1.3%
GROUP 7	14.52	10%	10.3%	a	1.3%
GROUP 7-A	14.77	10%	10.3%	a	1.3%
GROUP 7-B	15.01	10%	10.3%	a	1.3%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

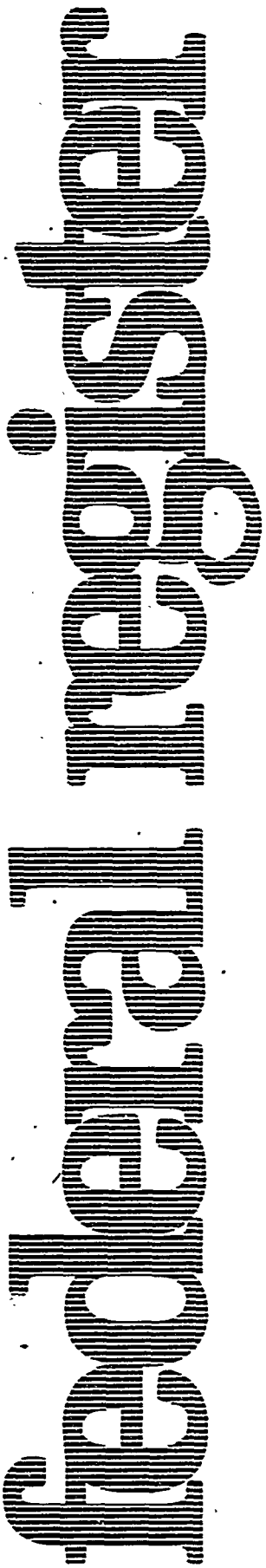
GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

[FR Doc. 81-29177 Filed 10-8-81; 8:45 am]
BILLING CODE 4510-27-C



Friday
October 9, 1981

Part III

Department of Agriculture

Food and Nutrition Service

Food Stamp Program—Photo Identification and Replacement of Nondelivered, Stolen, or Destroyed Food Stamp Authorizations and Food Coupons; Final Rules

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272, 273, 274, and 278

[Amdt. No. 191]

Food Stamp Program—Photo Identification

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will require the use of photo identification in certain Food Stamp Program project areas. The change in program regulations is required by the 1980 Amendments to the Food Stamp Act of 1977. The rule's effect will be to reduce issuance-related fraud and waste without being unduly burdensome for State agencies and program participants.

DATES: This final rule is effective October 9, 1981. The rule shall be fully implemented no later than November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Food and Nutrition Service, USDA, Washington, D.C. 20250. Phone (202) 447-9075.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed in relation to the requirements of Executive Order 12291 and Secretary's Memorandum 1512-1, and it has been determined that the action is not a major rule as defined by that Order. It will not result in an annual effect on the economy of $100 million or more. The rule mandates the use of photo identification in food stamp project areas that serve approximately 2.84 million households. The Department anticipates that the maximum total initial year cost to the Food Stamp Program of providing photo identification will be approximately $8.21 million. The Department expects that the actual cost will be lower than this figure, because this final rule will give State agencies the opportunity to integrate existing State photo ID systems into their food stamp ID systems. The cost after the first year will be even lower because photographic equipment will have been purchased and fewer households will need new photo ID's. The actual cost will also be offset by the reduction in issuance-related fraud and waste that will result from implementation of the rule. The rule is not likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The State agencies that contain project areas in which photo ID's are mandated will pay 50 percent of the costs of providing food stamp photo ID's to participants. However, as discussed above, these costs will not be substantial. The final rule will have a minor impact on selected businesses because it will require the production of photo ID's in specific project areas. However, this impact will not be significant and the rule will also not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service (FNS), has certified that this action does not have a significant economic impact on a substantial number of small entities. This final rule will require the use of photo ID's in the Food Stamp Program in project areas with 100,000 or more participants. Therefore, small government jurisdictions are not affected. Small businesses and small organizations are affected only to the degree that they serve as food stamp issuance agents in jurisdictions where photo ID's will be required. The only impact on them is that they must check the photo ID and record the ID serial number before issuing stamps. This is not a requirement with a significant economic impact.

The reporting and recordkeeping requirements contained in this regulation are subject to review by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 and are not effective until approved by OMB. The reporting and recordkeeping requirements in this final regulation have thus been submitted to the Office of Management and Budget for its approval.

Background

The Department published a proposed rule on January 23, 1981, to implement Section 117 of Pub. L. 96-249 which requires State agencies to require the use of photo identification in food stamp project areas that are specified by the Secretary. The Department received a total of 40 comment letters on the proposed regulations. There were 22 comments received from State agencies, five from FNS Regional offices, four from local agencies, seven from public interest groups and two from private industry.

This preamble discusses the basis and purpose of the revision of the proposed rule that the Department has made when developing this final rule. The Food and Nutrition Service has been in touch with the Office of the Inspector General throughout the development of this rule. The justifications for the provisions on the proposed rule that are unchanged by the final rule were carefully examined in light of the comments to determine the continued applicability of each provision. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the January 23 proposed rule should be regarded as the basis of the pertinent final rule. Thus, a thorough understanding of the grounds for the final rule may require reference to the proposed rulemaking. The Department also made a number of technical changes in the final rule that are not specially addressed in this preamble.

This final rule is effective October 9, 1981. The Department has determined, in accordance with 5 U.S.C. 553(d)(3) that good cause exists to make this rule effective earlier than 30 days after publication. The New York State agency, which has experienced significant difficulties with duplicate issuances, will be prepared to implement a system to combat such Program abuse on October 1, 1981. Photo ID's are a crucial part of the system. If the photo ID regulations could not be implemented on October 1, implementation of New York's entire system would be delayed. By making this rule effective on the date of publication, the Department would permit New York to implement their system and begin to curtail the loss of funds through program abuse without undue delay. Because State agencies are not required to implement this rule until 12 months following the date of publication (November 1, 1982) neither State agencies nor the food stamp recipients under their jurisdiction will suffer from making this rule effective upon publication.

General Concerns

A significant number of commenters expressed the concern that the proposed photo ID requirement would not be cost effective. Including among these commenters were several State agencies that commented that photo ID's would certainly not be cost effective for their

States. In response to these concerns, some commenters asked that the Department undertake a study of the effectiveness of the photo ID requirement before mandating their use on such a large scale.

While the Department does not currently have data that demonstrate the cost effectiveness of photo ID's, the Department would meet neither the legislative mandate of Pub. L. 96–249 nor the goal of using photo ID's to reduce the amount of issuance-related losses if it were to simply undertake a study of the effects of photo identification on reducing duplicate issuance problems. The Department has, however, responded to commenters' concerns by making several changes in specific provisions of the rule that will enhance the photo ID system's cost effectiveness without diminishing the system's ability to curtail issuance-related fraud and waste. The Department will closely monitor the effects of photo ID's when State agencies implement the system to determine whether their use is cost effective.

Areas Where Photo ID's Are Mandated

The Department proposed that photo ID's be required in project areas serving 50,000 or more food stamp participants (and in other project areas where the Secretary, in consultation with the Office of the Inspector General (OIG), determines their use is justified by an area's level of duplicate issuance). Based on consultation with OIG, the Department determined that the incidence of duplicate issuances in project areas with 50,000 or more participants warrants the use of photo ID's. Commenters had two major responses to this proposal. A number of commenters gave strong support to the suggestion that State agencies be given the option to require photo ID's. Another group of commenters argued that the Department ought to use criteria other than the 50,000 participant threshold to determine areas where it will mandate the use of photo ID's.

The Department considered the suggestion that State agencies be given the option to require photo ID's. The Department believes that if a State agency determines that by requiring the use of photo ID's it can improve its administration and enhance the integrity of the program it should be able to request that FNS require the use of photo ID's throughout either the entire State or specific project areas and that FNS should agree to such a request. The Department does not believe, however, that State agencies should have the option to refuse to mandate photo ID's if FNS designates one or more of its project areas for their required use. Such an option would not be consistent with the mandate of Pub. L. 96–249 which states that State agencies must require the use of photo ID's in areas "in which the Secretary * * * finds that it is useful to protect the program's integrity." Therefore, the final rule contains a new provision that allows State agencies to request that FNS require the use of photo ID's in project areas where FNS is not already mandating their use. The Department wishes to make it clear that State agencies which receive approval from FNS to mandate the use of photo ID's in one or more of their project areas must meet all of the requirements of the photo ID system that are included in this final rule.

Commenters had two major suggestions concerning new criteria that the Department should consider when mandating areas in which photo ID's are to be required. Several commenters suggested that the Secretary mandate photo ID's only in areas where studies demonstrate that their use will definitely be cost effective. The Department rejected the suggestion, however, because it considers the number of program participants in a project area to be the most appropriate criterion in light of legislative history and administrative considerations. The House Committee Report accompanying Pub. L. 96–249 (Report No. 96–788 printed on February 27, 1980) states on p. 99 that the Secretary should mandate photo ID's in "large urban areas" and suggests that the Secretary should consider cost effectiveness only when he intends to mandate photo ID use outside of large urban areas. The number of participants in a project area is the standard against which the Department is able to evaluate project areas in all States. The fairness of the standard is ensured because the final rule allows State agencies to justify to the Department why a specific project area should be exempt from the requirement, if the State agency believes that mandatory photo ID's are inappropriate for the project area.

The second suggestion was that the Department increase the threshold level for required photo ID's from 50,000 participants to 50,000 households. The Departmentr considered this suggestion but decided to establish a new threshold at a lower level than the one that was suggested. The final rule mandates the use of photo ID's in project areas with 100,000 or more food stamp participants. The Department selected this threshold rather than the 50,000 household threshold because the latter threshold would exclude such very large cities as Boston, Houston, and Washington, D.C., from the required use of photo ID's. The increase from the proposed rule's 50,000 participant level to the final rule's 100,000 participant level will result in a 57 percent decrease in the number of project areas in which photo ID's will be required. Approximately 7.90 million participants will reside in project areas where this final rule mandates the use of photo ID's. The proposed rule would have required photo ID's in project areas that serve a total of 10.8 million participants.

By making this change the Department intends to maximize the cost effectiveness of the photo ID system. The final rule will require photo ID's only in very large, urban project areas where the program has experienced the largest number of issuance-related problems. Once the final rule is implemented, the Department will be receiving through the form FNS–46, management evaluations, and audits, information indicating whether photo ID's are effective in reducing fraud and waste in areas where their use is mandated. These same information sources will also indicate whether there are duplicate issuance problems in smaller cities and other project areas. The Department will be able to accurately target the use of mandated photo ID's in additional project areas, if justified by the information that is submitted.

The final rule contains two other clarifications related to the 100,000 participant threshold for mandatory photo ID's. The final rule contains the proposed provision that FNS will notify State agencies at the beginning of each fiscal year of the project areas that either require or no longer require the use of photo ID's. The final rule clarifies this provision by stating that each year FNS will evaluate the participation reports (FNS–256) for the month of April and base its notification on the data in those reports.

The Department has also specified in the final rule the procedures it will follow in cases where a specific project area has a level of participation that is either at or slightly above (i.e., within 10 percent) the threshold level. In these cases, FNS will inform the State agency that it is prepared to mandate the use of photo ID's in the specific project area. However, if the State agency is able to demonstrate to FNS that participation in the project area has fallen below the 100,000 participant level in the recent past or can specify reasons why participation is likely to fall below the threshold level during the next year,

FNS will not designate the area for the use of mandated photo ID's.

The proposed rule also allowed FNS, in consultation with OIG, to approve a State agency's request for an exemption from mandated photo ID's. Several commenters argued that the rule should specify the standards FNS will use to exempt project areas from the mandated use of photo ID's. The Department explained in the preamble to the proposed rule and reiterates here that an exemption could be approved if a State agency demonstrates that a project area has a very low level of duplicate issuances or that a sizeable portion of the project area's caseload is served by mail issuance. The Department has not developed any other specific nationwide standards for granting exemptions. It will, however, consider State agency requests for exemptions on a case-by-case basis.

Commenters also suggested that the rule include a timeframe within which FNS would have to respond to State agency requests for exemptions. The Department accepted this suggestion and included in the final rule a provision that requires FNS to respond to exemption requests within 30 days of their receipt by FNS.

Finally, the final rule contains a special provision for States that are single project areas serving more than 100,000 participants. FNS will work with these State agencies to determine whether there are specific areas within the State where photo identification should be required. As a result of this consultation, FNS will be able to designate, when appropriate, the parts of the project area where photo ID's are to be required.

The Use of Photo ID's in an HIR System

The Department proposed that project areas using the household issuance record (HIR) system be subject to the photo ID requirement. Although the Department specifically requested comment on this provision, only two comments were received. One commenter agreed with the proposal, while the other commenter stated that HIR should not be subject to the photo ID requirement because HIR is a more personal method and because there is not a duplicate issuance problem regarding the HIR system. The Department, however, will retain the authority to manadate the use of photo ID's in a project area with an HIR system if the project area reports large amounts of issuance-related loss.

Exemptions From the Photo ID Requirement

The Department proposed the following exemptions from the photo ID requirement: (i) Households certified by out-of-office interviews, (ii) households whose religious beliefs do not allow them to be photographed, (iii) households entitled to expedited service if the photo ID cannot be produced on a timely basis, and (iv) households certified under the SSI/food stamp joint processing rules. There was equal support for and opposition to the exemptions among the commenters. Commenters that opposed the exemptions stated that a photo ID system should not permit any exemptions. In light of these comments, the Department reconsidered each of the exemptions.

The exemption for households certified by out-of-office interviews is mandated by Pub. L. 96-249. The Department, therefore, maintained the exemption in the final rule.

The exemption related to a household's religious beliefs is necessary if the Department is to avoid violating a participant's right to freedom of religious expression. The House Report also indicates on p. 100 that this exemption is necessary. Two commenters, however, questioned the verification requirements for households requesting the religious belief exemption. The Food Research and Action Center (FRAC) argued that the rule should require the State agency to accept the household's statement of its beliefs. The California State agency recommended that verification be accomplished through a signed statement by the household. The Department has adopted the California State agency's recommendation in the final rule.

The final rule also retains the exemption for households eligible for expedited service if the State agency is unable to provide the photo ID in time for the household to receive benefits on an expedited basis. The Department would like to clarify one issue regarding the type of nonphoto ID card that expedited service households should receive. In § 273.10(g)(4)(ii)(C), State agencies are required to provide exempted households with food stamp ID's that meet all requirements of the food stamp photo ID except that an annotation that an exemption was granted and that the ID is valid replaces the photograph. State agencies that are not able to provide a photo ID in accordance with the expedited timeframes may also not be able to provide laminated nonphoto ID's in accordance with those timeframes. State agencies that have this problem may provide an unlaminated nonphoto ID provided that they take precautions to ensure the security and authenticity of the cards. The final rule also requires State agencies to include an expiration date on the nonphoto ID's that they provide to households that are eligible for expedited service.

The exemption for households certified under the SSI/food stamp joint processing rules was questioned by the New York City Department of Income Maintenance. The rationale for this exemption was evaluated in light of New York City's comments. The Department continues to believe that it is unreasonable to require elderly and disabled households to make separate trips to obtain food stamp photo ID's if they are applying for food stamps at SSA offices. If, however, an elderly or disabled household member or authorized representative comes to the food stamp office in order to be recertified, there appears to be no compelling reason why the household should not be required to obtain a photo ID. Thus, the final rule requires an SSI joint-processed household to obtain a photo ID if it or its authorized representative reports to the food stamp office for recertification. If it is homebound or continues to be certified at an SSA office, the household would be exempt from being required to obtain a photo ID as a condition of eligibility.

Finally, the Southwest Regional office suggested that the Department exempt residents of drug/alcohol rehabilitation centers from the photo ID requirement because of the cost and impracticality of providing them with photo ID's. The Department agrees with this suggestion and has added the exemption in the final rule.

Noncompliance With the Photo ID Requirement

The Department proposed that (i) when all members of the household refuse to be photographed without good cause and the household does not designate an authorized representative to be photographed, or (ii) when the household's authorized representative does not comply with the photo ID requirement and the household fails to select a new authorized representative who will meet the requirement, the household is ineligible until it complies with the photo ID requirement. There was no significant comment on these provisions and the Department retained them in the final rule.

State agencies should recognize, however, that before terminating

benefits they must provide each household with a notice of adverse action if it is currently certified and does not comply with the photo ID requirement.

Specifications for the Photo ID Card

The Department proposed that any photo ID card must meet several minimum requirements in order to be acceptable for purposes of food stamp identification. The proposed rule indicated that photo ID's must (a) include a color photograph, (b) be serially numbered, (c) indicate food stamp eligibility if the card is from another program, (d) be laminated after it is signed by the person photographed, and (e) include the household's case number or other identifying information. Commenters expressed concerns about the first three specifications. Their concerns related to the costs of producing photo ID's that meet these specifications and to the difficulty of intergrating the minimum requirements with existing photo ID systems.

As noted in the preamble to the proposed rule, the specifications were recommended by the Department's Office of the Inspector General. The Department continues to believe they are the minimum requirements for ensuring that a food stamp photo ID will be effective in reducing fraud and abuse. Each of the specifications is necessary for one or more specific reasons. The color photograph clearly identifies the bearer of the card and links him or her to the card. The serial number is a unique label for the card that enables the State agency, during the reconciliation process, to identify the person who transacted the ATP, since the issuance agent is required to annotate the serial number on the ATP that is transacted, and facilitates the State agency's control of blank cards that are in storage. The annotation of food stamp eligibility on cards from other programs identifies the bearer of the photo ID card as a food stamp participant both at the point of issuance and at retail stores. The lamination and signature make it more difficult to alter or forge the card and provide a further link to the bearer of the card when he or she signs the ATP in the presence of the issuance agent. The case number or other identifying information also makes it more difficult to forge or alter the card and would facilitate return of the card to the household if it were lost.

These are the safeguards and features which are essential to a successful food stamp photo ID system and they, therefore, have been required in the final rule. The Department understands the concern of many State agencies that they will not be able to fully integrate this system with existing State photo ID systems, such as photo driver's licenses and public assistance (PA) photo ID's. The Department also recognizes that there are systems other than the one established by this rule that are capable of realizing its objectives and providing its safeguards.

Therefore, the final rule also states that the Department will waive one or more of the minimum photo ID requirements for any State agency that can demonstrate that its alternate ID card or system will privide adequate safeguards against fraudulent issuances.

State agencies propoosed two systems, in particular, that would meet the goals of the photo ID system but be structured in different ways. The California State agency proposed that the Department should allow a photo ID system that would use the State photo driver's license as the photo ID card. However, instead of annotating the license to specify food stamp eligibility, California proposed that if provide households with a regular food stamp (nonphoto) ID that would provide the proof of program participation at retail stores, and, when displayed along with the driver's license, at the point of issuance. In this system, the State agency would note the household's photo driver's license serial number in the case file. Issuance agents would annotate the photo driver's license serial number on the ATP. These procedures would ensure that the State agency is able to determine the household that transacted the ATP.

The Texas State agency proposed the use of a controlled, nonphoto, food stamp ID. This ID would contain the name of the house hold head (or authorized representative), the person's signature, a serial number, and an identification number (that would not be arithmetically related to the serial number). The ID would be laminated and be a controlled document. Each household's ATP would be annotated by the State agency with the serial number of the ID card. The bearer of the card, therefore, is linked to the card by name, signature, and a serial number that appears on both the ATP and ID card. In this system, the issuance agent would note the identification number on the ATP when it is transacted and the State agency would be able to trace that identification number back to the household. The ID card would identify the person as a food stamp participant. The lamination and control of the document would prevent forgery, alteration, and fraud.

It is apparent that neither of these proposed systems meets all requirements of the final rule. However, because each meets the goals of the rule, each would be eligible for a waiver. The Department expects that the availability of a waiver will enable various State agencies to make full use of photo driver's licenses and PA photo ID's and to substitute secure nonphoto ID's if they can be linked to specific ATP's. Decisions on the granting of waivers will be made on a case-by-case basis and will depend on the comprehensive system proposed by the State agency. As noted in the preamble to the proposed rule, each State Agency's photo ID card will be subject to FNS approval.

Requirements for Authorized Representatives

The Department proposed that, if a household has an authorized representatrive who transacts its ATP's, the authorized representative's picture and signature must appear on the photo ID card. Commenters agreed with the discussion in the proposed rule's preamble that authorized representatives would pose a problem for a photo ID system. Because commenters did not disagree with the proposed minimum photo ID requirements for households with authorized representatives, they are included in this final rule.

While commenters did not oppose the basic system, they did make a number of suggestions that State agencies may wish to implement in order to improve their systems. The Southwest Regional office suggested that households with authorized representatives for issuance could be given two photo ID's (one for the household head and one for the authorized representative) with identical seial numbers. The New England Regional office and FRAC suggested that these households should receive one photo ID with the head of household's photograph and signature on one side and the authorized representative's photograph and signature on the other. State agencies may wish to use one of these ideas to facilitate the use of photo ID's among households with authorized representatives. The Department wishes to make it clear, however, that State agencies may not require as a condition of eligibility the head of household to meet the photo ID requirement in addition to the authorized representative. State agencies may only use the final rule's minimum requirements as the conditions that the household must meet in order to be eligible for the program.

Commenters did not discuss the emergency authorized representative provisions as they relate to photo ID's. These provisions have been maintained in the final rule.

Provisions Concerning Mutilated or Altered ID Cards

The Department proposed that issuance agents deny the issuance of benefits when a household presents a food stamp photo ID card that is mutilated or altered. There was no significant comment related to these specific procedures so the Department included them in the final rule.

Two interest groups stated that the Department should define a "mutilated and altered" card as a card whose serial number is illegible. This definition is too narrow, however, because it does not include cases where the photograph or signature on the card is unrecognizable or illegible or where the information on the card has obviously been changed. The purpose of the photo ID is, after all, to link the bearer of the card to the card by the issuance agent's inspection of the photograph and signature. The Department, therefore, expects that issuance agents will not issue food stamps when they are not able to use a photo ID to properly identify its bearer or to annotate its serial number, because it may have been either altered or mutilated. In these situations, the regulation requires issuance agents to advise households to obtain a replacement photo ID from the State agency before they will be permitted to transact the ATP. If there is any problem related to the refusal to issue food stamps it may be resolved when the household visits the local stamp office to obtain the replacement.

The Colorado State agency suggested that State agencies should be permitted to charge households when they must replace lost or mutilated photo ID's. The Department rejected this suggestion because it would be likely to result in a group of households that is willing to be photographed in order to be eligible for food stamps but does not have the money necessary to purchase food stamp photo ID's.

The Southwest Regional office suggested that the proposed rule should allow issuance agents to confiscate mutilated or altered photo ID cards when they are presented by households. The issuance agent would then send any of these cards to the local food stamp office. The Department agrees with the goal of such a provision which is to take mutilated/altered ID cards out of circulation and to ensure that households procure new photo ID's when they possess mutilated/altered ID cards. However, it seems more advantageous to let the State agency, rather than the issuance agent, collect the mutilated/altered photo ID. Thus, the issuance agent would not have to be concerned about any new responsibility related to photo ID's and the mutilated/altered ID card would be in the immediate possession of the State agency. Therefore, in § 273.10(g)(4)(i)(B), the final rule states that State agencies should collect the old card whenever possible at the time they replace photo ID's.

Use of Photo ID's at Issuance Points and Retail Stores

(A) Use at issuance point. The proposed rule required issuance agents (i) to ensure that coupons are issued only when the person transacting the ATP is pictured on the ID card, (ii) to write the serial number of the photo ID card on the ATP, and (iii) to refuse to issue coupons if a photo ID card is mutilated or altered and, in these cases, advise the household to obtain a replacement from the food stamp office.

Commenters suggested one major problem with these responsibilities. Commenters were concerned that the photo ID system will result in more difficult issuance transactions. A number of commenters argued that the transaction will be more difficult because issuance agents will have to deal with exemptions from the rule and, more importantly, will have to note the photo ID serial number on the ATP card (or HIR form). In light of this increased difficulty, commenters questioned whether there are any real benefits in having the serial number annotated by the issuance agent. The Department continues to believe that, as discussed in the preamble to the proposed rule, annotation will (i) ensure that issuance agents are, in fact, checking the photo ID's, (ii) show whether a household has transacted more than one ATP, and (iii) discourage a household from attempting to transact a duplicate ATP. There is one other reason why the Department believes that annotation is necessary. Section 276.2(b)(3)(iv) of current regulations provides that State agencies shall be liable for losses due to "the duplicate issuance of benefits caused by State agency error in those circumstances where the duplicate issuance could have been prevented by the State agency." In project areas where the photo ID requirement is implemented, State agencies will have an increased ability to prevent duplicate issuances, particularly in cases where an authorized person tries to transact a lost or stolen ATP without proper identification. As discussed, the requirement that issuance agents annotate the photo ID serial number on the ATP will enable State agencies to determine whether proper photo identification was displayed before the ATP was transacted. If during reconciliation a State agency determines that a duplicate ATP was transacted without annotation of a photo ID serial number, the State agency will have to report on its FNS-46 that the duplicate issuance was a result of State agency error (because of failure to comply with the photo ID requirement). FNS will then bill the State agency for the amount of the loss in accordance with current liability regulations. The State agency may then decide to charge the amount of the loss it sustained back to the issuance agent(s) that failed to check and annotate the photo ID serial number. Because of these four advantages the final rule continues to require the annotation of the serial number by issuance agents.

Commenters also were concerned that there will be problems in project areas where participants are able to transact their ATP's at various issuance centers located in several project areas. In these areas, the issuance agent would have no positive way to identify whether a household presenting an ATP is also required to present a photo ID card. The New England and Southwest Regional offices suggested that this problem could be solved by (i) requiring photo ID's throughout specific zip code areas and (ii) providing issuance agents with zip code lists that show where photo ID's are required. State agencies that contain project areas that are likely to encounter this difficulty should consider implementing this suggestion or any other method that will solve the problem. There are at least two other methods that State agencies may wish to consider. The first is color-coding the ATP's of households that reside in project areas where photo ID's are required. As an example, in this system a State agency would provide yellow ATP's to all households that reside in project areas serving over 100,000 participants and blue ATP's to households residing in all other project areas. The State agency would instruct issuance agents to refuse to transact a yellow ATP unless the household presents an acceptable photo ID or a nonphoto ID card that is annotated to show that an exception has been granted. A household attempting to transact a blue ATP would have to display a regular food stamp ID card to the issuance agent. The other option is annotating "photo ID" on the ATP's of those households that reside in project

areas where photo ID's are required. In this system, State agencies would inform issuance agents that they must not transact an ATP that is annotated wth the words "photo ID" if the household is unable to display an acceptable photo ID or nonphoto ID card annotated to show that an exception has been granted.

(B) Use at retail stores. The proposed rule would not alter current regulations on the use of ID cards at retail stores. State agencies suggested that the Department expand the use of ID's at retail stores for households that are purchasing food with food stamps. The Department has rejected these suggestions and retained the proposed rule because increasing the use of ID's at retail stores will cause problems for households purchasing food without yielding any significant benefit. The House Report reaffirms this position on p. 99.

Implementation

The Department proposed a nine-month timeframe for implementing the photo ID requirement. The Department received a large number of comments on this provision. Most commenters (including four State agencies with project areas serving over 100,000 participants and two Regional offices) stated that the timeframe was too short and several suggested that a more reasonable timeframe would be 12 months. In light of these comments, the Department has decided to extend the timeframe to 12 months.

The Department believes that the extension is justified not only by the comments received, but also by the new flexibility that the final rule will provide to State agencies when they design their mandated ID systems. While the Department hopes that State agencies will implement this final rule at the earliest possible date, State agencies may wish to use a portion of the additional implementation time to develop a food stamp ID system that facilitates its administration of the program and is cost effective.

Other Issues Receiving Comment

Two other issues were of concern to commenters.

The Department proposed that, to the extent practicable, the State agency must allow the household to be photographed for the ID card at the time of the interview so that the household is not required to make a separate trip. Several State agencies objected to this requirement because they believed either (i) that photographing one member from each interviewing household would be too costly since many interviewing households will not be eligible for food stamps or (ii) that they should be permitted to establish central photographing offices for the food stamp ID card.

The Department considered these concerns. Because photo ID's are required before households are permitted to be eligible for and receive benefits, the Department prefers that State agencies facilitate household access to photo ID's by locating their photographing services in the same place as their certification services. However, in their comments State agencies raised a number of reasonable objections to the proposed provisions. In particular, they stated that the provisions would be costly to implement and would be difficult to administer. Therefore, in order to enhance the cost effectiveness and administrative flexibility of the system, the Department has deleted the proposed provisions. In place of the requirements, the final rule requires State agencies to provide households with reasonable access to food stamp photo ID's.

The Department wishes to make it clear that each State agency will have to offer some form of acceptable food stamp program identification in each project area where photo ID's are required, regardless of whether the State agency's ID system makes use of photo driver's licenses and/or PA photo ID's. However, State agencies that make use of these alternate systems will not have to operate as many photographing offices as State agencies that rely exclusively on food stamp ID cards. These final provisions will simplify State agency administration of the program, yet they will not have any significant effect on the ability of households to obtain acceptable photo identification.

Finally, several State agencies suggested that they may have difficulties funding the photo ID system and that, where photo ID's are mandated, FNS should provide enhanced funding for the equipment costs. The Department believes that any such enhanced funding would not be legally appropriate because the law does not provide for any enhanced funding in this area.

Accordingly, Parts 272, 273, 274, and 278 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new subparagraph (30) is added to paragraph (g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(30) *Amendment 191.* Areas subject to the photo ID card requirement must have issued photo ID cards (or cards annotated to indicate that the card is valid without a photograph, in accordance with § 273.10[g][4][ii][C]) to all participating households, and shall require presentation of photo ID cards (or the annotated cards) at issuance points as a precondition of issuing coupons to households, no later than the first of the month that is 12 months after the publication of final regulations. Any areas that become subject to the photo ID card requirement at a later date shall also come into full compliance no later than the first of the month that occurs 12 months after FNS notifies the State agency that the area is subject to the requirement.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.10, an introductory paragraph is added to (g)(4); paragraphs (g)(4) (i), (ii) and (iii) are revised and a title is added to (g)(4)(iv); and (g)(4)(v) is removed as follows:

§ 273.10 Determining household eligibility and benefit level.

* * * * *

(g) *Certification notices to households.* * * *

(4) *Identification (ID) cards.* The State agency shall issue an ID card to each certified household as proof of program eligibility. Areas designated by FNS for the mandatory use of photo ID cards shall follow the requirements of paragraphs (g)(4) (i) and (ii) and (iv) of this section. Areas not designated by FNS for the mandated use of photo ID's shall follow the requirements of paragraphs (g)(4) (i), (iii) and (iv) of this section.

(i) *General provisions.* (A) All ID cards shall be issued in the name of the household member who is authorized to receive the household's issuance. Photo ID cards shall contain the photograph of the person who will receive the household's issuance; i.e., who will either transact the household's ATP card or, in an HIR system, pick up the household's allotment. A photo ID card shall be signed by the person pictured on the card, be it the household member or authorized representative designated to pick up the household's allotment. A nonphoto ID card shall be signed by the household member in whose name it is issued and by other persons designated on the ID as authorized to pick up the allotment, whether it is another

household member or authorized representative.

(B) The State agency shall limit issuance of ID cards to the time of initial certification, with replacements made only in instances of loss, mutilation, destruction, or changes in the person authorized to obtain coupons, or where the State agency determines that new ID cards are needed to keep the photographs up-to-date or is otherwise changing its ID card format or system. Whenever possible, the State agency shall collect the ID card that it is replacing.

(C) The State agency shall place an expiration date on those ID cards issued to households certified for delivered meals for a temporary period. The State agency shall also place an expiration date on those nonphoto ID cards that are issued in accordance with § 273.10(g)(4)(ii)(B)(*3*) to households eligible for expedited service.

(D) ID cards delivered to households by mail shall not be mailed in the same envelope with the ATP or coupons.

(ii) *Mandatory Photo ID Cards.* (A) FNS mandates the use of photo ID cards in those project areas or portions thereof with 100,000 or more food stamp participants, except for those project areas serviced entirely by mail issuance, or where FNS, in consultation with the Office of the Inspector General, approves a State agency's request for an exemption. FNS shall respond to a State agency's request within 30 days of its receipt of the request. FNS will evaluate participation reports (FNS–256) for the month of April and, based on these reports, will notify State agencies at the beginning of each fiscal year of any areas that either require or no longer require the use of photo ID cards. In cases where an entire State is a single project area, FNS shall consult with the State agency to determine whether photo ID's should be required in any specific parts of the project area. At the conclusion of this consultation, FNS shall inform the State agency of whether it is mandating the use of photo ID's in any parts of the State. In cases where a project area serves between 100,000 and 110,000 participants, FNS shall inform the State agency in which the project area is located that it is prepared to mandate the use of photo ID's in the project area. FNS shall also inform the State agency that it will not mandate their use if within 30 days the State agency demonstrates to FNS that participation in the project areas has fallen below the 100,000 participant level in the recent past or justifies to FNS why participation is likely to fall below that level during the next year. In addition, FNS, in consultation with the Office of the Inspector General, may designate at any time project areas or portions thereof with less than 100,000 participants as requiring the use of photo ID cards if, in reviewing such factors as the level of duplicate issuances and results of management evaluation reviews, the Department determines that the institution of photo ID cards would be justified. A State agency may request that FNS designate that photo ID's be mandated throughout either the entire State or specific project areas. FNS shall respond to such requests within 30 days and, if the request if not approved, FNS shall justify its reasons for the disapproval to the State agency.

(B) In project areas where photo ID cards are mandatory, the State agency shall issue a photo ID card to each eligible household at the time of certification, except for the following:

(*1*) Households certified by out-of-office interviews as specified in § 273.2(e)(2). However, the State agency should attempt to replace the nonphoto ID card issued to these households with a photo ID card if and when the appropriate household member or authorized representative is in the office for any other reason. The State agency shall not require such households to make a special trip into the office solely for the purpose of issuing a photo ID card.

(*2*) Households whose religion does not allow them to be photographed. The State agency shall require such a household to provide a signed statement to the effect that their religious beliefs do not allow them to be photographed.

(*3*) Households entitled to expedited service if the State agency's photo ID card system is incapable of producing a photo ID card in time for the household to participate as required by § 273.2(i). A photo ID card shall be obtained prior to issuance of the household's next allotment.

(*4*) Households certified under the SSI-food stamp joint processing rules in § 273.2(k). State agencies shall not require these households to obtain photo ID's as long as they continue to be certified for food stamps at SSA offices. State agencies shall, however, require a household to obtain a photo ID if a household member or authorized representative reports to the food stamp office in order to be recertified.

(*5*) Residents of drug/alcoholic treatment and rehabilitation programs.

(C) Mandated photo ID cards shall be serially numbered, laminated after signature by the person photographed, include a color photograph of the person designated by the household to obtain coupons, and contain the household's case number or other identifying information. A photo ID card used in another program may be adapted for food stamp purposes if it meets these specifications and can be annotated to indicate food stamp eligibility. Households exempt from mandated photo ID cards shall be issued ID cards which also meet these specifications except that in lieu of a photograph the State agency shall annotate the cards to show an exception was granted to the household and that the ID card is valid. FNS shall waive one or more of the requirements for the food stamp photo ID if a State agency is able to demonstrate to FNS that its alternate ID card or system will provide adequate safeguards against fraudulent and duplicate issuances. All photo ID cards shall be subject to FNS approval.

(D) A household subject to the mandatory photo ID card requirement shall not participate until such time as a household member or a designated authorized representative complies. If a designated authorized representative does not comply, the household may designate a household member or another authorized representative to be photographed. Only the signature of the person photographed shall be on the photo ID card and only that person may obtain the household's coupons. If, at a later date, the person who is photographed is unable to travel to the issuance point to obtain a particular allotment, the household may use the emergency authorized representative procedures provided in § 273.1(f)(1)(ii), § 274.2(e)(7), and § 274.2(f)(3). In addition, State agencies which have the capability may develop systems to issue more than one photo ID card to households needing either an additional household member, or an authorized representative as well as a household member, authorized to obtain coupons. These systems must ensure that the safeguards provided by photo ID cards are maintained.

(E) If a mutilated or altered photo ID card is presented at the issuance point, the household shall obtain a replacement photo ID card prior to issuance. If a household's opportunity to participate expires between the time the household requested a replacement photo ID card and the delivery of that card to the household, the household shall be entitled to benefits lost as a result of not being able to obtain that particular allotment.

(F) The State agency shall provide households with reasonable access to food stamp photo ID's in project areas where their use is mandated.

(iii) *NonPhoto ID Card Areas.* In areas not designated by FNS as requiring photo ID cards, the ID card shall contain space for the name and signature of the household member to whom the coupon allotment is to be issued and for any authorized representatives designated by the household. All persons listed on the ID card shall sign the card prior to its use. If the household does not name an authorized representative, the State agency shall void that area of the ID card to prevent names and signatures being entered at a later date. The ID card may be serially numbered at the State agency's option.

(iv) *Specially marked ID cards* * * *

PART 274—ISSUANCE AND USE OF FOOD COUPONS

3. In § 274.2, three new sentences are added to the end of paragraphs (e)(8) and (f)(4).

§ 274.2 Issuance systems.

* * * * *

(e) *ATP Issuance.* * * *

(8) * * * If the household is required to present photo ID card in accordance with § 273.10(g)(4), coupons shall be issued only when the person presenting the ATP is pictured on the ID card. The cashier shall write the serial number of the photo ID card on the ATP. If the photo ID card appears to be multilated or altered, the cashier shall not issue the coupons, but shall advise the household to obtain a replacement ID card from the State agency.

* * * * *

(f) *HIR Card issuance system.* * * *

(4) * * * If the household is required to present a photo ID card in accordance with § 273.10(g)(4), coupons shall be issued only when the person requesting food stamps is pictured on the ID card. The cashier shall write the serial number of the photo ID card on the HIR card. If the photo ID card appears to be multilated or altered, the cashier shall not issue the coupons, but shall advise the household to obtain a replacement ID card from the State agency.

* * * * *

4. In § 274.7, the introductory language of paragraph (c) is revised.

§ 274.7 Issuance record retention and security.

* * * * *

(c) *Accountable Documents.* HIR cards, ATP's, forms FNS–286, and mandated photo ID cards shall be considered accountable documents. The State agency shall provide the following minimum security and control procedures for these documents: * * *

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

5. In § 278.2, a sentence is added to the end of paragraph (h).

§ 278.2 Participation of retail food stores.

* * * * *

(h) *Identifying coupon users.* * * * Where photo ID cards are in use, the person presenting the ID card need not be pictured on the card.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs, No. 10.551 Food Stamps)

Dated: October 5, 1981.

G. William Hoagland,

Administrator.

[FR Doc. 81-29474 Filed 10-8-81; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Parts 272, 273, and 274

[Amdt. No. 190]

Replacement of Nondelivered, Stolen or Destroyed Food Stamp Authorizations and Food Coupons

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This rulemaking establishes procedures under authority of the Food Stamp Act of 1977, as amended, which modify current Food Stamp Program regulations regarding the replacement of nondelivered, destroyed or stolen food stamp authorizations (ATP's) and food coupons. The amendments also incorporte new provisions allowing the replacement of certain food losses through the issuance of supplemental benefits. These modifications are expected to reduce losses currently resulting from fraudulent or erroneous ATP or coupon replacements.

EFFECTIVE DATE: These rules are effective on November 9, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Regulations and Policy Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250; (202) 447–9075.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Executive Order 12291. It has been determined that the rule will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs or prices, and will not have a significant adverse effect on competition, employment, productivity, investment or foreign trade. Therefore, the rule has not been classified as a major rule. This determination is based on the fact that the rule is expected to result in a significant savings of program funds and will not place a significant additional administrative burden on the State and local agencies which operate the program. Moreover, the rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises.

The final rule has also been reviewed with regard to the requirements of Pub. L. 96–354. G. William Hoagland, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. The provisions control the issuance of replacement authorization cards and food stamp coupons where authorization cards and food stamps are reported stolen, nondelivered, or destroyed. Requirements are not placed on small businesses or small organizations. There are requirements placed on State agencies, and to the extent that county governments operate the Food Stamp Program, some requirements are placed on them. However, the requirements, such as limitations on the numbers of replacements and the circumstances under which replacements can be issued, do not have significant economic impact on local governments.

Introduction

This preample articulates the basis and purpose behind any significant requirements which have been changed from the proposed rulemaking published at 46 FR 8935, January 27, 1981. The reasons supporting the provisions of the proposed rules which are unchanged by the final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal should be regarded as a basis for the pertinent final rules. Thus, a thorough understanding of the grounds for the final rules may require reference to the proposed rulemaking.

A total of 46 commenters sent in comments and suggestions on the proposed rules on replacements of ATP's and/or coupons. There were 27 comment letters received from State agencies, eight from local offices, five from public interest groups, five from regional Food and Nutrition Service offices and one from a private citizen. Comments received were given careful consideration and, for the most part, are

addressed in the preamble. Comments of a technical nature or not specifically related to this rule are not addressed in the preamble.

There were numerous general comments on the proposed regulations as a whole. The majority of the commenters, State and local agencies, were generally supportive of the rules, viewing the proposed regulations as a positive and much needed change. Several of these commenters also had specific suggestions, most of which will be discussed later in the preamble. Generally, the advocacy groups were not supportive of the proposed rules. They feel that there is no concrete data demonstrating that fraud is a problem in the area of replacements and thus the rules are unnecessary. Further, they believe the rules will result in a barrier to participation. However, the Department feels that given the growing number and value of replacement issuances and indications (reports from several States of excessive requests for replacement of coupons, and audits conducted by the Office of the Inspector General) that the current replacement procedures are subject to abuse (particularly in large urban areas), new procedures to better control replacements are essential.

A few commenters felt the rules were too complex. The Department believes that the organization of the proposed rule may be at least partly responsible for this criticism and some of the commenter's misunderstandings in several areas. In an effort to correct these problems, and to increase clarity, the final rules have been reorganized. The final rules attempt to outline the procedures for replacement of ATP's and coupons in a parallel manner.

When Coupons and ATP's Stolen or Destroyed After Receipt, Can Be Replaced

A total of 72 specific comments were received on the provision in the proposed rule allowing replacements of coupons and ATP's stolen or destroyed after receipt. Of this total, 18 were general comments. Twenty-eight comments address the questions of whether and when coupons and ATP's should be replaced when reported stolen or destroyed after receipt. A majority of the general commenters were supportive of the provisions. However, three public interest groups felt that these provisions would impose a hardship on the elderly and disabled and they suggested that the rules should allow phone or mail-in requests for replacements. It should be noted that there is nothing in the proposed rules which would preclude a State agency from handling these requests on an out-of-office basis; the Department believes that this should be left up to the discretion of the State agency.

Numerous comments were received on the proposal to allow replacement of coupons and ATP's stolen or destroyed after receipt. Several commenters felt that if stolen or destroyed coupons are going to be replaced that participant negligence should be considered before replacement and a "prudent judgement" made by the State agency on whether individual replacements should be issued. One commenter suggested that replacing benefits on a prorated basis be considered.

Two commenters said there should be no replacements of coupons or ATP's reported stolen or destroyed after receipt. Seven commenters believed that coupons stolen after receipt should not be replaced. They pointed out that coupons are like cash and since stolen cash cannot be replaced neither should food coupons be replaced. Replacement of coupons reported stolen after receipt is an area in which it is difficult to avoid some fraudulent reporting. Theft of coupons is difficult to verify. A police report does not always verify that the coupons were indeed stolen. In the proposed rules the Department solicited comments on verification of reports of stolen coupons other than police reports. Seven commenters addressed the problems relative to obtaining a police report as verification for stolen coupons. Some of these commenters felt that verification other than a police report should be allowed when coupons are stolen since it has been their experience that the police sometimes refuse to either take a report or to give a copy to the participant.

The concept of replacing welfare benefits which have been lost or stolen after they have been received by the participant in not common in Federal assistance programs. In the AFDC program there is a provision for replacement of a stolen check but that program does not replace cash stolen from recipients after they have cashed their AFDC checks. When a check is cashed the money becomes the recipient's responsibility. As pointed out above, several commenters believed that the same rationale should be applied to stolen food stamps since food stamps, for all intents and purposes, are as negotiable as cash.

In light of the comments and the various considerations discussed above, the regualtions in this area have been revised. The Department agreed with commenters that a recipient should be responsible for coupons once the recipient has the coupons. Therefore, the final rules do not allow replacement of coupons which are stolen after receipt. The Department recognizes that this will cause a hardship for those participants whose coupons really are stolen. However, the Department believes that not allowing the replacement of coupons stolen after receipt is necessary because of the need to better control program accountability in this area.

The proposal to replace coupons reported destroyed after receipt did not receive as many negative comments as did the proposal to replace coupons reported stolen after receipt. The comments received on replacing coupons destroyed in a verifiable household disaster centered around what was considered a disaster and how the destruction would be verified. In order to clarify when the Department considers coupons to be destroyed in a disaster, a differentiation between destroyed coupons and mutilated coupons must be made. Coupons which have been shredded by a pet, have gone through the laundry, etc., would be considered mutilated and, as such, would be replaceable as mutilated coupons in accordance with the current regulations (§ 273.11(g)(2)). Coupons destroyed by a fire, flood, tornado or other devasting event beyond the control of the household would be considered destroyed in an individual household disaster. A claim that coupons have been destroyed can be verified through documentation from community agencies (Fire Department, Red Cross, etc.), other collateral contacts, or home visits. Such verification would be reliable and, consequently, the State agency would be able to detect any fraudulent reporting.

In light of the comments the Department has decided to continue to allow for the replacement of destroyed coupons. Individual household disasters can occur regardless of the care and responsibility executed by the household. While this is also true with regard to some theft losses, disaster losses can be reliably verified so that fraudulent reporting can be more easily detected. Moveover, permitting replacement of destroyed coupons will, in many instances, allow the program to provide much needed assistance to households suffering devasting losses resulting from a disaster.

The final regulations retain the proposed provision relative to stolen and/or destroyed ATP cards; these will continue to be replaced since reconciliation can eventually determine the legitimacy of the claims and since ATP's are less negotiable than coupons. There were four comments received

which suggested that ATP thefts should be reported to the police in order to qualify the recipient for a replacement card (consistent with the current policy on reporting coupon thefts to the police). The Department did not adopt these suggestions in the final rules; as pointed out earlier, there are numerous problems in the area of reporting thefts to the police and to require this would simply extend these problems.

Because thefts of ATP's and destruction of ATP's and coupons are more easily verifiable than the theft of coupons, the Department is willing to permit replacements of ATP's and destroyed coupons. Even with regard to these types of losses, however, the risk of fraud continues to pose a serious threat to the program. For example, it remains very difficult to detect instances in which an eligible recipient engages an accomplice to negotiate an original ATP and then requests a replacement alleging that the original was stolen. Thus, we believe it is essential to minimize the program's vulnerability to fraud by limiting the number of replacements which will be permitted in a given period of time. These limitations are discussed elsewhere in this preamble.

When a Participant Should Report Theft or Destruction of an ATP and Destruction of Coupons

There were seven comments received on the required time within which a recipient must report the theft or destruction of an ATP or the destruction of coupons to the certification office. One commenter recommended a requirement that the participant report alleged destruction or theft within 24 hours, so that any investigation of theft would be timely and the immediate need of the household could be met. One commenter suggested reporting within 5 days and another suggested three working days since a household should know of such a loss immediately. Another commenter recommended that a household be given 20 days to report theft or destruction since in a crisis situation 10 days may not be enough. Finally, two commenters pointed out that the proposed rule was unclear since it required that a participant report theft or destruction of an ATP within 10 days of the incident and also in the "period of its intended use". (For coupons the period of intended use is the month in which they are issued; coupons can be used in another month but cannot be replaced unless the loss is reported in the month in which the coupons are issued.) One of these commenters suggested the following wording: "The household must report the incident within 10 days or the period of its intended use, whichever is earlier." For example, if the theft or destruction of an ATP or the destruction of coupons, occurs on July 25th then the recipient would be required to report it by July 31st. That is the last day of the period of intended use of the ATP or coupons and is earlier than August 3rd (the 10th day from the occurrence of the theft or destruction). The Department agrees with this suggestion and the final rules contain wording to this effect. The Department thinks that this strikes a balance between the suggestions for longer or shorter time periods for reporting. While participants are aware immediately of a crisis occurring, the situation may be such that it would be difficult to get to a certification office immediately. Allowing 10 days or the period of intended use to report the incident allows sufficient time for an individual to report but does not prevent reporting immediately if the household so wishes.

Frequency of Replacements

Eight comments were received on the provisions in the proposed rules which specified a once in 6 months replacement of coupons or ATP's reported as stolen subsequent to receipt and no limit on replacement of destroyed coupons or ATP's. One commenter suggested that destroyed and stolen issuance be replaced twice in a 12 month period with a reduction to 6 months if the types of issuances are the same. Two commenters recommended that replacement of ATP's and coupons destroyed after receipt be limited to once in 6 months, paralleling the rules for replacements due to thefts. Two commenters recommended replacements be made once in 12 months instead of once in 6 months and two other commenters felt the limit of replacements was punitive. The latter supported unlimited replacement of ATP's or coupons if they were destroyed in a verified household disaster.

After careful consideration of the comments the Department decided to revise the proposed rules to specify that one limitation be placed on replacements resulting from destruction and a separate limitation placed on replacements necessitated by theft. This means that for ATP's stolen after receipt there is a limit of one replacement in 6 months and for ATP's and coupons destroyed after receipt there is a separate limit of one replacement in 6 months. In other words, a household could receive two replacements in a 6 month period but only if the ATP were stolen and destroyed once during that period. If the household reported its ATP stolen more than once in a 6 month period, it would be limited to one replacement and the same would be true of reports of destroyed ATP's. This solution seems to strike a balance between the recommendations discussed above while recognizing an increasing need to control all types of replacements. The Department believes the two separate limitations will discourage households from making frequent, unwarranted requests for replacements while recognizing the problems of households experiencing actual losses. Applying the same limitation to replacements necessitated by destruction as that applied to replacements necessitated by thefts results in a consistent procedure for eligibility workers to follow. In addition to contributing to administrative simplicity, this policy should also result in some program savings.

Time Period Allowed for State Agencies to Replace Coupons and/or ATP's

Twenty-two commenters addressed the proposal to allow State agencies 10 days within which to replace coupons and ATP's reported as stolen or destroyed after receipt or nondelivered or stolen prior to receipt. Six commenters supported this provision as proposed. Five commenters believed that 5 days was sufficient time to allow for replacement. These commenters felt that 10 days was too long to wait for a replacement and was not responsive to participants' needs. Three commenters said that 10 days was not long enough for State Agencies to determine that the original ATP had not been transacted. Two of these commenters said that it takes 30–45 days for redemption records to become available and thus for reconciliation to take place. One commenter suggested that all time periods, including the 10 days, be designated as "working days" and another suggested 10–14 days be allowed State agencies to issue replacements. One commenter suggested allowing 6 days to make replacements except in a rural area where 10 days should be allowed. Finally, one commenter believed that State agencies should be allowed a timeframe suited to their capabilities, not to exceed the period of validity of the ATP. This commenter felt that the 10-day timeframe should be applicable only to State agencies possessing capability to rapidly detect a duplicate ATP issuance.

In addressing these suggestions, the Department first would like to clarify that the proposed rules did not intend to require complete reconciliation before a replacement is made; the rules required

a determination, to the fullest extent possible, of the validity of the request. Recognizing that State agencies have widely varying computer capability, the Department believes it is unrealistic to expect that complete reconciliation can be expected from all State agencies within a timeframe which is responsive to a recipient's needs. It is more realistic to expect that State agencies with the capability will reconcile and those without will do all they can to ensure that the request is valid. This is consistent with the Department's belief that the rationale for making a replacement is that the recipient is in an emergency need situation and cannot afford to wait for the replacement for an extended period of time.

Within the context of the above discussion, the Department decided to retain the proposed provision which allows a time period of 10 days for processing replacements.

While not all State agencies will be able to validate the requests for replacements within this timeframe, this will allow those State agencies which can to do so. It will enable State agencies without computer capability to verify the validity of the request through other channels. The Department expects that, given this longer time period to process replacements (i.e., 10 days rather than the current 5 days), State agencies will make every effort to ensure that replacements are as accurate as possible. Allowing the 10 day time period for processing replacements recognizes the need of the recipient without overburdening the State agency. The final rule reflects this decision.

Replacing Lost or Misplaced ATP's or Coupons

Nine commenters addressed the section of the proposed rules which stated that lost or misplaced ATP's and coupons can not be replaced. Four commenters supported this provision with one of them suggesting that an exception be made for an elderly or mentally limited participant. Four commenters expressed the opinion that the provision will hurt the elderly who misplace things easily. They further argued that a method of separating a fraudulent claim from a legitimate claim exists in the reconciliation process. One commenter pointed out that it is sometimes difficult to differentiate between lost and stolen issuances. As stated in the preamble to the proposed regulations, the Department believes that it is the responsibility of each household to avoid misplacing coupons and a matter over which the household has control. The household should also have enough control over the coupons to determine if they were lost or stolen. In cases where the participant is elderly or mentally limited, and unable to handle the ATP or coupons safely, then the provision allowing designation of an authorized representative should be used to avoid losses of coupons or ATP's. Allowing replacements of lost or misplaced coupons and ATP's opens the way for possible abuse of the program. Therefore, for the reasons explained above, the Department has decided not to change the proposed rule and the final rule does not allow replacement of lost or misplaced coupons and ATP's.

Replacement of Food Destroyed in a Disaster

There were 15 comments received on the provision in the proposed rules which allowed for the replacement of food (purchased with food stamps) which is destroyed in an individual household disaster. Thirteen of these supported the provision and two opposed it. One of those commenting negatively felt that food should only be replaced in the event of a natural disaster affecting more than one household; the commenter felt that this provision would increase the potential for abuse. Based on the overwhelmingly favorable comments the Department has retained in the final rule the provision which allows the replacement of food destroyed in an individual household disaster.

Several of the commenters supporting the provision discussed what constituted a disaster. One commenter suggested that disaster should be defined to include both natural disasters and mechanical breakdowns. This commenter also believed that 10 days was too long a time to allow to replace a loss. The Department defines a disaster as a natural event such as flood, tornado, etc., or a devastating event such as a fire. A mechanical breakdown would not be considered a disaster; to replace food losses every time a household's electricity goes off and food in the refrigerator is spoiled extends far beyond the responsibility of this program. The final rules make this distinction clear.

The second area discussed by the commenters supporting this provision was how a disaster should be verified. The methods of verification suggested by some of the commenters included documentation from community agencies such as the Fire Department, or the Red Cross, other collateral contacts, and home visits. The Department feels that these are all good suggestions and the final rules specify that a disaster must be verified through a community agency, other collateral contacts, or a home visit. The allowance of 10 days within which to replace the food has also been retained in the final rules; this will enable State agencies to adequately verify the report of a disaster.

When Participants Should Report Nonreceipt of ATP's or Coupons

A total of 15 comments were received on the section of the proposed rules which required that nondelivery of coupons or ATP's be reported in the "period of their intended use". Several commenters pointed out that for ATP's issued after the 25th of the month the period of intended use is either 20 days or the last day of the following month. This was overlooked by mistake in the proposed rules. This is in compliance with § 274.2(e)(3)(i) of the current regulations which allows the State agency to choose, after the 25th of the month, to issue an ATP which shall not expire until 20 calendar days after issuance or until the end of the following month. This has been corrected in the final rules to comply with the wording in § 274.2(e)(3)(i). The final rules also use the same wording for coupons relative to the "period of intended use"; consistency in this area should contribute to a less complex procedure for eligibility workers to follow.

One commenter raised a further question about the period of intended use and how it relates to a replacement of a retroactive benefit. Although an issuance may be for a retroactive benefit, the period of intended use would still be considered to begin at the time of the issuance since benefits cannot be used retroactively.

Several time periods for reporting nonreceipt were suggested, such as 20 days from date of issuance, five days and 30 days from the date mailed. One commenter reported a situation in which participants are not allowed to report nonreceipt for 5 days and this, of course, lengthens the time an individual has to wait for a replacement.

The Department believes that it is preferable to retain the requirement to report the nondelivery of ATP's or coupons in the period of their intended use. Delivery time will often vary depending on the State or the circumstances in an area. In addition, mail may be delayed if the participant is away from home for several days and their mail is mistakenly returned to the Post Office. Presumably the participant will report nonreceipt as soon as possible and the Department believes the wording discussed above allows leeway for varying situations. It should be noted that the regulations do not in

any way support a State agency refusing to accept a report of nonreceipt before a specific period of time has elapsed after mailing.

Participant's Statement

Two comments were received on the sections in the proposed rules which require the participant to sign a statement stating that original ATP's or coupons would be returned to the State agency if found and that the participant is aware of the penalties for intentional misrepresentation of facts. These comments suggested that allowance be made for a mail-in affadavit. The Department would like to clarify this area. It was not intended that the rules specify that it is necessary to be in the office in order to report nonreceipt. The same considerations which apply to out-of-office certification would apply here. If individuals are elderly, mentally or physically handicapped and are unable to appoint an authorized representative then the State agency would arrange to obtain the signed statement through the mail. The final regulations contain language to ensure that this is clear.

Initiation of an Alternative System After Two Replacements in Six Months

Nineteen commenters addressed the sections in the proposed regulations which provide that after two requests for replacement of ATP's or coupons reported as nondelivered the State agency shall place the household in an alternate issuance system for as long as the State agency feels is necessary. Five commenters suggested modifications or simply discussed methods of issuance. One commenter suggested, in addition to the alternate issuance system provisions proposed, that State agencies should have the latitude to deny replacement requests for households that have a history of ATP or coupon losses. Two commenters suggested that State agencies have the option of using alternative issuance after one report of nondelivery and one of these suggested that alternative issuance methods after two reports of nondelivery be a minimum requirement which State agencies could go beyond with FNS approval. One commenter suggested that the proposal was too harsh and that an alternative delivery system should be used only after "several consecutive losses". Another commenter felt that the change to an alternative delivery system after two losses in 6 months penalizes the household for a situation which is out of their control.

The mandate to change to an alternative issuance system after two losses in six months does not preclude the State agency from moving a household to an alternative issuance system whenever they feel this is appropriate, for example, after one loss or if a household has a history of requesting replacements. The regulation was intended to ensure that the State agency, at a minimum, move a household to an alternate issuance system after two requests for replacements in 6 months. This intent is consistent with several of the commenters' suggestions.

The Department has decided to retain the 2-in-6 provision in the final rule. This provision meets the purpose of the regulation, i.e., to place better controls on the whole replacement process, while, at the same time, ensuring equitable service delivery to participants who report legitimate thefts or mail losses. In addition, the provision recognizes the advantage of allowing State agencies some discretion in this area. State agencies can decide, to the extent discussed above, when to initiate an alternative issuance system and, also, when to return a household to a normal issuance system. Wording has also been added to this section of the final rules to clarify that no more than two replacements in six months are allowed; this was the intent of the proposed rule and the Department wants to avoid potential misunderstanding. The Department recognizes that this provision can negatively affect households experiencing several legitmate thefts or mail losses. However, the Department believes that it is essential to better control program spending in the area of replacements and this provision will contribute to this effort.

There were some additional comments in the area of State discretion. One commenter suggested that the rules specify that a State agency's decision to place households on an alternate issuance system and the length of time they are on an alternate issuance system not be subject to the fair hearing process. The Department agrees with this suggestion and has added language to this effect to the final rule. Two commenters suggested that alternate issuance systems be defined so that a State agency cannot automatically initiate over-the-counter issuance as the alternate issuance system. (The commenter believed that this could hurt rural, elderly or disabled households.) Another commenter suggested that certified/registered mail be required for neighborhoods with high rates of loss. The Department believes that these are issues over which the State agency must have control. There is no inherent participant right to a certain type of issuance; a State agency may choose whatever issuance method they believe will ensure the best service delivery to participants. Consequently, no language has been added to the final rules which would limit State agency discretion in this area.

Replacement of Replacements

Three comments were received on the provision in the proposed regulation which stated that replacements shall not be replaced. Two commenters disagreed with this provision and one commenter supported it. One commenter believed that if a household can show it had no control over the theft of a replacement then stolen replacement ATP's should be replaced. The second disagreeing commenter felt that regulations should not preclude replacing a replacement of an allotment reported not received. This commenter pointed out that in States where manual issuance is used, an agency error could result in nonreceipt of any issuance including a replacement issuance. Not allowing such a replacement could hurt legitimate claimants.

The Department agrees that replacements of replacements should be treated like replacements of normal issuances. In light of this, the Department has revised the proposed rules to allow the replacement of a replacement issuance. However, consistent with the replacement of normal issuances, replacements of replacements shall be subject to the 2-in-6 provision. That is, the replacement for a replacement would become the second replacement in a 6 month period and would trigger placing the household in an alternative issuance system. If such a situation occurs, the household would be ineligible for another replacement for the next 5 months. This should discourage irresponsible reports of nonreceipt or loss after receipt.

Replacement of Partial Allotments

Five comments were received on the provision in the proposed regulations which allows for the replacement of a partial allotment if a household reports the nondelivery of a partial allotment of coupons issued through the mail. Two commenters opposed the provision. One commenter believed that there is a high potential for abuse in this area and the other thought the provision was unnecessary. The latter believed that if proper controls are established it should be impossible for partial allotments to be mailed. One commenter simply supported the provision and two others suggested that some qualifications be added. The first of these felt that

requests for partial allotments should be carefully examined and suggested that the household should be questioned and the issuance unit queried to determine if a discrepancy really exists. The second of these commenters recommended that replacement of partial allotments be allowed only when evidence is presented that the envelope is received from the Post Office in a damaged condition which could have resulted in the loss of a book.

The Department agrees that requests for replacement of partial allotments should be examined carefully. The only time a replacement of a partial allotment should be needed would be if the issuance unit made an error or if a part of the allotment were lost in the mail (e.g., one book fell out of a torn envelope). Since it is possible that either of these situations could occur, the Department believes that the provision allowing partial replacements is necessary. In light of this, the final rules continue to allow partial replacements but only when the report of partial loss is corroborated by a discrepancy in the issuance unit's inventory or by evidence that the coupon loss was due to damage in the mail before delivery. In addition, the rules make it clear that the 2-in-6 policy applies to the replacement of a partial allotment if the reason for the partial allotment is loss in the mail (when two replacements for either an original or a replacement issuance in 6 months have been requested, then the household must be placed in an alternative issuance system). If the receipt of a partial allotment is proven to be the result of an error made by the issuance unit, the 2-in-6 policy does not apply. In this instance, the State agency will correct the error and will not count the replacement as one of two in 6 months.

Report to Postal Authorities

Five comments were received on the sections of the proposed rules which discussed reporting nonreceipt of ATP's or coupons to the Post Office. One Commenter believed that reporting losses does not solve mail loss problems and suggested that the procedure be discontinued. One commenter recommended a closer coordination between the national FNS Office and the U.S. Postal Inspection Office in regard to cooperation and follow-ups on reports of coupon and ATP losses at the local level. They feel that this would help to solve currently existing problems in this area. One State agency said that their local districts have supplied lists to the Post Office and that the districts report that the Postal Service will not accept, or does not know what to do with such lists. Consequently, they recommended that the proposed regulations be revised to mandate completion of the PS 1510, Mail Non-delivery Report, for reported nonreceipt of ATP's and coupons in the mail.

The entire area of how to report mail losses to the Post Office is being studied currently and may be subject to rulemaking in the future. At present, the Department has decided to reword the final rules to simply require a report of mail loss to postal authorities. The method and form of the report is something State agencies are responsible for working out with the postal authorities.

Additional Comments

There were three miscellaneous comments received on the proposed rules which were specific in nature; two of these were adopted in the final rules.

One pointed out that the section in the proposed rules dealing with the nonreceipt of ATP's specified at least a monthly report to postal authorities, while the section on reporting nonreceived coupons did not mention a time period for reporting. This commenter suggested that these two sections be consistent. The second comment suggested that in § 274.2(h)(1)(vi) the requirement should be that the State agency supply the Postal Service with a facsimile of the original ATP, *if transacted,* since unless the original has been transacted the State agency would be unable to provide a copy of the ATP. Both of these suggestions have been included in the final regulations.

The third comment was directed toward the sections in the proposed rules (§ 273.11(g)(1)(iii) and § 274.2(h)(2)) which suggest that one way to determine the legitimacy of the request for replacement is to compare signatures on the original ATP and the replacement request. Three commenters disagreed with this provision on the basis that eligibility workers are not trained in handwriting analysis. While this is true, eligibility workers, much like bank tellers, would certainly be able to discern an obvious difference in signatures. Also, there are State agencies which do employ handwriting experts and this method would be especially appropriate in these States. Use of the technique of comparing signatures is not mandated—State agencies can use it or not, depending on their capabilities. In light of this, the final rule retains the proposed language in this area.

Implementation

The regulations require that State agencies implement the procedures relating to replacement of nondelivered, stolen, or destroyed ATP's and food coupons no later than January 1, 1982. State agencies are permitted, however, to implement these rules earlier. This will allow State agencies to cycle the implementation of regulations on a quarterly basis if they want to do so.

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

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, subparagraph (29) is being added to paragraph (g) in numerical order to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

* * * * *

(29) *Amendment 190.* State agencies shall implement these regulations no later than January 1, 1982. The rules are effective November 9, 1981.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.11, paragraph (g)(1) is revised, current paragraph (g)(2) is redesignated (g)(5) and new paragraphs (g)(2), (g)(3), (g)(4) and (g)(6) are added. The revision and additions read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(g) *Households requesting replacement allotments or ATP's*—(1) *Coupons destroyed after receipt.* A household may request a replacement for that portion of its allotment, not to exceed one month's food stamp allotment, which it had received but which was subsequently destroyed in a household disaster such as fire or flood. Replacements of coupons stolen or lost in the mail prior to receipt are handled under § 274.3(c).

(i) To qualify for a replacement the household shall report the destruction to the local food stamp office within 10 days of the incident or within the period of intended use, whichever is earlier, and sign a statement (A) attesting to the destruction of the household's food stamps, (B) stating that the original coupons will be returned to the State agency if recovered by the household, and (C) stating that the household is aware of the penalties for intentional misrepresentation of the facts. The

statement shall be retained in the casefile.

(ii) Upon receiving a request for replacement of coupons reported as destroyed in an individual household disaster, the State agency shall:

(A) Verify the disaster through either a collateral contact, documentation from a community agency including, but not limited to, the Fire Department or the Red Cross, or a home visit;

(B) Examine the casefile for notation of previous requests by the household for replacement of coupons or ATP's reported destroyed subsequent to receipt. Replacement of coupons reported as destroyed subsequent to receipt shall be made only once in a 6 month period. If, in the previous 5 months, the household has been issued a replacement for either coupons or an ATP reported as destroyed subsequent to receipt, then replacement shall be denied;

(C) Issue replacement coupons, if warranted, within 10 days of receipt of request for replacement; and,

(D) Indicate in the casefile that a replacement has been provided.

(2) *ATP's stolen or destroyed after receipt.* A household may request replacement for an ATP, which it had received but which was subsequently destroyed in a household disaster such as a fire or flood or stolen. Replacements of ATP's stolen or lost in the mail prior to receipt are handled under § 274.2(h).

(i) To qualify for a replacement the household shall report the theft or destruction to the local food stamp office within 10 days of the incident or within the period of the ATP's intended use, whichever is earlier. The household shall sign a statement (A) attesting to the theft or destruction of the household's ATP, (B) stating that the original ATP will be returned to the State agency if recovered by the household, and (C) stating that the household is aware of the penalties for intentional misrepresentation of the facts. The statement shall be retained in the casefile.

(ii) Upon receiving a request for replacement of an ATP reported as destroyed in an individual household disaster or stolen the State agency shall:

(A) Determine, to the maximum extent practicable, the legitimacy of the request for replacement of the destroyed or stolen ATP (through such means as determining whether the original ATP has been transacted, and, if so, whether the signature on the original ATP matches that on the request for a replacement);

(B) Verify the disaster through either a collateral contact, a community agency including, but not limited to, the Fire Department or the Red Cross, or a home visit;

(C) Determine if the ATP was valid when issued and if it has been reported destroyed or stolen in the period of its intended use (for ATP's issued after the 25th of the month, the period of intended use is 20 days from the issuance date or the last day of the month following the issuance month whichever the State agency has chosen in accordance with § 274.2(e)(3)(i));

(D) Examine the casefile for notation of previous requests by the household for replacement of coupons reported destroyed or an ATP reported stolen or destroyed subsequent to receipt. Replacement of an ATP reported as stolen subsequent to receipt shall be made only once in a 6 month period. Replacement of an ATP or coupons reported as destroyed subsequent to receipt shall also be made only once in a 6 month period. If, in the previous 5 months, the household has been issued a replacement for an ATP reported as stolen subsequent to receipt, then a request for a replacement of a stolen ATP shall be denied. If, in the previous 5 months, the household has been issued a replacement of an ATP or coupons reported as destroyed then the request for a replacement of a destroyed ATP shall be denied.

(E) Issue a replacement ATP, if warranted, within 10 days of receipt of request; and,

(F) Indicate in the casefile that a replacement has been provided.

(iii) In cases in which an ATP replacement is requested, but documentation exists substantiating that the request for replacement is fraudulent, replacement of the ATP shall be denied or delayed. However, in that event the household shall be informed of its right to a fair hearing to contest the denial or delay of the replacement of the ATP. The denial or delay of the replacement ATP shall remain in effect pending the hearing decision. The State agency may combine the fair hearing with a fraud hearing in accordance with § 273.16(d)(1). To deny or delay a replacement, the State agency must have documentation substantiating fraud, such as a match between the signature on the original ATP that had been transacted and the signature on the replacement request. Fraud could also be indicated where the issuing agent has noted the recipient's correct food stamp identification number (unless the household reports that its ID was stolen) on an original ATP that has been transacted.

(3) The State agency shall not issue a replacement ATP or allotment to a household which reports that its ATP or coupons were lost or misplaced after being received.

(4) Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits, the household shall not receive both the disaster allotment and a replacement allotment under this provision.

* * * * *

(6) *Replacement of food destroyed in a disaster.* In cases in which food purchased with food stamps is destroyed in a disaster affecting a participating household, that household may be eligible for replacement of the actual value of loss, not to exceed one month's food stamp allotment, if the loss is reported within 10 days and the household's disaster is verified. The State agency shall verify the disaster through a collateral contact, a community organization such as the Fire Department or the Red Cross, or a home visit. The State agency shall provide a replacement allotment, or an opportunity to obtain a replacement allotment, within 10 days of the reported loss. This provision shall apply in cases of an individual household disaster, such as a fire, as well as in natural disasters affecting more than one household. However, in cases where FNS has issued a disaster declaration and the household is otherwise eligible for emergency food stamp benefits under Part 280 of this chapter, the household shall not receive both the disaster allotment and a replacement allotment under this provision.

PART 274—ISSUANCE AND USE OF FOOD COUPONS

3. In § 274.2, paragraph (e)(5) and the introductory paragraph of (g)(1) are revised; paragraph (g)(3) is removed; paragraph (g)(4) is redesignated (g)(3); and, paragraph (h) is redesignated as paragraph (i) and a new paragraph (h) is added. The changes read as follows:

§ 274.2 Issuance systems.

* * * * *

(e) *ATP Issuance* * * *

(5) The State agency shall mail the ATP to the household in a first class, nonforwarding envelope, except when the ATP is handled as specified in paragraphs (g) or (h) of this section. The State agency may also use certified mail for ATP delivery, and shall use an alternate method of ATP delivery for households which report two losses of ATP's through the mail within a 6 month period.

* * * * *

(g) *Expedited Service.* (1) The State agency shall manually prepare and issue ATP's at the local level if necessary to provide opportunities to participate to households certified on an expedited service basis in accordance with § 273.2(i), to comply with the processing standards for initial certification and recertification and for action on reported changes. To minimize the possibility of misuse of manually prepared ATP's, the State agency shall:

* * * * *

(h) *Replacement of an ATP stolen or lost in the mail prior to receipt.* (1) The State agency shall issue a replacement ATP for ATP's stolen or lost in the mail prior to receipt only if the ATP is reported stolen or lost in the mail in the period of its intended use and if the household requesting the replacement has not already been issued two replacements in the previous 5 months. For ATP's issued after the 25th of the month, the period intended for their use is 20 days from their issuance or the last day of the month following issuance, depending on which option in § 274.2(e)(3)(i) the State agency has chosen. Replacements of ATP's stolen or destroyed after receipt are handled under § 273.11(g)(2). When a household reports the nondelivery of an ATP the State agency shall:

(i) Determine if the ATP was valid when issued, actually mailed, and if sufficient time has elapsed for delivery;

(ii) Determine, to the maximum extent practicable, the legitimacy of the request for replacement of the lost or stolen ATP (through such means as determining whether the original ATP has been transacted, and if so, whether the signature on the original ATP matches that on the replacement);

(iii) Prepare and have the participant sign a statement that the original ATP will be returned to the State agency if recovered by the household and that the household is aware of the penalties for intentional misrepresentation of the facts. The statement may be mailed in if the participant is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative. The statement shall be retained in the casefile;

(iv) Provide a replacement no more than 10 days after report of nondelivery has been received;

(v) Deny or delay replacement of the ATP in cases in which documentation indicates that the request for replacement is fraudulent. However, the household shall be informed of its right to a fair hearing to contest the denial or delay of the ATP. The denial or delay of the replacement ATP shall remain in effect pending the hearing decision. The State agency may combine the fair hearing with a fraud hearing, in accordance with § 273.16(d)(1). To deny or delay a replacement, the State agency must have documentation indicating the likelihood of fraud, such as a match between the signature on the original ATP that has been transacted and the signature on the replacement request, or the notation (by the issuing agent) of the recipient's correct food stamp identification number (unless the household reports that its ID was stolen) on an original ATP that has been transacted.

(vi) Take other action warranted by the reported nondelivery.

(2) On at least a monthly basis the State agency shall report all ATP's reported as stolen or lost in the mail to the appropriate office of the Postal Inspection Service. The State agency shall assist the Postal Service during any subsequent investigation and shall, upon request, supply the Postal Service with facsimiles of the original ATP, if transacted, and replacement ATP, and a copy of the nonreceipt statement. The State agency shall advise the Postal Service if the original ATP is not transacted.

(3) The State agency may place a household in an alternate issuance system when circumstances exist that indicate that the household may not receive their benefits through the normal issuance system, for example, when a household has a history of reported nonreceipt of ATP's. After two requests for replacement of original or replacement ATP's reported as nondelivered in a 6 month period, the State agency shall issue benefits to that household under an alternate issuance system. The two requests may be for either an original or a replacement ATP. The State agency shall keep the household on the alternate issuance system for the length of time the State agency determines to be necessary. The State agency may return the household to the regular issuance system if the State agency finds that the circumstances leading to the loss have changed and the risk of loss has lessened. The placement of a household on an alternate issuance system and the length of time the household is on this system is not subject to the fair hearing process.

* * * * *

4. In § 274.3 paragraph (c) is revised to read as follows:

§ 274.3 Issuance of coupons through the mail.

* * * * *

(c) *Coupons lost in the mail prior to receipt.* (1) The State agency shall issue replacement coupons only if the coupons are reported stolen from the mail or lost in the mail in the period of their intended use and the household requesting the replacement has not already been issued two replacements in the previous 5 months. The period of intended use for coupons is the month in which the coupons are issued. For coupons issued after the 25th of the month, the period intended for their use is 20 days from their issuance or the last day of the month following issuance whichever the State agency chooses. Replacements for coupons destroyed after receipt are handled under § 273.11(g)(1). When a household reports the nondelivery of an allotment or partial allotment of coupons issued through the mail the State agency shall:

(i) Determine if the coupons were validly issued, actually mailed, and if sufficient time has elapsed for delivery. Coupons are "in the mail" when deposited with the Postal Service. If a delivery of a partial allotment is reported, the State agency shall determine the value of the coupons not delivered, and that the report of receipt of a partial allotment is corroborated by evidence that the coupon loss was due to damage in the mail before delivery or a discrepancy in the issuance unit's inventory. If the receipt of a partial allotment is due to an error in the issuance unit, the remainder of the allotment shall be issued regardless of the number of times the household has received replacements in the past 5 months.

(ii) Review the mail issuance log for the return of undelivered coupons.

(iii) Prepare and have the participant sign a statement (if the coupons have not been returned) that the coupons will be returned to the State agency if recovered by the household and that the household is aware of the penalties for intentionally misrepresenting the facts. The statement may be mailed in if the participant is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative. The statement shall be retained in the casefile.

(iv) Provide the replacement no more than 10 days after the report of nondelivery has been received.

(v) Record the report of nondelivery and the date in the issuance log.

(vi) Take other action warranted by the reported nondelivery.

(2) On at least a monthly basis the State agency shall report all losses to the postal authorities. State agencies

shall, in cooperation with the Postal Service, attempt to determine the cause of each nondelivery and take appropriate corrective action. State agencies shall also report to the postal authorities all patterns of losses in particular project areas or neighborhoods.

(3) The State agency may place a household in an alternate issuance system when circumstances exist that indicate that the household may not receive their benefits through the normal issuance system, for example, when a household has history of reported nonreceipt coupons. After two reports by a household of nondelivery of either full or partial allotments in a 6 month period, the State agency shall utilize other issuance methods for that household. These may be reports of nondelivery of an original or a replacement allotment. The State agency shall keep the household on the alternate issuance system for the length of time that the State agency determines to be necessary. The State agency may return the household to the regular issuance system if the State agency finds that the circumstances leading to the loss have changed and the risk of loss has lessened. The placement of a household on an alternate issuance system and the length of time the household remains on this system is not subject to the fair hearing process.

* * * * *

Note.—Reporting and recordkeeping requirements of this rule have been approved by OMB. (OMB Approval numbers 0584–0080, 0584–0081 and 0584–0009.)

(91 Stat. 958 (7 U.S.C. 2001–2027))

(Catalog of Federal Domestic Assistance Program No. 10551, Food Stamps)

Dated: October 5, 1981.

G. William Hoagland,

Administrator.

[FR Doc. 81-29473 Filed 10-8-81; 8:45 am]

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Friday
October 9, 1981

Part IV

Federal Reserve System

Truth in Lending; Official Staff Commentary

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation.

SUMMARY: In accordance with Appendix C to 12 CFR Part 226, the staff of the Federal Reserve Board is publishing a final official staff commentary to Regulation Z, as revised effective April 1, 1981. A proposed version of the commentary was published in the Federal Register on May 27, 1981 (46 FR 28560). The commentary applies and interprets the requirements of the revised Regulation Z to open-end and closed-end consumer credit and is intended to substitute for individual Board and staff interpretations of the regulation. Good faith compliance with the commentary affords protection from civil liability under section 130(f) of the act.

EFFECTIVE DATE: October 13, 1981.

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667 or (202) 452-3867:

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SUPPLEMENTARY INFORMATION: (1) *Introduction.* Effective April 1, 1981, the Board substantially revised Regulation Z, which implements the Truth in Lending Act (46 FR 20848, April 7, 1981). The revisions reflect amendments made by the Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96-221). Creditors may begin complying with the revised regulation immediately, but compliance does not become mandatory until April 1, 1982. Before that date, creditors may continue to comply with the regulation as it existed prior to those amendments ("previous Regulation Z"). Board and staff interpretations issued under previous Regulation Z will remain effective until April 1, 1982, but only insofar as they interpret the previous regulation.

The commentary modifies the staff's approach to providing interpretations of Regulation Z. Under the previous regulation, individual staff opinions were issued in response to inquiries about specific fact situations and were normally limited to those facts. Over time, more than 1,500 separate opinions were issued. While this commentary provides specific guidance and examples, it employs language of somewhat more general application for use by the widest possible audience. The commentary attempts to provide sufficient guidance without overburdening the industry with excessive detail and multiple research sources. Periodic updates will address new questions and provide a vehicle for any additional staff interpretations. In this way, every question appropriate for commentary treatment will be addressed within a reasonable time.

Many previous opinion letters have been adopted, in substance, as interpretations of the revised regulation and are reflected in the commentary. Many others have not been adopted because they have been rendered invalid by regulatory changes or, if they are still valid, because they are inappropriate for inclusion in an official commentary. Therefore, previous staff opinion letters, whether official or unofficial, can provide no certain guidance in complying with the revised regulation. They were issued as interpretations of previous Regulation Z only and are entirely superseded by this commentary for purposes of interpreting the revised Regulation Z. Of course, they may still be utilized by courts and administrative agencies in determining liability for violations of the previous regulation.

A proposed version of the commentary was published in the Federal Register on May 27, 1981 (46 FR 28560) and elicited over 200 responses from consumer, industry, and government representatives. Numerous changes to the substance of the proposal were requested; many have been adopted in the final commentary. Since some responses reflected confusion about the meaning of certain provisions, those provisions have been revised and clarified. In addition, many minor editorial and structural changes suggested by commenters have been incorporated.

Because of substantive and editorial changes, some sections of the commentary were restructured, and comments were added or deleted as necessary. As a result, the location of a comment may differ from its original location in the proposal. In general, the staff has attempted to place comments in the single most appropriate and useful place, providing cross-references where necessary.

One significant change from the proposal that deserves special mention involves the definition of an arranger of credit. The proposed commentary interpreted the definition to cover real estate brokers involved in seller-financed transactions. The Board has determined, however, that the significance of the definition warrants further public comment. Therefore, the Board will be publishing in the Federal Register a notice of proposed rulemaking to amend the revised regulation. The proposed amendment to § 226.2(a)(3), if adopted, would clarify the definition of "arranger of credit," particularly in regard to the treatment of real estate brokers who arrange sales involving seller financing.

Some other provisions in the commentary that significantly differ from the proposal are listed below. The list is not exhaustive; it is intended merely to give examples of the types of changes that have been made.

INTRODUCTION

- An introduction has been added to the commentary to cover information of general applicability and rules of transition from the previous regulation.

Subpart A (General)

- Comment 2(a)(3)-2 describes the content of disclosures made by an arranger of credit.
- Comment 2(a)(14)-1 identifies several types of transactions that are not considered credit for purposes of the regulation.
- Comment 2(a)(16)-5 permits student credit transactions to be treated as either loans or credit sales.
- Comment 2(a)(17)(i)-2 clarifies that assignees of consumer contracts are not creditors.
- Comment 2(a)(22)-2 explains that an attorney and his or her client are considered the same person for purposes of the regulation.
- Comments 2(a)(24)-3 and -4 clarify the meaning of "residential mortgage transaction."
- Comments 2(a)(25)-1 and -4 further explain the definition of "security interest."
- Comment 3(a)-2 expands the list of factors to consider in determining the purpose of a credit extension and modifies the examples of

business- and consumer-purpose credit.
- Comment 3(a)–3 expands the definition of non-owner-occupied rental property.
- Comments 3(a)–5 and 3(b)–3 explain when the refinancing of previously exempt transactions are subject to the regulation.
- Comment 3(b)–2 describes how the exemption for credit over $25,000 applies to open-end credit.
- Comment 4(a)–2 specifically excludes from the finance charge assignment discounts that are not separately imposed on the consumer.
- Comment 4(a)–3 excludes from the finance charge taxes imposed on a credit obligation that are payable by the consumer.
- Comment 4(a)–4 explains when a consumer's forfeiture of interest constitutes a finance charge.
- Comments 4(b) (7) and (8)–1 and –2 describe what constitutes insurance "written in connection with" the credit transaction.
- Comment 4(b)(9)–2 describes the exception for cash discounts found in § 167(b) of the act.
- Comment 4(c)(1)–1 clarifies the treatment of application fees.
- Comments 4(d)–2 and –3 explain insurance disclosure responsibilities.
- Comment 4(d)–7 clarifies how a creditor may obtain authorization when a number of insurance options are available and who may sign an insurance authorization.

Subpart B (Open-End Credit)
- Comments 5(a)(1)–1 and –2 clarify the format requirements for initial disclosures and periodic statements.
- Comment 5(b)(2)(ii)–3 clarifies that a creditor may permit (but not require) consumers to call for their periodic statements.
- Comments 6(a)(2)–2 through –9 provide guidelines on disclosure requirements for variable rate plans.
- Comment 7–1 deals with multifeatured plans.
- Comments 7(d)–1 and –2 provide further examples of what periodic rates must be disclosed.
- Comment 7(f)–1 modifies the rule on disclosures of the total finance charge due to the application of periodic rates.
- Comment 8(a)–3 gives additional options for "transaction dates" in mail or telephone orders.
- Comment 9(a)(2)–1 modifies the timing requirements when a creditor changes from a long-form to a short-form notice and vice versa.
- Comment 9(c)(1)–5 clarifies that a copy of the security agreement that describes the collateral added to or substituted on an account may be used as a notice of the changed term.
- Comment 9(d)–1 has been added to cross-reference the statutory ban on credit card surcharges.
- Comment 11–1 permits a creditor to fulfill its obligations by making a good faith effort to refund any credit balance prior to the passage of 6 months.
- Comment 11(b)–1 clarifies that a creditor need not honor standing orders requesting refunds of any credit balance on the consumer's account.
- Comments 15(a)–5 and –6 clarify the meaning of "principal dwelling" as it relates to the right of rescission.

Subpart C (Closed-End Credit)
- Comment 17(a)(1)–5 provides an expanded list of material considered directly related to required disclosures.
- Comments 17(c)(1)–3, –4 and –5 provide a more complete discussion of "buydowns."
- Comments 17(c)(1)–6 and –7 detail the treatment of "wrap-around" financing.
- Comment 17(c)(2)–2 permits a general statement that most or all disclosures are estimates, where applicable.
- Comment 17(c)(6)–5 explains the treatment of "points" in multiple-advance construction loans.
- Comment 17(i)–4 is a new comment discussing the treatment of loan origination fees on student credit extensions.
- Comment 18(c)–2 provides further guidance on varying the disclosure of the itemization of the amount financed.
- Comment 18(f)(1)–1 clarifies the treatment of an index to which a variable rate transaction may be tied.
- Comment 18(j)–1 clarifies that the total sale price disclosure may be modified for a variable rate transaction.
- Comment 19(a)–4 explains the appropriate treatment of loan applications that cannot be approved on their original terms.
- Comment 19(b)–2 permits a creditor to highlight the changed terms when giving a complete set of new disclosures.
- Comment 20(b)–6 is a new comment explaining changes in terms that do and do not destroy the existing obligation for purposes of assumptions.
- Comments 23(a)(1)–3 and –4 clarify the meaning of "principal dwelling" as it relates to the right of rescission.
- Comment 24(b)–3 explains the correct treatment of "buydowns" in advertising.

Subpart D (Miscellaneous)
- Comment 26(b)–1 permits oral disclosure of other charges in closed-end credit when the annual percentage rate cannot be precisely determined.
- Comment 27–1 clarifies the treatment of Spanish-language disclosures in Puerto Rico.

(2) *Authority.* 15 U.S.C. 1640(f).

12 CFR Part 226, TIL–1—Official Staff Commentary to Regulation Z

INTRODUCTION

1. *Official status.* This commentary is the vehicle by which the staff of the Division of Consumer and Community Affairs of the Federal Reserve Board issues official staff interpretations of Regulation Z, as revised effective April 1, 1981. Good faith compliance with this commentary affords protection from liability under 130(f) of the Truth in Lending Act. Section 130(f) (15 U.S.C. 1640) protects creditors from civil liability for any act done or omitted in good faith in conformity with any interpretation issued by a duly authorized official or employee of the Federal Reserve System.

2. *Procedure for requesting interpretations.* Under Appendix C of the regulation, anyone may request an official staff interpretation. Interpretations that are adopted will be incorporated in this commentary following publication in the Federal Register. No official staff interpretations are expected to be issued other than by means of this commentary.

3. *Status of previous interpretations.* All statements and opinions issued by the Federal Reserve Board and its staff interpreting previous Regulation Z remain effective until April 1, 1982, only insofar as they interpret that regulation. When compliance with revised Regulation Z becomes mandatory on April 1, 1982, the Board and staff interpretations of the previous regulation will be entirely superseded by the revised regulation and this commentary except with regard to liability under the previous regulation.

4. *Rules of construction.* (a) Lists that appear in the commentary may be exhaustive or illustrative; the

appropriate construction should be clear from the context. In most cases, illustrative lists are introduced by phrases such as "including, but not limited to," "among other things," "for example," or "such as."

(b) Throughout the commentary and regulation, reference to the regulation should be construed to refer to revised Regulation Z, unless the context indicates that a reference to previous Regulation Z is also intended.

(c) Throughout the commentary, reference to "this section" or "this paragraph" means the section or paragraph in the regulation that is the subject of the comment.

5. *Comment designations.* Each comment in the commentary is identified by a number and the regulatory section or paragraph which it interprets. The comments are designated with as much specificity as possible according to the particular regulatory provision addressed. For example, some of the comments to § 226.18(b) are further divided by paragraph, such as Comment 18(b)(1)–1 and Comment 18(b)(2)–1. In other cases, comments have more general application and are designated, for example, as Comment 18–1 or Comment 18(b)–1. This introduction may be cited as Comments I–1 through I–7. The appendices may be cited as Comments App. A–1 through App. J–2.

6. *Cross-references.* The following cross-references to related material appear at the end of each section of the commentary: (a) "Statute"—those sections of the Truth in Lending Act on which the regulatory provision is based (and any other relevant statutes); (b) "Other sections"—other provisions in the regulation necessary to understand that section; (c) "Previous regulation"—parallel provisions in previous Regulation Z; and (d) "1981 changes"—a brief description of the major changes made by the 1981 revisions to Regulation Z. Where appropriate a fifth category ("Other regulations") provides cross-references to other regulations.

7. *Transition rules.* (a) Though compliance with the revised regulation is not mandatory until April 1, 1982, creditors may begin complying as of April 1, 1981. During the intervening year, a creditor may convert its entire operation to the new requirements at one time, or it may convert to the new requirements in stages. In general, however, a creditor may not mix the regulatory requirements when making disclosures for a particular closed-end transaction or open-end account; all the disclosures for a single closed-end transaction (or open-end account) must be made in accordance with the previous regulation, or all the disclosures must be made in accordance with the revised regulation. As an exception to the general rule, the revised rescission rules and the revised advertising rules may be followed even if the disclosures are based on the previous regulation. For purposes of this regulation, the creditor is not required to take any particular action beyond the requirements of the revised regulation to indicate its conversion to the revised regulation.

(b) The revised regulation may be relied on to determine if any disclosures are required for a particular transaction or to determine if a person is a "creditor" subject to Truth in Lending requirements, whether or not other operations have been converted to the revised regulation. For example, layaway plans are not subject to the revised regulation, nor are oral agreements to lend money if there is no finance charge. These provisions may be relied on even if the creditor is making other disclosures under the previous regulation. The new rules governing whether or not disclosures must be made for refinancings and assumptions are also available to a creditor that has not yet converted its operations to the revised regulation.

(c) In addition to the above rules, applicable to both open-end and closed-end credit, the following guidelines are relevant to open-end credit:

- The creditor need not remake initial disclosures that were made under the previous regulation, even if the revised periodic statements contain terminology that is inconsistent with those initial disclosures.
- A creditor may add inserts to its old open-end forms in order to convert them to the revised rules until such time as the old forms are used up.
- No change-in-terms notice is required for changes resulting from the conversion to the revised regulation.
- The previous billing rights statements are substantially similar to the revised billing rights statements and may continue to be used, except that, if the creditor has an automatic debit program, it must use the revised automatic debit provision.
- For those creditors wishing to use the annual billing rights statement, the creditor may count from the date on which it sent its last statement under the previous regulation in determining when to give the first statement under the new regulation. For example, if the creditor sent a semi-annual statement in June 1981, and converts to the new regulation in October 1981, the creditor must give the billing rights statement sometime in 1982, and it must not be fewer than 6 nor more than 18 months after the June statement.
- Section 226.11 of the revised regulation affects only credit balances that are created on or after the date the creditor converts the account to the revised regulation.

Subpart A—General

Section 226.1—Authority, Purpose, Coverage, Organization, Enforcement and Liability

1(c) Coverage.

1. *Foreign applicability.* Regulation Z applies to all persons (including branches of foreign banks and sellers located in the United States) that extend consumer credit to residents (including resident aliens) of any state as defined in § 226.2. If an account is located in the United States and credit is extended to a U.S. resident, the transaction is subject to the regulation. This will be the case whether or not a particular advance or purchase on the account takes place in the United States and whether or not the extender of credit is chartered or based in the United States or a foreign country. Thus, a U.S. resident's use in Europe of a credit card issued by a bank in the consumer's home town is covered by the regulation. The regulation does not apply to a foreign branch of a U.S. bank when the foreign branch extends credit to a U.S. citizen residing or visiting abroad or to a foreign national abroad.

References

Statute: § 102.
Other sections: None.
Previous regulation: § 226.1.
1981 changes: A discussion of coverage has been added to § 226.1 so that the reader will understand from the start what is subject to the regulation. Language has also been added to explain the reorganization of the regulation into subparts that group together the provisions relating to general matters, open-end credit, closed-end credit, and miscellaneous rules. The provisions on consumer leasing have been issued by the Board as a separate regulation, Regulation M (12 CFR Part 213).

Section 226.2—Definitions and Rules of Construction

2(a) Definitions.

2(a)(2) "Advertisement".

1. *Coverage.* Only commercial messages that promote consumer credit

transactions requiring disclosures are advertisements. Messages inviting, offering, or otherwise announcing generally to prospective customers the availability of credit transactions, whether in visual, oral, or print media, are covered by the regulation. Examples include:

- Messages in a newspaper, magazine, leaflet, promotional flyer, or catalog.
- Announcements on radio, television, or public address system.
- Direct mail literature or other printed material on any exterior or interior sign.
- Point-of-sale displays.
- Telephone solicitations.
- Price tags that contain credit information.
- Letters sent to customers as part of an organized solicitaion of business.
- Messages on checking account statements offering auto loans at a stated annual percentage rate.

The term does *not* include:

- Direct personal contacts, such as follow-up letters, cost estimates for individual consumers, or oral or written communication relating to the negotiation of a specific transaction.
- Informational material, for example, interest rate and loan term memos, distributed only to business entities.
- Notices required by federal or state law, if the law mandates that specific information be displayed and only the information so mandated is included in the notice.
- News articles the use of which is controlled by the news medium.
- Market research or educational material that do not solicit business.

2. *Persons covered.* All "persons" must comply with the advertising provisions in §§ 226.16 and 226.24, not just those that meet the definition of creditor in § 226.2(a)(17). Thus, home builders, merchants, and others who are not themselves creditors must comply with the advertising provisions of the regulation if they advertise consumer credit transactions. However, under § 145 of the act, the owner and the personnel of the medium, in which an advertisement appears, or through which it is disseminated, are not subject to civil liability for violations.

2(a)(3) "Arranger of credit".

1. *Coverage.* An arranger of credit is an intermediary between the nonprofessional extender of credit and the consumer. There can be an arranger only if the credit arranged involves a finance charge or is payable by written agreement in more than 4 installments *and* the person actually extending the credit is someone who does not meet the definition of creditor.

Note.—The Board is considering a regulatory amendment to § 226.2(a)(3) that, if adopted, would clarify the definition of "arranger of credit," particularly with regard to real estate brokers involved with seller-financing of homes.

2. *Content of disclosures.* If the arranger makes the disclosures, the disclosures should be based on the assumption that the arranger and the nonprofessional extender of credit are the same person. For example, the arranger must disclose that a security interest is being taken if the extender of credit takes a security interest, even if the arranger does not. Similarly, if the extender of credit is a seller, the arranger must make credit sale disclosures.

3. *Counting transactions.* The definition uses the same numerical tests—25 transactions per year or 5 transactions per year when secured by a dwelling—as does the definition of creditor. See the commentary to § 226.2(a)(17)(i) for illustrations of how to count credit extensions.

4. *Attorneys.* When an attorney and his or her client are considered the same person (see the commentary to § 226.2(a)(22)), an attorney is not an arranger of credit as to credit extended by the client.

5. *Trusts.* Since a trust and its trustee are considered the same person (see the commentary to § 226.2(a)(22)), a trustee is not an arranger of credit as to credit extended by the trust. See the commentary to § 226.2(a)(17)(i) for an explanation of when a trust is a creditor.

2(a)(4) "Billing cycle" or "cycle".

1. *Intervals.* In open-end credit plans, the billing cycle determines the intervals at which periodic disclosure statements must be sent; these intervals are also used as measuring points for other duties of the creditor. Typically, billing cycles are monthly, but they may be more frequent or less frequent (but not less frequent than quarterly).

2. *Creditors that do not bill.* The term "cycle" is interchangeable with "billing cycle" for definitional purposes, since some creditors' cycles do not involve the sending of bills in the traditional sense but only statements of account activity. This is commonly the case with financial institutions when periodic payments are made through payroll deduction or through automatic debit of the consumer's asset account.

3. *Equal cycles.* Although cycles must be equal, there is a permissible variance to account for weekends, holidays, and differences in the number of days in months. If the actual date of each statement does not vary by more than 4 days from a fixed "day" (for example, the third Thursday of each month) or "date" (for example, the 15th of each month) that the creditor regularly uses, the intervals between statements are considered equal. The requirement that cycles be equal applies even if the creditor applies a daily periodic rate to determine the finance charge. The requirement that intervals be equal does not apply to the transitional billing cycle that can occur when the creditor occasionally changes its billing cycles so as to establish a new statement day or date. (See the commentary to § 226.9(c).)

4. *Payment reminder.* The sending of a regular payment reminder (rather than a late payment notice) establishes a cycle for which the creditor must send periodic statements.

2(a)(6) "Business day".

1. *Business function test.* Activities that indicate that the creditor is open for substantially all of its business functions include the availability of personnel to make loan disbursements, to open new accounts, and to handle credit transaction inquiries. Activities that indicate that the creditor is not open for substantially all of its business functions include a retailer merely accepting credit cards for purchases or a bank having its customer-service windows open only for limited purposes such as deposits and withdrawals, bill paying, and related services.

2. *Rescission rule.* A more precise rule for what is a business day (all calendar days except Sundays and the federal legal holidays listed in 5 USC 6103(a)) applies when the right of rescission is involved.

2(a)(7) "Card issuer".

1. *Agent.* An agent of a card issuer is considered a card issuer. Because agency relationships are traditionally defined by contract and by state or other applicable law, the regulation does not define agent. Merely providing services relating to the production of credit cards or data processing for others, however, does not make one the agent of the card issuer. In contrast, a financial institution may become the agent of the card issuer if an agreement between the institution and the card issuer provides that the cardholder may use a line of credit with the financial institution to pay obligations incurred by use of the credit card.

2(a)(8) "Cardholder".

1. *General rule.* A cardholder is a natural person at whose request a card is issued for consumer credit purposes or who is a co-obligor or guarantor for such a card issued to another. The

second category does not include an employee who is a co-obligor or guarantor on a card issued to the employer for business purposes, nor does it include a person who is merely the authorized user of a card issued to another.

2. *Limited application of regulation.* For the limited purposes of the rules on issuance of credit cards and liability for unauthorized use, a cardholder includes *any* person, including an organization, to whom a card is issued for *any* purpose—including a business, agricultural, or commercial purpose.

3. *Issuance.* See the commentary to § 226.12(a).

4. *Dual-purpose cards and dual-card systems.* Some card issuers offer dual-purpose cards that are for business as well as consumer purposes. If a card is issued to an individual for consumer purposes, the fact that an organization has guaranteed to pay the debt does not make it business credit. On the other hand, if a card is issued for business purposes, the fact that an individual sometimes uses it for consumer purchases does not subject the card issuer to the provisions on periodic statements, billing error resolution, and other protections afforded to consumer credit. Some card issuers offer dual-card systems—that is, they issue two cards to the same individual, one intended for business use, the other for consumer or personal use. With such a system, the same person may be a cardholder for general purposes when using the card issued for consumer use, and a cardholder only for the limited purposes of the restrictions on issuance and liability when using the card issued for business purposes.

2(a)(9) "Cash price".

1. *Components.* This amount is a starting point in computing the amount financed and the total sale price under § 226.18 for credit sales. Any charges imposed equally in cash and credit transactions may be included in the cash price, or they may be treated as other amounts financed under § 226.18(b)(2).

2. *Service contracts.* Service contracts include contracts for the repair or the servicing of goods, such as mechanical breakdown coverage, even if such a contract is characterized as insurance under state law.

3. *Rebates.* The creditor has complete flexibility in the way it treats rebates for purposes of disclosure and calculation. See the commentary to § 226.18(b).

2(a)(10) "Closed-end credit".

1. *General.* The coverage of this term is defined by exclusion. That is, it includes any credit arrangement that does not fall within the definition of open-end credit. Subpart C contains the disclosure rules for closed-end credit when the obligation is subject to a finance charge or is payable by written agreement in more than 4 installments.

2(a)(11) "Consumer".

1. *Scope.* Guarantors, endorsers, and sureties are not generally consumers for purposes of the regulation, but they may be entitled to rescind under certain circumstances and they may have certain rights if they are obligated on credit card plans.

2. *Rescission rules.* For purposes of rescission under §§ 226.15 and 226.23, a consumer includes any natural person whose ownership interest in his or her principal dwelling is subject to the risk of loss. Thus, if a security interest is taken in A's ownership interest in a house and that house is A's principal dwelling, A is a consumer for purposes of rescission, even if A is not liable, either primarily or secondarily, on the underlying consumer credit transaction. An ownership interest does not include, for example, leaseholds or inchoate rights, such as dower.

3. *Land trusts.* Credit extended to land trusts, as described in the commentary to § 226.3(a), is considered to be extended to a natural person for purposes of the definition of consumer.

2(a)(12) "Consumer credit".

1. *Primary purpose.* There is no precise test for what constitutes credit offered or extended for personal, family, or household purposes, nor for what constitutes the primary purpose. See, however, the discussion of business purposes in the commentary to § 226.3(a).

2(a)(13) "Consummation".

1. *State law governs.* When a contractual obligation on the consumer's part is created is a matter to be determined under applicable law; Regulation Z does not make this determination. Consummation does not occur merely because the consumer has made some financial investment in the transaction (for example, by paying a nonrefundable fee) unless, of course, applicable law holds otherwise.

2. *Credit v. sale.* Consummation does not occur when the consumer becomes contractually committed to a *sale* transaction, unless the consumer also becomes legally obligated to accept a particular credit arrangement. For example, when a consumer pays a nonrefundable deposit to purchase an automobile, a purchase contact may be created, but consummation for purposes of the regulation does not occur unless the consumer also contracts for financing at that time.

2(a)(14) "Credit".

1. *Exclusions.* The following situations are not considered credit for purposes of the regulation:

- Layaway plans, unless the consumer is contractually obligated to continue making payments. Whether the consumer is so obligated is a matter to be determined under applicable law. The fact that the consumer is not entitled to a refund of any amounts paid towards the cash price of the merchandise does not bring layaways within the definition of credit.
- Tax liens, tax assessments, court judgments, and court approvals of reaffirmation of debts in bankruptcy. However, third-party financing of such obligations (for example, a bank loan obtained to pay off a tax lien) is credit for purposes of the regulation.
- Insurance premium plans that involve payment in installments with each installment representing the payment for insurance coverage for a certain future period of time, unless the consumer is contractually obligated to continue making payments.
- Home improvement transactions that involve progress payments, if the consumer pays, as the work progresses, only for work completed and has no contractual obligation to continue making payments.
- "Borrowing" against the accrued cash value of an insurance policy or a pension account, if there is no independent obligation to repay.
- Letters of credit.
- The execution of option contracts. However, there may be an extension of credit when the option is exercised, if there is an agreement at that time to defer payment of a debt.
- Investment plans in which the party extending capital to the consumer risks the loss of the capital advanced. This includes, for example, an arrangement with a home purchaser in which the investor pays a portion of the downpayment and of the periodic mortgage payments in return for an ownership interest in the property, and shares in any gain or loss of property value.
- Mortgage assistance plans administered by a government agency in which a portion of the consumer's monthly payment amount is paid by the agency. No finance charge is imposed on the subsidy amount and that amount is due in a lump-sum payment on a set

date or upon the occurrence of certain events. (If payment is not made when due, a new note imposing a finance charge may be written, which may then be subject to the regulation.)

2(a)(15) "Credit card".

1. *Usable from time to time.* A credit card must be usable from time to time. Since this involves the possibility of repeated use of a single device, checks and similar instruments that can be used only once to obtain a single credit extension are not credit cards.

2. *Examples.* Examples of credit cards include:

- A card that guarantees checks or similar instruments, if the asset account is also tied to an overdraft line or if the instrument directly accesses a line of credit.
- A card that accesses both a credit and an asset account (that is, a debit-credit card).
- An identification card that permits the consumer to defer payment on a purchase.
- An identification card indicating loan approval that is presented to a merchant or to a lender, whether or not the consumer signs a separate promissory note for each credit extension.

In contrast, credit card does not include, for example, a check guarantee or debit card with no credit feature or agreement, even if the creditor occasionally honors an inadvertent overdraft.

2(a)(16) "Credit sale".

1. *Special disclosure.* If the seller is a creditor in the transaction, the transaction is a credit sale and the special credit sale disclosures (that is, the disclosures under § 226.18(j)) must be given. This applies even if there is more than one creditor in the transaction and the creditor making the disclosures is not the seller. See the commentary to § 226.17(d).

2. *Sellers who arrange credit.* If the seller of the property or services involved arranged for financing but is not a creditor as to that sale, the transaction is not a credit sale. Thus, if a seller assists the consumer in obtaining a direct loan from a financial institution and the consumer's note is payable to the financial institution, the transaction is a loan and only the financial institution is a creditor.

3. *Refinancings.* Generally, when a credit sale is refinanced within the meaning of § 226.20(a), loan disclosures should be made. However, if a new sale of goods or services is also involved, the transaction is a credit sale.

4. *Incidental sales.* Some lenders "sell" a product or service—such as credit, property, or health insurance—as part of a loan transaction. Section 226.4 contains the rules on whether the cost of credit life, disability or property insurance is part of the finance charge. If the insurance is financed, it may be disclosed as a separate credit sale transaction or disclosed as part of the primary transaction; if the latter approach is taken, either loan or credit sale disclosures may be made. See the commentary to § 226.17(c)(1) for further discussion of this point.

5. *Credit extensions for educational purposes.* A credit extension for educational purposes in which an educational institution is the creditor may be treated as either a credit sale or a loan, regardless of whether the funds are given directly to the student, credited to the student's account, or disbursed to other persons on the student's behalf. The disclosure of the total sale price need not be given if the transaction is treated as a loan.

2(a)(17) "Creditor".

1. *General.* The definition contains 5 independent tests. If any one of the tests is met, the person is a creditor for purposes of that particular test.

Paragraph 2(a)(17)(i).

1. *Prerequisites.* This test is composed of 2 requirements, both of which must be met in order for a particular credit extension to be subject to the regulation and for the credit extension to count towards satisfaction of the numerical tests mentioned in footnote 3 to § 226.2(a)(17). *First,* there must be either or both of the following:

- A written (rather than oral) agreement to pay in more than 4 installments. A letter that merely confirms an oral agreement does not constitute a written agreement for purposes of the definition.
- A finance charge imposed for the credit. The obligation to pay the finance charge need not be in writing.

Second, the obligation must be payable to the person in order for that person to be considered a creditor. If an obligation is made payable to "bearer," the creditor is the one who initially accepts the obligation.

2. *Assignees.* If an obligation is initially payable to one person, that person is the creditor even if the obligation by its terms is simultaneously assigned to another person. For example:

- An auto dealer and a bank have a business relationship in which the bank supplies the dealer with credit sale contracts that are initially made payable to the dealer and provide for the immediate assignment of the obligation to the bank. The dealer and purchaser execute the contract only after the bank approves the creditworthiness of the purchaser. Because the obligation is initially payable on its face to the dealer, the dealer is the only creditor in the transaction.

3. *Numerical tests.* The examples below illustrate how the numerical tests of footnote 3 are applied. The examples assume that consumer credit with a finance charge or written agreement for more than 4 installments was extended in the years in question and that the person did not extend such credit in 1982.

4. *Counting transactions.* For purposes of closed-end credit, the creditor counts each credit transaction. For open-end credit, "transactions" means accounts, so that outstanding accounts are counted instead of individual credit extensions. Normally the number of transactions is measured by the preceding calendar year; if the requiste number is met, then the person is a creditor for all transactions in the current year. However, if the person did not meet the test in the preceding year, the number of transactions is measured by the current calendar year. For example, if the person extends consumer credit 26 times in 1983, it is a creditor for purposes of the regulation for the last extension of credit in 1983 and for all extensions of consumer credit in 1984. On the other hand, if a business begins in 1983 and extends consumer credit 20 times, it is not a creditor for purposes of the regulation in 1983. If the extends consumer credit 75 times in 1984, however, it becomes a creditor for purposes of the regulation (and must begin making disclosures) after the 25th extension of credit in that year and is a creditor for all extensions of consumer credit in 1985.

5. *Relationship between consumer credit in general and credit secured by a dwelling.* Extensions of credit secured by a dwelling are counted towards the 25-extensions test. For example, if in 1983 a person extends unsecured consumer credit 23 times and consumer credit secured by a dwelling twice, it becomes a creditor for the succeeding extensions of credit, whether or not they are secured by a dwelling. On the other hand, extensions of consumer credit not secured by a dwelling are *not* counted towards the number of credit extensions secured by a dwelling. For example, if in 1983 a person extends credit not secured by a dwelling 8 times and credit secured by a dwelling 3 times, it is not a creditor.

6. *Effect of satisfying one test.* Once one of the numerical tests is satisfied,

the person is also a creditor for the other type of credit. For example, in 1983 a person extends consumer credit secured by a dwelling 5 times. That person is a creditor for all succeeding credit extensions, whether they involve credit secured by a dwelling or not.

7. *Trusts.* In the case of credit extended by trusts, each individual trust is considered a separate entity for purposes of applying the criteria. For example:

- A bank is the trustee for 3 trusts: Trust A makes 15 extensions of consumer credit annually; Trust B makes 10 extensions of consumer credit annually; and Trust C makes 30 extensions of consumer credit annually. Only Trust C is a creditor for purposes of the regulation.

With regard to the trustee's status, see the commentary to § 226.2(a)(3).

Paragraph 2(a)(17)(ii).

1. *Arranger of credit.* A person who is an arranger of credit under § 226.2(a)(3) is a creditor. The disclosures made by the arranger should be based on the assumption that the arranger and the non-professional extender of credit are the same person. See the commentary to § 226.3(a)(3).

Paragraph 2(a)(17)(iv).

1. *Card issuers subject to Subpart B.* Section 226.2(a)(17)(iv) makes certain card issuers creditors for purposes of the open-end credit provisions of the regulation. This includes, for example, the issuers of so-called travel and entertainment cards that expect repayment at the first billing and do not impose a finance charge. Since all disclosures are to be made only as applicable, such card issuers would omit finance charge disclosures. Other provisions of the regulation regarding such areas as scope, definitions, determination of which charges are finance charges, Spanish language disclosures, record retention, and use of model forms, also apply to such card issuers.

Paragraph 2(a)(17)(v).

1. *Card issuers subject to Subparts B and C.* Section 226.2(a)(17)(v) includes as creditors card issuers extending closed-end credit in which there is a finance charge or an agreement to pay in more than 4 installments. These card issuers are subject to the appropriate provisions of Subparts B and C, as well as to the general provisions.

2(a)(18) "Downpayment".

1. *Allocation.* If a consumer makes a lump-sum payment, partially to reduce the cash price and partially to pay prepaid finance charges, only the portion attributable to reducing the cash price is part of the downpayment.

2. *Pick-up payments.* Creditors may treat the deferred portion of the downpayment, often referred to as "pick-up payments," in a number of ways. If the pick-up payment is treated as part of the downpayment:

- It is subtracted in arriving at the amount financed under § 226.18(b).
- It may, but need not, be reflected in the payment schedule under § 226.18(g).

If the pick-up payment does not meet the definition (for example, if it is payable after the second regularly scheduled payment) or if the creditor chooses not to treat it as part of the downpayment:

- It must be included in the amount financed.
- It must be shown in the payment schedule.

Whichever way the pick-up payment is treated, the total of payments under § 226.18(h) must equal the sum of the payments disclosed under § 226.18(g).

2(a)(19) "Dwelling".

1. *Scope.* A dwelling need not be the consumer's *principal* residence to fit the definition and thus a vacation or second home could be a dwelling. However, for purposes of the definition of residential mortgage transaction and the right to rescind, a dwelling must be the principal residence of the consumer. See the commentary to §§ 226.2(a)(24), 226.15, and 226.23.

2. *Use as a residence.* Mobile homes, boats, and trailers are dwellings if they are in fact used as residences, just as are condominium and cooperative units. Recreational vehicles, campers, and the like not used as residences are not dwellings.

3. *Relation to exemptions.* Any transaction involving a security interest in a consumer's principal dwelling (as well as in any real property) remains subject to the regulation despite the general exemption in § 226.3(b) for credit extensions over $25,000.

2(a)(20) "Open-end credit".

1. *General.* This definition describes the characteristics of open-end credit (for which the applicable disclosure and other rules are contained in Subpart B), as distinct from closed-end credit. Open-end credit is consumer credit that is extended under a plan and meets *all 3* criteria set forth in the definition.

2. *Existence of a plan.* The definition requires that there be a plan, which connotes a contractual arrangement between the creditor and the consumer. Some creditors offer programs containing a number of different credit features. The consumer has a single account with the institution that can be accessed repeatedly via a number of sub-accounts established for the different program features and rate structures. Some features of the program might be used repeatedly (for example, an overdraft line) while others might be used infrequently (such as the part of the credit line available for secured credit). If the program as a whole is subject to prescribed terms and otherwise meets the definition of open-end credit, such a program would be considered a single, multi-featured plan.

3. *Repeated transactions.* Under this criterion, the creditor must reasonably contemplate repeated transactions. This means that the credit plan must be usable from time to time and the creditor must legitimately expect that there will be repeat business rather than a one-time credit extension. The creditor must expect repeated dealings with the consumer under the credit plan as a whole, and need not believe the consumer will reuse a particular feature of the plan. A standard based on reasonable belief by a creditor necessarily includes some margin for judgmental error. The fact that a particular consumer does not return for further credit extensions does not prevent a plan from having been properly characterized as open-end. For example, if much of the customer base of a clothing store makes repeat purchases, the fact that some consumers only use the plan once would not affect the characterization of the store's plan as open-end credit. The criterion regarding repeated transactions is a question of fact to be decided in the context of the creditor's type of business and the creditor's relationship with the consumer. For example:

- It would be more reasonable for a thrift institution chartered for the benefit of its members to contemplate repeated transactions with a member, than for a seller of aluminum siding to make the same assumption about its customers.
- It would be more reasonable for a bank to make advances from a line of credit for the purchase of an automobile than for an automobile dealer to sell a car under an open-end plan.

4. *Finance charge on an outstanding balance.* The requirement that a finance charge may be computed and imposed from time to time on the outstanding balance means that there is no specific amount financed for the plan for which the finance charge, total of payments, and payment schedule can be calculated. A plan does not meet this criterion if there is *no* possibility that a periodic finance charge will be imposed

on the outstanding balance. Some plans, such as certain "china club" plans, feature free-ride periods if the consumer pays all or a specified portion of the outstanding balance within a given time period. For example, the creditor might not impose finance charges in any month in which the consumer pays 1/10 of the balance. Thus, a plan could meet this finance charge criterion even though the consumer actually pays no finance charges during the existence of the plan because the consumer takes advantage of the option to pay the balance (either in its entirety or in installments) within the time necessary to avoid finance charges.

5. *Reusable line.* The total amount of credit that may be extended during the existence of an open-end plan is unlimited because available credit is generally replenished as earlier advances are repaid. A line of credit is self-replenishing even though the plan itself has a fixed expiration date, as long as during the plan's existence the consumer may use the line, repay, and reuse the credit without specific approval for each extension (beyond verification, for example, of credit information such as the consumer's continued income and employment status or of information for security purposes). This criterion of unlimited credit distinguishes open-end credit from a series of advances made pursuant to a closed-end credit loan commitment. For example:

- Under a closed-end commitment, the creditor might agree to lend a total of $10,000 in a series of advances as needed by the consumer. When a consumer has borrowed the full $10,000, no more is advanced under that particular agreement, even if there has been repayment of a portion of the debt.

This criterion does not mean that the creditor must establish a specific credit limit for the line of credit or that the line of credit must always be replenished to its original amount. The creditor may reduce a credit limit or refuse to extend new credit in a particular case due to changes in the economy, the creditor's financial condition, or the consumer's creditworthiness. While consumers should have a reasonable expectation of obtaining credit as long as they remain current and within any preset credit limits, further extensions of credit need not be an absolute right in order for the plan to meet the self-replenishing criterion.

6. *Open-end real estate mortgages.* Some credit plans call for negotiated advances under so-called open-end real estate mortgages. Each such plan must be independently measured against the definition of open-end credit, regardless of the terminology used in the industry to describe the plan. The fact that a particular plan is called an open-end real estate mortgage, for example, does not, by itself, mean that it is open-end credit under the regulation.

2(a)(21) "Periodic rate".

1. *Basis.* The periodic rate may be stated as a percentage (for example, 1½% per month) or as a decimal equivalent (for example, .015 monthly). It may be based on any portion of a year the creditor chooses. Some creditors use 1/360 of an annual rate as their periodic rate. These creditors:

- May disclose a 1/360 rate as a "daily" periodic rate, without further explanation, if it is in fact only applied 360 days per year. But if the creditor applies that rate for 365 days, the creditor must note that fact and, of course, disclose the true annual percentage rate.
- Would have to apply the rate to the balance to disclose the annual percentage rate with the degree of accuracy required in the regulation (that is, within 1/8 of 1 percentage point of the rate based on the actual 365 days in the year).

2. *Transaction charges.* "Periodic rate" does not include initial one-time transaction charges, even if the charge is computed as a percentage of the transaction amount.

2(a)(22) "Person".

1. *Joint ventures.* A joint venture is an organization and is therefore a person.

2. *Attorneys.* An attorney and his or her client are considered to be the same person for purposes of this regulation when the attorney is acting within the scope of the attorney-client relationship with regard to a particular transaction.

3. *Trusts.* A trust and its trustee are considered to be the same person for purposes of this regulation.

2(a)(23) "Prepaid finance charge".

1. *General.* Prepaid finance charges must be taken into account under § 226.18(b) in computing the disclosed amount financed, and must be disclosed if the creditor provides an itemization of the amount financed under § 226.18(c).

2. *Examples.* Common examples of prepaid finance charges include:

- Buyer's points.
- Service fees.
- Loan fees.
- Finder's fees.
- Loan guarantee insurance.
- Credit investigation fees.

However, in order for these or any other finance charges to be considered prepaid, they must either be paid separately in cash or check or withheld from the proceeds.

3. *Exclusions.* "Add-on" and "discount" finance charges are not prepaid finance charges for purposes of this regulation. Finance charges are not "prepaid" merely because they are precomputed, whether or not a portion of the charge will be rebated to the consumer upon prepayment. See the commentary to § 226.18(b).

2(a)(24) "Residential mortgage transaction".

1. *Relation to other sections.* This term is important in 5 provisions in the regulation:

- Section 226.4(c)(7)—exclusions from the finance charge.
- Section 226.15(f)—exemption from the right of rescission.
- Section 226.18(q)—whether or not the obligation is assumable.
- Section 226.19—special timing rules.
- Section 226.23(f)—exemption from the right of rescission.

2. *Lien status.* The definition is not limited to first lien transactions. For example, a consumer might assume a paid-down first mortgage (or borrow part of the purchase price) and borrow the balance of the purchase price from a creditor who takes a second mortgage. The second mortgage transaction is a "residential mortgage transaction" if the dwelling purchased is the consumer's principal residence.

3. *Principal dwelling.* A consumer can only have *one* principal dwelling at a time. Thus, a vacation or other second home would not be a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of applying this definition to a particular transaction. See the commentary to §§ 226.15(a) and 226.23(a).

4. *Construction financing.* If a transaction meets the definition of a residential mortgage transaction and the creditor chooses to disclose it as several transactions under § 226.17(c)(6), each one is considered to be a residential mortgage transaction, even if different creditors are involved. For example:

- The creditor makes a construction loan to finance the initial construction of the consumer's principal dwelling, and the loan will be disbursed in 5 advances. The creditor gives 6 sets of disclosures (5 for the construction phase and 1 for the permanent phase). Each one is a residential mortgage transaction.
- One creditor finances the initial construction of the consumer's

principal dwelling and another creditor makes a loan to satisfy the construction loan and provide permanent financing. Both transactions are residential mortgage transactions.

2(a)(25) "Security interest".

1. *Threshold test.* The threshold test is whether a particular interest in property is recognized as a security interest under applicable law. The regulation does not determine whether a particular interest *is* a security interest under applicable law. If the creditor is unsure whether a particular interest is a security interest under applicable law (for example, if statutes and case law are either silent or inconclusive on the issue), the creditor may at its option consider such interests as security interests for Truth in Lending purposes. However, the regulation and the commentary do exclude specific interests, such as after-acquired property and accessories, from the scope of the definition regardless of their categorization under applicable law, and these named exclusions may not be disclosed as security interests under the regulation.

2. *Exclusions.* The general definition of security interest excludes three groups of interests: incidental interests, interests in after-acquired property, and interests that arise solely by operation of law. These interests may not be disclosed with the disclosures required under § 226.18, but the creditor is not precluded from preserving these rights elsewhere in the contract documents, or invoking and enforcing such rights, if it is otherwise lawful to do so.

3. *Incidental interests.* Incidental interests in property that are not security interests include, among other things:

- Assignment of rents.
- Right to condemnation proceeds.
- Interests in accessories and replacements.
- Interests in escrow accounts, such as for taxes and insurance.
- Waiver of homestead or personal property rights.

The notion of an "incidental interest" does not encompass an explicit security interest in an insurance policy if that policy is the primary collateral for the transaction—for example, in an insurance premium financing transaction.

4. *Operation of law.* Interests that arise solely by operation of law are excluded from the general definition. Also excluded are interests arising by operation of law that are merely repeated or referred to in the contract. However, if the creditor has an interest that arises by operation of law, such as a vendor's lien, and takes an independent security interest in the same property, such as a UCC security interest, the latter interest is a disclosable security interest unless otherwise provided.

5. *Rescission rules.* Security interests that arise solely by operation of law are security interests for purposes of rescission. Examples of such interests are mechanics' and materialmen's liens.

2(b) Rules of construction.

1. *Footnotes.* Footnotes are used extensively in the regulation to provide special exceptions and more detailed explanations and examples. Material that appears in a footnote has the same legal weight as material in the body of the regulation.

References

Statute: Sec. 103.

Other sections: None.

Other regulations: Regulation E (12 CFR 205.2(d)).

Previous regulation: §§ 226.2, 226.8, and 226.9.

1981 changes: Section 226.2 implements amended § 103 of the act. Separate definitions for "comparative index of credit cost," "discount," "organization," "period," "real property," "real property transaction," "regular price," and "surcharge" have been deleted. The definitions relating specifically to consumer leases are now found in the separate consumer leasing regulation, Regulation M (12 CFR Part 213).

Several terms are now defined elsewhere in the regulation or commentary rather than in § 226.2. For example, "finance charge" is described and explained in § 226.4, and "agricultural purpose" is discussed in the commentary to § 226.3. Some terms, such as "unauthorized use," are now defined as part of the substantive sections to which they apply. Other terms previously defined, such as customer "organization," are merged into new definitions. Section 226.2 contains new definitions for "arranger of credit," "business day," "closed-end credit," "consumer," "consummation," "downpayment," "prepaid finance charge," and "residential mortgage transaction."

The major changes in the definitions are as follows:

"Arranger of credit" has a significantly different meaning. It reflects the statutory amendment that limits "arrangers" to those who regularly arrange credit extensions for persons who are not themselves creditors.

"Billing cycle" largely restates the prior definition, but requires cycles to be regular, and allows the four-day variance to be measured from a regular day as well as date. The definition also incorporates an interpretation that cycles may be no longer than quarterly.

"Business day" is new in the sense that the term previously appeared only in a footnote to the rescission provision, but it is now of general applicability. The general rule that it is a day when the creditor is open for business is new, but the rule for rescission purposes is the same as in the previous regulation.

"Cash price" now explicitly permits inclusion of various incidental charges imposed equally in cash and credit transactions.

"Consumer" has a narrower meaning in that guarantors, sureties, and endorsers are excluded from the general definition.

"Consumer credit" reflects the new statutory exemption for agricultural credit.

"Consummation" is a significant departure from longstanding interpretations of the previous definition. It now focuses only on the time the consumer becomes contractually obligated, rather than the time the consumer pays a nonrefundable fee or suffers an economic penalty for failing to go forward with the credit transaction.

"Credit" generally parallels the previous definition, but modifies the previous interpretations of the definition by excluding more transactions.

"Creditor" reflects the statutory amendments to the act that were intended to eliminate the problem of multiple creditors in a transaction. The "regularly" standard is still used, but it is now defined in terms of the frequency of the credit extensions. The new definition also requires that there be a *written* agreement to pay in more than 4 installments if no finance charge is imposed. Finally, the obligation must be initially payable to a person for that person to be the creditor.

"Dwelling" reflects the statutory amendment that expanded the scope of the definition to include *any* residential structure, whether or not it is real property under state law.

"Open-end credit" reflects the amended statutory definition requiring that the creditor reasonably contemplate repeated transactions. The new definition no longer requires the consumer to have the privilege of paying either in installments or in full.

"Periodic rate" combines the previous definitions of "period" and "periodic rate" with clarification in the

commentary concerning transaction charges and 360-day-year factors.

"Security interest" is much narrower than the previous definition. Reflecting the legislative history of the simplification amendments, incidental interests are expressly excluded from the definition. Except for purposes of rescission, interests that arise solely by operation of law are also excluded.

Section 226.3—Exempt Transactions

3(a) Business, commercial, agricultural, or organizational credit.

1. *Primary purposes.* A creditor must determine in each case if the transaction is primarily for an exempt purpose. If some question exists as to the primary purpose for a credit extension, the creditor is, of course, free to make the disclosures, and the fact that disclosures are made under such circumstances is not controlling on the question of whether the transaction was exempt.

2. *Factors.* In determining whether credit to finance an acquisition—such as securities, antiques, or art—is primarily for business or commercial purposes (as opposed to a consumer purpose), the following factors should be considered:

- The relationship of the borrower's primary occupation to the acquisition. The more closely related, the more likely it is to be business purpose.
- The degree to which the borrower will personally manage the acquisition. The more personal involvement there is, the more likely it is to be business purpose.
- The ratio of income from the acquisition to the total income of the borrower. The higher the ratio, the more likely it is to be business purpose.
- The size of the transaction. The larger the transaction, the more likely it is to be business purpose.
- The borrower's statement of purpose for the loan.

Examples of business-purpose credit include:

- A loan to expand a business, even if it is secured by the borrower's residence or personal property.
- A loan to improve a principal residence by putting in a business office.
- A business account used occasionally for consumer purposes.

Examples of consumer-purpose credit include:

- Credit extensions by a company to its employees or agents if the loans are used for personal purposes.
- A loan secured by a mechanic's tools to pay a child's tuition.
- A personal account used occasionally for business purposes.

3. *Non-owner-occupied rental property.* Credit extended to acquire, improve, or maintain rental property (regardless of the number of housing units) that is not owner-occupied is deemed to be for business purposes. This includes, for example, the acquisition of a warehouse that will be leased or a single-family house that will be rented to another person to live in. If the owner expects to occupy the property for more than 14 days during the coming year, the property cannot be considered non-owner-occupied and this special rule will not apply. For example, a beach house that the owner will occupy for a month in the coming summer and rent out the rest of the year is owner occupied and is not governed by this special rule. See Comment 3(a)–4, however, for rules relating to owner-occupied rental property.

4. *Owner-occupied rental property.* If credit is extended to acquire, improve, or maintain rental property that is or will be owner-occupied within the coming year, different rules apply:

- Credit extended to acquire the rental property is deemed to be for business purposes if it contains more than *2* housing units.
- Credit extended to improve or maintain the rental property is deemed to be for business purposes if it contains more than *4* housing units. Since the amended statute defines "dwelling" to include 1 to 4 housing units, this rule preserves the right of rescission for credit extended for purposes other than acquisition.

Neither of these rules means that an extension of credit for property containing fewer than the requisite number of units is necessarily consumer credit. In such cases, the determination of whether it is business or consumer credit should be made by considering the factors listed in Comment 3(a)–2.

5. *Business credit later refinanced.* Business-purpose credit that is exempt from the regulation may later be rewritten for consumer purposes. Such a transaction is consumer credit requiring disclosures only if the existing obligation is satisfied and replaced by a new obligation made for consumer purposes undertaken by the same obligor.

6. *Agricultural purpose.* An "agricultural purpose" includes the planting, propagating, nurturing, harvesting, catching, storing, exhibiting, marketing, transporting, processing, or manufacturing of food, beverages (including alcoholic beverages), flowers, trees, livestock, poultry, bees, wildlife, fish, or shellfish by a natural person engaged in farming, fishing, or growing crops, flowers, trees, livestock, poultry, bees, or wildlife. The exemption also applies to a transaction involving real property that includes a dwelling (for example, the purchase of a farm with a homestead) if the transaction is primarily for agricultural purposes.

7. *Organizational credit.* The exemption for transactions in which the borrower is not a natural person applies, for example, to loans to corporations, partnerships, associations, churches, unions, and fraternal organizations. The exemption applies regardless of the purpose of the credit extension and regardless of the fact that a natural person may guarantee or provide security for the credit.

8. *Land trusts.* Credit extended for consumer purposes to a land trust is considered to be credit extended to a natural person rather than credit extended to an organization. In some jurisdictions, a financial institution financing a residential real estate transaction for an individual uses a land trust mechanism. Title to the property is conveyed to the land trust for which the financial institution itself is trustee. The underlying installment note is executed by the financial institution in its capacity as trustee and payment is secured by a trust deed, reflecting title in the financial institution as trustee. In some instances, the consumer executes a personal guaranty of the indebtedness. The note provides that it is payable only out of the property specifically described in the trust deed and that the trustee has no personal liability on the note. Assuming the transactions are for personal, family, or household purposes, these transactions are subject to the regulation since in substance (if not form) consumer credit is being extended.

3(b) Credit over $25,000 not secured by real property or a dwelling.

1. *Coverage.* Since a mobile home can be a dwelling under § 226.2(a)(19), this exemption does not apply to a credit extension secured by a mobile home used or expected to be used as the principal dwelling of the consumer, even if the credit exceeds $25,000. A loan commitment for closed-end credit in excess of $25,000 is exempt even though the amounts actually drawn never actually reach $25,000.

2. *Open-end credit.* An open-end credit plan is exempt under § 226.3(b) (unless secured by real property or personal property used or expected to be used as the consumer's principal dwelling) if either of the following conditions is met:

- The creditor makes a firm

commitment to lend over $25,000 with no requirement of additional credit information for any advances.
- The initial extension of credit on the line exceeds $25,000.

3. *Refinanced obligations.* A closed-end loan for over $25,000 may later be rewritten for less than $25,000 or a security interest in real property may be added to an extension of credit for over $25,000. Such a transaction is consumer credit requiring disclosures only if the existing obligation is satisfied and replaced by a new obligation made for consumer purposes undertaken by the same obligor.

3(c) Public utility credit.

1. *Examples.* Examples of public utility services include:
- Gas, water, or electrical services.
- Cable television services.
- Installation of new sewer lines, water lines, conduits, telephone poles, or metering equipment in an area not already serviced by the utility.

The exemption does *not* apply to extensions of credit, for example:
- To purchase appliances such as gas or electric ranges, grills, or telephones.
- To finance home improvements such as new heating or air conditioning systems.

3(d) Securities or commodities accounts.

1. *Coverage.* This exemption does not apply to a transaction with a broker registered solely with the state, or to a separate credit extension in which the proceeds are used to purchase securities.

3(e) Home fuel budget plans.

1. *Definition.* Under a typical home fuel budget plan, the fuel dealer estimates the total cost of fuel for the season, bills the customer for an average monthly payment, and makes an adjustment in the final payment for any difference between the estimated and the actual cost of the fuel. Fuel is delivered as needed, no finance charge is assessed, and the customer may withdraw from the plan at any time. Under these circumstances, the arrangement is exempt from the regulation, even if a charge to cover the billing costs is imposed.

References

Statute: Secs. 103 (s) and (t) and 104.
Other sections: § 226.12 (a) and (b).
Previous regulation: § 226.3 and Interpretations §§226.301 and 226.302.
1981 changes: The business credit exemption has been expanded to include credit for agricultural purposes. The rule of Interpretation § 226.302, concerning credit relating to structures containing more than 4 housing units, has been modified and somewhat expanded by providing more exclusions for transactions involving rental property.

The exemption for transactions above $25,000 secured by real estate has been narrowed; all transactions secured by the consumer's principal dwelling (even if not considered real property) are now subject to the regulation.

The public utility exemption now covers the financing of the extension of a utility into an area not earlier served by the utility, in addition to the financing of services.

The securities credit exemption has been extended to broker-dealers registered with the CFTC as well as the SEC.

A new exemption has been created for home fuel budget plans.

Section 226.4—Finance Charge

4(a) Definition.

1. *Charges in comparable cash transactions.* Charges imposed uniformly in cash and credit transactions are not finance charges. In determining whether an item is a finance charge, the creditor should compare the credit transaction in question with a similar cash transaction. A creditor financing the sale of property or services may compare charges with those payable in a similar cash transaction by the seller of the property or service. For example, the following items are not finance charges:
- Taxes, license fees, or registration fees paid by both cash and credit customers.
- Discounts that are available to cash and credit customers, such as quantity discounts.
- Discounts available to a particular group of consumers because they meet certain criteria, such as being members of an organization or having accounts at a particular financial institution. This is the case even if an individual must pay cash to obtain the discount, provided credit customers who are members of the group and don't qualify for the discount pay no more than the non-member cash customers.
- Charges for a service policy, auto club membership, or policy of insurance against latent defects offered to or required of both cash and credit customers for the same price.

In contrast, the following items are finance charges:
- Inspection and handling fees for the staged disbursement of construction loan proceeds.
- Fees for preparing a Truth in Lending disclosure statement.
- Charges for a required maintenance or service contract imposed only in a credit transaction.

If the charge in a credit transaction exceeds the charge imposed in a comparable cash transaction, only the difference is a finance charge. For example:
- If an escrow agent is used in both cash and credit sales of real estate and the agent's charge is $100 in a cash transaction and $150 in a credit transaction, only $50 is a finance charge.

2. *Costs of doing business.* Charges absorbed by the creditor as a cost of doing business are not finance charges, even though the creditor may take such costs into consideration in determining the interest rate to be charged or the cash price of the property or service sold. However, if the creditor separately imposes a charge on the consumer to cover certain costs, the charge is a finance charge if it otherwise meets the definition. For example:
- A discount imposed on a credit obligation when it is assigned by a seller-creditor to another party is not a finance charge as long as the discount is not separately imposed on the consumer. (See § 226.4(b)(6).)

3. *Charges by third parties.* Charges imposed by someone other than the creditor for services that are not required by the creditor are not finance charges. For example:
- A fee charged by a loan broker to a consumer, provided the creditor does not require the use of a broker (even if the creditor knows of the loan broker's involvement or compensates the loan broker).
- A tax imposed by a state or other governmental body on the credit transaction that is payable by the consumer (even if the tax is collected by the creditor).

4. *Forfeitures of interest.* If the creditor reduces the interest rate it pays or stops paying interest on the consumer's deposit account or any portion of it for the term of a credit transaction (including, for example, an overdraft on a checking account or a loan secured by a certificate of deposit), the interest lost is a finance charge. (See the commentary to § 226.4(c)(6).) For example:
- A consumer borrows $5,000 for 90 days and secures it with a $10,000 certificate of deposit paying 15% interest. The creditor charges the

consumer and interest rate of 6% on the loan and stops paying interest on $5,000 of the $10,000 certificate for the term of the loan. The interest lost is a finance charge and must be reflected in the annual percentage rate on the loan.

However, the consumer must be *entitled* to the interest that is not paid in order for the lost interest to be a finance charge. For example:

- A consumer wishes to buy from a financial institituion a $10,000 certificate of deposit paying 15% interest but has only $4,000. The financial institution offers to lend the consumer $6,000 at an interest rate of 6%, but will pay the 15% interest only on the amount of the consumer's deposit, $4,000. The creditor's failure to pay interest on the $6,000 does not result in an additional finance charge on the extension of credit, provided the consumer is entitled by the deposit agreement with the financial institution to interest only on the amount of the consumer's deposit.
- A consumer enters into a combined time deposit/credit agreement with a financial institution that establishes a time deposit account and an open-end line of credit. The line of credit may be used to borrow against the funds in the time deposit. The agreement provides for an interest rate on any credit extension of, for example, 1%. In addition, the agreement states that the consumer will pay 0% interest on the amount of the time deposit that corresponds to the amount of the credit extension(s). The interest that is not paid on the time deposit by the financial institution is not a finance charge (and therefore does not affect the annual percentage rate computation).

4(b) Examples of finance charges.

1. *Relationship to other provisions.* Charges or fees shown as examples of finance charges in § 226.4(b) may be excludable under § 226.4(c), (d), or (e). For example:

- Premiums for credit life insurance, shown as an example of a finance charge under § 226.4(b)(7), may be excluded if the requirements of § 226.4(d)(1) are met.
- Appraisal fees mentioned in § 226.4(b)(4) are excluded for real property or residential mortgage transactions under § 226.4(c)(7).

Paragraph 4(b)(2).

1. *Checking account charges.* The checking or transaction account charges discussed in § 226.4(b)(2) include, for example, the following situations:

- An account with an overdraft line of credit incurs a $4.50 service charge while an account without a credit feature has a $2.50 service charge; the $2.00 difference is a finance charge. If the difference is not related to account activity, however, it may be excludable as a participation fee. (See the commentary to § 226.4(c)(4).)
- A service charge of $5.00 for each item that triggers an overdraft credit line is a finance charge. However, a charge imposed uniformly for any item that overdraws a checking account, regardless of whether the items are paid or returned and whether the account has a credit feature or not, is not a finance charge.

Paragraph 4(b)(3).

1. *Assumption fees.* The assumption fees mentioned in § 226.4(b)(3) are finance charges only when the assumption occurs and the fee is imposed on the new buyer. The assumption fee is a finance charge in the new buyer's transaction.

Paragraph 4(b)(5).

1. *Credit loss insurance.* Common examples of the insurance against credit loss mentioned in § 226.4(b)(5) are mortgage guaranty insurance, holder in due course insurance, and repossession insurance. Such premiums must be included in the finance charge only for the period that the creditor requires the insurance to be maintained.

Paragraphs 4(b) (7) and (8).

1. *Pre-existing insurance policy.* The insurance discussed in § 226.4(b) (7) and (8) does not include an insurance policy (such as a life or an automobile collision insurance policy) that is already owned by the consumer, even if the policy is assigned to or otherwise made payable to the creditor to satisfy an insurance requirement. Such a policy is not "written in connection with" the transaction, as long as the insurance was not purchased for use in that credit extension, since it was previously owned by the consumer.

2. *Insurance written after consummation.* In closed-end credit transactions, insurance sold after consummation is not "written in connection with" the credit transaction if the insurance is written because of the consumer's default (for example, by failing to obtain or maintain required property insurance) or because the consumer requests insurance after consummation (although credit sale disclosures may be required for the insurance if it is financed).

3. *Substitution of life insurance.* The premium for a life insurance policy purchased and assigned to satisfy a credit life insurance requirement must be included in the finance charge, but only to the extent of the cost of the credit life insurance if purchased from the creditor or the actual cost of the policy (if that is less than the cost of the insurance available from the creditor). If the creditor does not offer the required insurance, the premium to be included in the finance charge is the cost of a policy of insurance of the type, amount, and term required by the creditor.

4. *Other insurance.* Fees for required insurance not of the types described in § 226.4(b) (7) and (8) are finance charges and are not excludable. For example:

- The premium for a hospitalization insurance policy, if it is required to be purchased only in a credit transaction, is a finance charge.

Paragraph 4(b)(9).

1. *Discounts for payment by other than credit.* The discounts to induce payment by other than credit mentioned in § 226.4(b)(9) include, for example, the following situation:

- The seller of land offers individual tracts for $10,000 each. If the purchaser pays cash, the price is $9,000, but if the purchaser finances the tract with the seller the price is $10,000. The $1,000 difference is a finance charge for those who buy the tracts on credit.

2. *Exception for cash discounts.* Discounts offered to induce consumers to pay for property or services by cash, check, or other means not involving the use of either an open-end credit plan or a credit card (whether open-end or closed-end credit is extended on the card) may be excluded from the finance charge under § 167(b) of the act (as amended by Pub. L. 97-25, July 27, 1981). The discount may be in whatever amount the seller desires, either as a percentage of the regular price (as defined in § 103(z) of the act, as amended) or a dollar amount. This provision applies only to transactions involving an open-end credit plan or a credit card. The merchant must offer the discount to prospective buyers whether or not they are cardholders or members of the open-end credit plan. The merchant may, however, make other distinctions. For example:

- The merchant may limit the discount to payment by cash, and not offer it for payment by check or by use of a debit card.
- The merchant may establish a discount plan that allows a 15% discount for payment by cash, a 10% discount for payment by check, and a 5% discount for payment by a

particular credit card. None of these discounts is a finance charge.

Section 171(c) of the act excludes § 167(b) discounts from treatment as a finance charge or other charge for credit under any state usury or disclosure laws.

4(c) Charges excluded from the finance charge.

Paragraph 4(c)(1).

1. *Application fees.* An application fee that is excluded from the finance charge is a charge to recover the costs associated with processing applications for credit. The fee may cover the costs of services such as credit reports, credit investigations, and appraisals. The creditor is free to impose the fee in only certain of its loan programs, such as mortgage loans, However, if the fee is to be excluded from the finance charge under § 226.4(c)(1), it must be charged to all applicants, not just to applicants who are approved or who actually receive credit.

Paragraph 4(c)(2).

1. *Late payment charges.* Late payment charges can be excluded from the finance charge under § 226.4(c)(2) whether or not the person imposing the charge continues to extend credit on the account or continues to provide property or services to the consumer. In determining whether a charge is for actual unanticipated late payment on a 30-day account, for example, factors to be considered include:

- The terms of the account. For example, is the consumer required by the account terms to pay the account balance in full each month? If not, the charge may be a finance charge.
- The practices of the creditor in handling the accounts. For example, regardless of the terms of the account, does the creditor allow consumers to pay the accounts over a period of time without demanding payment in full or taking other action to collect? If no effort is made to collect the full amount due, the charge may be a finance charge.

Section 226.4(c)(2) applies to late payment charges imposed for failure to make payments as agreed, as well a failure to pay an account in full when due.

2. *Other excluded charges.* Charges for "delinquency, default, or a similar occurrence" include, for example, charges for reinstatement of credit privileges or for summitting as payment a check that is later returned unpaid.

Paragraph 4(c)(3).

1. *Assessing interest on an overdraft balance.* A charge on an overdraft balance computed by applying a rate of interest to the amount of the overdraft is not a finance charge, even though the consumer agrees to the charge in the account agreement, unless the financial institution agrees in writting that it will pay such items.

Paragraph 4(c)(4).

1. *Participation fees.* The participation fees mentioned in § 226.4(c)(4) do not necessarily have to be formal membership fees, nor are they limited to credit card plans. The provision applies to any credit plan in which payment of a fee is a condition of access to the plan itself, but it does not apply to fees imposed separately on individual closed-end transactions. The fee may be charged on a monthly or other periodic basis as well as annually; however, minimum monthly charges or other charges based on current account activity are not excluded from the finance charge by § 226.4(c)(4). (See the commentary to § 226.4(b)(2).)

Paragraph 4(c)(5).

1. *Seller's points.* The seller's points mentioned in § 226.4(c)(5) include any charges imposed by the creditor upon the non-creditor seller of property for providing credit to the buyer or for providing credit on certain terms. These charges are excluded from the finance charge even if they are passed on to the buyer, for example, in the form of a higher sales price. Seller's points are frequently involved in real estate transactions guaranteed or insured by governmental agencies. A "commitment fee" paid by a non-creditor seller (such as a real estate developer) to the creditor should be treated as seller's points. Buyer's points (that is, points charged to the buyer by the creditor), however, are finance charges.

Paragraph 4(c)(6).

1. *Lost interest.* Certain federal and state laws mandate a percentage differential between the interest rate paid on a deposit and the rate charged on a loan secured by that deposit. In some situations because of usury limits the creditor must reduce the interest rate paid on the deposit and, as a result, the consumer loses some of the interest that would otherwise have been earned. Under § 226.4(c)(6), such "lost interest" need not be included in the finance charge. This rule applies only to an interest reduction imposed because a rate differential is required by law and a usury limit precludes compliance by any other means. If the creditor imposes a differential that exceeds that required, only the lost interest attributable to the excess amount is a finance charge. (See the commentary to §226.4(a).)

Paragraph 4(c)(7).

1. *Real estate or residential mortgage transaction charges.* The list of charges in § 226.4(c)(7) applies both to residential mortgage transactions (which may include, for example, the purchase of a mobile home) and to other transactions secured by real estate. The fees are excluded from the finance charge even if the services for which the fees are imposed are performed by the creditor's employees rather than by a third party. In addition, credit report fees include not only the cost of the report itself, but also the cost of verifying information in the report. In all cases, the charges must be bona fide and reasonable. If a Lump sum is charged for several services and includes a charge that is not excludable (for example, a charge for a lawyer's attending the closing), a portion of the total should be allocated to that service and included in the finance charge.

4(d) Insurance.

1. *General.* Section 226.4(d) permits insurance premiums and charges to be excluded from the finance charge. The required disclosures must be made in writing. The rules on location of insurance disclosures for closed-end transactions are in § 226.17(a).

2. *Timing of disclosures.* If disclosures are given early, for example under § 226.17(f) or § 226.19(a), the creditor need not redisclose if the actual premium is different at the time of consummation. If insurance disclosures are not given at the time of early disclosure and insurance is in fact written in connection with the transaction, the disclosures under § 226.4(d) must be made in order to exclude the premiums from the finance charge.

3. *Premium rate increases.* The creditor should disclose the premium amount based on the rates currently in effect and need not designate it as an estimate even if the premium rates may increase. An increase in insurance rates after consummation of a closed-end credit transaction or during the life of an open-end credit plan does not require redisclosure in order to exclude the additional premium from treatment as a finance charge.

4. *Unit-cost disclosures.* One of the transactions for which unit-cost disclosures (such as 50 cents per year for each $100 of the amount financed) may be used in place of the total insurance premium involves a particular kind of insurance plan. For example, a consumer with a current indebtedness of $8,000 is covered by a plan of credit life insurance coverage with a maximum of $10,000. The consumer requests an additional $4,000 loan to be covered by the same insurance plan. Since the $4,000 loan exceeds, in part, the

maximum amount of indebtedness that can be covered by the plan, the creditor may properly give the insurance cost disclosures on the $4,000 loan on a unit-cost basis.

5. *Required credit life insurance.* Credit life, accident, health, or loss-of-income insurance must be voluntary in order for the premiums or charges to be excluded from the finance charge. Whether the insurance is in fact required or optional is a factual question. If the insurance is required, the premiums must be included in the finance charge, whether the insurance is purchased from the creditor or from a third party. If the only option the creditor gives the consumer is to purchase credit life insurance from the creditor or to assign an existing life insurance policy, and the consumer purchases the credit life insurance, the premium must be included in the finance charge. (If the consumer assigns a pre-existing policy instead, no premium is included in the finance charge. See the commentary to § 226.4(b)(7) and (8).)

6. *Other types of voluntary insurance.* Insurance is not credit life, accident, health, or loss-of-income insurance if the creditor or the credit account of the consumer is not the beneficiary of the insurance coverage. If such insurance is not required by the creditor as an incident to or a condition of credit, it is not covered by § 226.4.

7. *Signatures.* If the creditor offers a number of insurance options under § 226.4(d), the creditor may provide a means for the consumer to sign or initial for each option, or it may provide for a single authorizing signature or initial with the options selected designated by some other means, such as a check mark. The insurance authorization may be signed or initialed by any consumer, as defined in § 226.2(a)(11), or by an authorized user on a credit card account.

8. *Property insurance.* To exclude property insurance premiums or charges from the finance charge, the creditor must allow the consumer to choose the insurer and disclose that fact. This disclosure must be made whether or not the property insurance is available from or through the creditor. The requirement that an option be given does not require that the insurance be readily available from other sources. The premium or charge must be disclosed only if the consumer elects to purchase the insurance from the creditor; in such a case, the creditor must also disclose the term of the property insurance coverage if it is less than the term of the obligation.

9. *Single interest insurance.* Blanket and specific single interest coverage are treated the same for purposes of the regulation. A charge for either type of single interest insurance may be excluded from the finance charge if:

- The insurer waives any right of subrogation.
- The other requirements of § 226.4(d)(2) are met. This includes, of course, giving the consumer the option of obtaining the insurance from a person of the consumer's choice. The creditor need not ascertain whether the consumer is able to purchase the insurance from someone else.

10. *Single interest insurance defined.* The term "single interest insurance" as used in the regulation refers only to the types of coverage traditionally included in the term "vendor's single interest insurance" (or "VSI"), that is, protection of tangible property against normal property damage, concealment, confiscation, conversion, embezzlement, and skip. Some comprehensive insurance policies may include a variety of additional coverages, such as repossession insurance and holder in due course insurance. These types of coverage do not constitute single interest insurance for purposes of the regulation, and premiums for them do not qualify for exclusion from the finance charge under § 226.4(d). If a policy that is primarily VSI also provides coverages that are not VSI or other property insurance, a portion of the premiums must be allocated to the non-excludable coverages and included in the finance charge.

4(e) Certain security interest charges.

1. *Examples.* Examples of charges excludable from the finance charge under § 226.4(e)(1) include:

- Charges for filing or recording security agreements, mortgages, continuation statements, termination statements, and similar documents.
- Stamps evidencing payment of taxes on property if the stamps are required to file a security agreement on the property.

Only sums actually paid to public officials are excludable under § 226.4(e)(1).

2. *Itemization.* The various charges described in § 226.4(e)(1) may be totaled and disclosed as an aggregate sum, or they may be itemized by the specific fees and taxes imposed. If an aggregate sum is disclosed, a general term such as security interest fees or "filing fees" may be used.

3. *Notary fees.* In order for a notary fee to be excluded under § 226.4(e)(1), all of the following conditions must be met:

- The document to be notarized is one used to perfect, release, or continue a security interest.
- The document is required by law to be notarized.
- A notary is considered a public official under applicable law.
- The amount of the fee is set or authorized by law.

4. *Non-filing insurance.* The exclusion in § 226.4(e)(2) is available only if non-filing insurance is purchased. If the creditor collects and simply retains a fee as a sort of "self-insurance" against non-filing it may not be excluded from the finance charge. If the non-filing insurance premium exceeds the amount of the fees excludable from the finance charge under § 226.4(e)(1), only the excess is a finance charge. For example:

- The fee for perfecting a security interest is $5.00 and the fee for releasing the security interest is $3.00. The creditor charges $10.00 for non-filing insurance. Only $8.00 of the $10.00 is excludable from the finance charge.

4(f) Prohibited offsets.

1. *Earnings on deposits or investments.* The rule that the creditor shall not deduct any earnings by the consumer or deposits or investments applies whether or not the creditor has a security interest in the property.

References

Statute: §§ 106, 167, and 171(c).
Other sections: §§ 226.9(d) and 226.12.
Previous regulation: § 226.4 and Interpretations §§ 226.401 through 226.407.

1981 changes: While generally continuing the rules under the previous regulation, § 226.4 reflects amendments to § 106 of the act and makes certain other changes in the rules for determining the finance charge. For example, § 226.4(a) expressly excludes from the finance charge amounts payable in comparable cash transactions. Section 226.8(o) of the previous regulation, dealing with discounts for prompt payment of a credit sale, was deleted in the revised regulation since the general test for a finance charge now focuses on a comparison of cash and credit transactions. With respect to various exclusions from the finance charge: application fees imposed on all applicants are no longer finance charges; continuing to extend credit to a consumer is no longer a controlling test for determining whether a late payment charge is bona fide; seller's points are not to be included in the finance charge; and the special exclusions for real estate transactions apply to all "residential mortgage transactions."

The simplified rules for excluding insurance from the finance charge allow unit-cost disclosure in certain closed-end credit transactions; permit initials as well as signatures on the authorization; permit any consumer to authorize insurance for other consumers; and delete the requirement that the authorization be separately dated.

Subpart B—Open-End Credit

Section 226.5—General Disclosure Requirements

5(a) Form of disclosures.

Paragraph 5(a)(1).

1. *Clear and conspicuous.* The "clear and conspicuous" standard requires that disclosures be in a reasonably understandable form. It does not require that disclosures be segregated from other material or located in any particular place on the disclosure statement, or that numerical amounts or percentages be in any particular type size. The standard does not prohibit:

- Pluralizing required terminology ("finance charge" and "annual percentage rate").
- Adding to the required disclosures such items as contractual provisions, explanations of contract terms, state disclosures, and translations.
- Sending promotional material with the required disclosures.
- Using commonly accepted or readily understandable abbreviations (such as "mo." for "month" or "Tx." for "Texas") in making any required disclosures.
- Using codes or symbols such as "APR" (for annual percentage rate), "FC" (for finance charge), or "Cr" (for credit balance), so long as a legend or description of the code or symbol is provided on the disclosure statement.

2. *Integrated document.* The creditor may make both the initial disclosures (§ 226.6) and the periodic statement disclosures (§ 226.7) on more than one page, and use both the front and the reverse sides, so long as the pages constitute an integrated document. An integrated document would not include disclosure pages provided to the consumer at different times or disclosures interspersed on the same page with promotional material. An integrated document would include, for example:

- Multiple pages provided in the same envelope that cover related material and are folded together, numbered consecutively, or clearly labelled to show that they relate to one another.
- A brochure that contains disclosures and explanatory material about a range of services the creditor offers, such as credit, checking account, and electronic fund transfer features.

Paragraph 5(a)(2).

1. *When disclosures must be "more conspicuous."* The terms "finance charge" and "annual percentage rate" must be disclosed more conspicuously when required to be used with a number. For example, on the initial disclosure statement, the annual percentage rate disclosure under § 226.6(a)(2) must be "more conspicuous." The following apply to the "more conspicuous" rule:

- Neither term need be emphasized when used as part of general informational material or in textual descriptions of other terms, although emphasis is permissible in such cases. For example, when the terms appear as part of the explanations required under § 226.6(a) (3) and (4), they may be as conspicuous as the disclosures required under §§ 226.6(a)(2) and 226.7(g).
- The corresponding annual percentage rate under § 226.7(d) may be less conspicuous than the disclosure of the actual annual percentage rate (historical rate) under § 226.7(g) when the two rates differ. This is permitted by footnote 9 to § 226.5(a)(2), which excepts § 226.7(d) disclosures from the "more conspicuous" requirement.

2. *Making disclosures more conspicuous.* In disclosing the terms "finance charge" and "annual percentage rate" more conspicuously, only the words "finance charge" and "annual percentage rate" should be accentuated. For example, if the term "total finance charge" is used, only "finance charge" should be emphasized. The disclosures may be made more conspicuous by, for example:

- Capitalizing the words when other disclosures are printed in lower case.
- Putting them in bold print or a contrasting color.
- Underlining them.
- Setting them off with asterisks.
- Printing them in larger type.

5(b) Time of disclosures.

5(b)(1) Initial disclosures.

1. *Disclosure before the first transaction.* The rule that the initial disclosure statement must be furnished "before the first transaction" requires delivery of the initial disclosure statement before the consumer becomes obligated on the plan (for example, before the consumer makes the first purchase, receives the first advance, or pays a fee under the plan). Delivery of the initial disclosure statement is timely even if a membership fee, advance, or purchase already has been posted to the consumer's account, so long as the consumer may, after receiving the disclosures, reject the plan and have no further obligation beyond returning a credit card or any money or goods.

If the consumer has paid a fee and rejects the plan after receiving the disclosures, the creditor must refund the amount paid and clear the consumer's account. Initial disclosures need not be given before the imposition of an application fee under § 226.4(c)(1).

2. *Reactivation of suspended account.* If an account is temporarily suspended (for example, because the consumer has exceeded a credit limit, or because a credit card is reported lost or stolen) and then is reactivated, no new initial disclosures are required.

3. *Reopening closed account.* If an account has been closed (for example, due to inactivity, cancellation, or expiration) and then is reopened, new initial disclosures are required.

4. *Converting closed-end to open-end credit.* If a closed-end credit transaction is converted to an open-end credit account under a written agreement with the consumer, the initial disclosures under § 226.6 must be given before the consumer becomes obligated on the open-end credit plan. (See the commentary to § 226.17 on converting open-end credit to closed-end credit.)

5(b)(2) Periodic statements.

Paragraph 5(b)(2)(i).

1. *Periodic statements not required.* Periodic statements need not be sent in the following cases:

- If the creditor adjusts an account balance so that at the end of the cycle the balance is less than $1—so long as no finance charge has been imposed on the account for that cycle.
- If a statement was returned as undeliverable. If a new address is provided, however, within a reasonable time before the creditor must send a statement, the creditor must resume sending statements. Receiving the address at least 20 days before the end of a cycle would be a reasonable amount of time to prepare the statement for that cycle. For example, if an address is received 22 days before the end of the June cycle, the creditor must send the periodic statement for the June cycle. (See § 226.13(a)(7).)

2. *Termination of credit privileges.* When an open-end account is terminated without being converted to closed-end credit under a written agreement, the creditor must continue to provide periodic statements to those consumers entitled to receive them under § 226.5(b)(2)((i) (for example, when an open-end credit plan ends and consumers are paying off outstanding balances) and must continue to follow all of the other open-end credit requirements and procedures in Subpart B.

Paragraph 5(b)(2)(ii).

1. *14-day rule.* The 14-day rule for mailing or delivering periodic statements does not apply if charges (for example, transaction or activity charges) are imposed regardless of the timing of a periodic statement. The 14-day rule does apply, for example:

- If current debits retroactively become subject to finance charges when the balance is not paid in full by a specified date.
- If charges other than finance charges will accrue when the consumer does not make timely payments (for example, late payment charges or charges for exceeding a credit limit).

2. *Computer malfunction.* Footnote 10 does not extend to the failure to provide a periodic statement because of computer malfunction.

3. *Calling for periodic statements.* The creditor may permit consumers to call for their periodic statements, but may not require them to do so. If the consumer wishes to pick up the statement and the plan has a free-ride period, the statement must be made available in accordance with the 14-day rule.

5(c) Basis of disclosures and use of estimates.

1. *Legal obligation.* The disclosures should reflect the credit terms to which the parties are legally bound at the time of giving the disclosures.

- The legal obligation is normally determined by applicable state or other law.
- The fact that a contract may later be deemed unenforceable by a court on the basis of equity or other grounds does not, by itself, mean that disclosures based on that contract did not reflect the legal obligation.
- The legal obligation normally is presumed to be contained in the contract that evidences the agreement. But this may be rebutted if another agreement between the parties legally modifies that contract.

2. *Estimates—obtaining information.* Disclosures may be estimated when the exact information is unknown at the time disclosures are made. Information is unknown if it is not reasonably available to the creditor at the time disclosures are made. The "reasonably available" standard requires that the creditor, acting in good faith, exercise due diligence in obtaining information. In using estimates, the creditor is not required to disclose the basis for the estimated figures, but may include such explanations as additional information. The creditor normally may rely on the representations of other parties in obtaining information. For example, the creditor might look to insurance companies for the cost of insurance.

3. *Estimates—redisclosure.* If the creditor makes estimated disclosures, redisclosure is not required for that consumer, even though more accurate information becomes available before the first transaction. For example, in an open-end plan to be secured by real estate, the creditor may estimate the appraisal fees to be charged; such an estimate might reasonably be based on the prevailing market rates for similar appraisals. If the exact appraisal fee is determinable after the estimate is furnished but before the consumer receives the first advance under the plan, no new disclosure is necessary.

5(d) Multiple creditors; multiple consumers.

1. *Multiple creditors.* Under § 226.5(d):

- Creditors must choose which of them will make the disclosures.
- A single, complete set of disclosures must be provided, rather than partial disclosures from several creditors.
- Each creditor in the plan is legally responsible for seeing that the disclosures are provided.
- All disclosures for the open-end credit plan must be given, even if the disclosing creditor would not otherwise have been obligated to make a particular disclosure.
- In some open-end credit programs involving multiple creditors, the consumer has the option (for example, at the end of a billing cycle) to pay creditor A directly or to transfer to creditor B all or part of the amount owing. If the consumer elects the latter option, the consumer no longer is obligated to creditor A for the specific amount(s) transferred. In such a case, creditor A and creditor B may send separate periodic statements that reflect the separate obligations owed to each.

2. *Multiple consumers.* Disclosures may be made to either obligor on a joint account. Disclosure responsibilities are not satisfied by giving disclosures to only a surety or guarantor for a principal obligor or to an authorized user. In rescindable transactions, however, separate disclosures must be given to each consumer who has the right to rescind under § 226.15.

5(e) Effect of subsequent events.

1. *Events causing inaccuracies.* Inaccuracies in disclosures are not violations if attributable to events occurring after disclosures are made. For example, when the consumer fails to fulfill a prior commitment to keep the collateral insured and the creditor then provides the coverage and charges the consumer for it, such a change does not make the original disclosures inaccurate. The creditor may, however, be required to provide a new disclosure(s) under § 226.9(c).

2. *Use of inserts.* When changes in a creditor's plan affect required disclosures, the creditor may use inserts with outdated disclosure forms. Any insert:

- Should clearly refer to the disclosure provision it replaces.
- Need not be physically attached or affixed to the basic disclosure statement.
- May be used only until the supply of outdated forms is exhausted.

References

Statute: Secs. 121 (a) through (c), 122 (a) and (b), 124, 127 (a) and (b), and 163(a).

Other sections: Secs. 226.6, 226.7, and 226.9.

Previous regulation: Secs. 226.6 (a) and (c) through (g), and 226.7 (a) through (c).

1981 changes: Section 226.5 implements amendments to the act and reflects several simplifying changes to the regulation. The use of required terminology, except for "finance charge" and "annual percentage rate," is no longer required. Type size requirements have been deleted. Initial and periodic statement disclosures may be multi-page, so long as they constitute an integrated statement. New rules are provided for the basis of disclosures and for the use of estimates. The rules for credit plans involving multiple creditors or multiple consumers now provide that only one creditor need make the disclosures and that the disclosures need be made to only one primarily liable consumer.

Section 226.6—Initial Disclosure Statement

1. *Consistent terminology.* Language on the initial and periodic disclosure

statements must be close enough in meaning to enable the consumer to relate the 2 sets of disclosures; however, the language need not be identical. For example, in making the disclosure under § 226.6(a)(3), the creditor may refer to the "outstanding balance at the end of the billing cycle," while the disclosure for § 226.7(i) refers to the "ending balance" or "new balance."

6(a) Finance charge.

Paragraph 6(a)(1)

1. *When finance charges accrue.* Creditors may provide a general explanation about finance charges beginning to run and need not disclose a specific date. For example, a disclosure that the consumer has 30 days from the closing date to pay the new balance before finance charges will accrue on the account would describe when finance charges begin to run.

2. *Free-ride periods.* In disclosing whether or not a free-ride period exists, the creditor need not use "free period," "free-ride period," or any other particular descriptive phrase or term. For example, a statement that "the finance charge begins on the date the transaction is posted to your account" adequately discloses that no free-ride period exists. In the same fashion, a statement that "finance charges will be imposed on any new purchases only if they are not paid in full within 25 days after the close of the billing cycle" indicates that a free-ride period exists in the interim.

Paragraph 6(a)(2).

1. *Range of balances.* The range of balances disclosure is inapplicable:

- If only one periodic rate may be applied to the entire account balance.
- If only one periodic rate may be applied to the entire balance for a feature (for example, cash advances), even though the balance for another feature (purchases) may be subject to 2 rates (a 1.5% periodic rate on purchase balances of $0–$500, while balances above $500 are subject to a 1% periodic rate). Of course, the creditor must give a range of balances disclosure for the purchase feature.

2. *Variable rate plan defined.* A variable rate plan contemplates a series of rate changes in accordance with an index that is readily verifiable by the borrower and beyond the control of the lender (for example, the Treasury bill rate). A contract right to increase the rate upon any other contingency, or at the creditor's discretion, would not be a variable rate plan. For example, an open-end credit plan in which the employee receives a lower rate contingent upon employment, with the rate to be increased upon termination of employment, would not be a variable rate plan. Similarly, an open-end credit plan that provides for rate increases voted by the board of directors of a financial institution would not be a variable rate plan.

3. *Variable rate plan—rate(s) in effect.* In disclosing the rate(s) in effect at the time of the initial disclosures (as is required by § 226.6(a)(2)), the creditor may use an insert showing the current rate; may give the rate as of a specified date and then update the disclosure from time to time, for example, each calendar month; or may disclose an estimated rate under § 226.5(c).

4. *Variable rate plan—additional disclosures required.* In addition to disclosing the rates in effect at the time of the initial disclosures, the disclosures under footnote 12 also must be made.

5. *Variable rate plan—index.* The index to be used must be clearly identified; the creditor need not give, however, an explanation of how the index is determined or provide instructions for obtaining it.

6. *Variable rate plan—circumstances for increase.* Circumstances under which the rate(s) may increase include, for example:

- An increase in the Treasury bill rate.
- An increase in the Federal Reserve discount rate.

The creditor must disclose when the increase will take effect; for example,

- "An increase will take effect on the day that the Treasury bill rate increases," or
- "An increase in the Federal Reserve discount rate will take effect on the first day of the creditor's billing cycle."

7. *Variable rate plan—limitations on increase.* In disclosing any limitations on rate increases, limitations such as the maximum increase per year or the maximum increase over the duration of the plan must be disclosed. When there are no limitations, the creditor may, but need not, disclose that fact. Legal limits such as usury or rate ceilings under state or federal statutes or regulations need not be disclosed. Examples of limitations that must be disclosed include:

- "The rate on the plan will not exceed 25% annual percentage rate."
- "Not more than ½% increase in the annual percentage rate per year will occur."

8. *Variable rate plan—effects of increase.* Examples of effects that must be disclosed include:

- Any requirement for additional collateral if the annual percentage rate increases beyond a specified rate.
- Any increase in the scheduled minimum periodic payment amount.

9. *Variable rate plan—change-in-terms notice not required.* No notice of a change in terms is required for a rate increase under a variable rate plan as defined in Comment 6(a)(2)–2.

Paragraph 6(a)(3).

1. *Explanation of balance computation method.* A shorthand phrase such as "previous balance method" does not suffice in explaining the balance computation method. (See Appendix G–1 for model clauses.)

2. *Allocation of payments.* Disclosure about the allocation of payments and other credits is not required. For example, the creditor need not disclose that payments are applied to late charges, overdue balances, and finance charges before being applied to the principal balance; or in a multifeatured plan, that payments are applied first to finance charges, then to purchases, and then to cash advances. (See Comment 7–1 for definition of multifeatured plan.)

Paragraph 6(a)(4).

1. *Finance charges.* In addition to disclosing the periodic rate(s) under § 226.6(a)(2), disclosure is required of any other type of finance charge that may be imposed, such as minimum, fixed, transaction, and activity charges; required insurance; or appraisal or credit report fees (unless excluded from the finance charge under § 226.4(c)(7).)

6(b) Other charges.

1. *General; examples of other charges.* Under § 226.6(b), significant charges related to the plan (that are not finance charges) must also be disclosed. For example:

- Late payment and over-the-credit-limit charges.
- Fees for providing documentary evidence of transactions requested under § 226.13 (billing error resolution).
- Charges imposed in connection with real estate transactions. (See § 226.4(c)(7).)
- Taxes and filing or notary fees excluded from the finance charge under § 226.4(e).
- A tax imposed on the credit transaction by a state or other governmental body, such as a documentary stamp tax on cash advances. (See the commentary to § 226.4(a).)
- Membership or participation fees for a package of services that includes an open-end credit feature, unless the fee is required whether or not the open-end credit feature is included. For example, a

membership fee to join a credit union would not be an "other charge," even if membership is required to apply for credit.

2. *Exclusions.* The following are examples of charges that are not "other charges":

- Fees charged for documentary evidence of transactions for income tax purposes.
- Amounts payable by a consumer for collection activity after default; attorney's fees, whether or not automatically imposed; foreclosure costs; post-judgment interest rates imposed by law; and reinstatement or reissuance fees.
- Premiums for voluntary credit life or disability insurance, or for property insurance, that are not part of the finance charge.
- Application fees under § 226.4(c)(1).
- A monthly service charge for a checking account with overdraft protection that is applied to all checking accounts, whether or not a credit feature is attached.

6(c) Security interests.

1. *General.* Disclosure is not required about the type of security interest, or about the creditor's rights with respect to that collateral. In other words, the creditor need not expand on the term "security interest." Also, since no specified terminology is required, the creditor may designate its interest by using, for example, "pledge," "lien," or "mortgage" (instead of "security interest").

2. *Identification of property.* Identification of the collateral by type is satisfied by stating, for example, "motor vehicle" or "household appliances." The creditor may, at its option, provide a more specific identification (for example, a model and serial number).

3. *Spreader clause.* The fact that collateral for pre-existing credit extensions with the institution is being used to secure the present obligation constitutes a security interest and must be disclosed. (Such security interests may be known as "spreader" or "dragnet" clauses, or as "cross-collateralization" clauses.) A specific identification of that collateral is unnecessary, but a reminder of the interest arising from the prior indebtedness is required. This may be accomplished by using language such as "collateral securing other loans with us may also secure this loan." At the creditor's option, a more specific description of the property involved may be given.

4. *Additional collateral.* If collateral is required when advances reach a certain amount, the creditor should disclose the information available at the time of the initial disclosures. For example, if the creditor knows that a security interest will be taken in household goods if the consumer's balance exceeds $1,000, the creditor should disclose accordingly. If the creditor knows that security will be required if the consumer's balance exceeds $1,000, but the creditor does not know what security will be required, the creditor must disclose on the initial disclosure statement that security will be required if the balance exceeds $1,000, and the creditor must provide a change-in-terms notice under § 226.9(c) at the time the security is taken.

5. *Collateral from third party.* In certain situations, the consumer's obligation may be secured by collateral belonging to a third party. For example, an open-end credit plan may be secured by an interest in property owned by the consumer's parents. In such cases, the security interest is taken in connection with the plan and must be disclosed, even though the property encumbered is owned by someone other than the consumer.

6(d) Statement of billing rights.

See the commentary to Appendix G–3.

References

Statute: Section 127(a).

Other sections: §§ 226.4, 226.5, 226.7, 226.9, 226.14, and Appendix G.

Previous regulation: § 226.7(a) and Interpretation § 226.706.

1981 changes: Section 226.6 implements the amended statute which requires disclosure of the fact that *no* free period exists. Disclosures about the minimum periodic payment and the Comparative Index of Credit Cost have been eliminated. The security interest disclosures have been simplified. "Other charges" no longer include voluntary credit life or disability insurance, required property insurance premiums, default charges, or fees for collection activity. Disclosures for variable rate plans are now required by the regulation, replacing Interpretation § 226.707. The regulation no longer specifies the exact language to be used for the billing rights notice; creditors may use any version "substantially similar" to the one in Appendix G.

Section 226.7—Periodic Statement

1. *Multifeatured plans.* Some plans involve a number of different features, such as purchases, cash advances, or overdraft checking. Groups of transactions subject to different finance charge terms because of the dates on which the transactions took place are treated like different features for purposes of disclosures on the periodic statements. The commentary includes some special rules for multifeatured plans.

7(a) Previous balance.

1. *Credit balances.* If the previous balance is a credit balance, it must be disclosed in such a way so as to inform the consumer that it is a credit balance, rather than a debit balance.

2. *Multifeatured plans.* In a multifeatured plan, the previous balance may be disclosed either as an aggregate balance for the account or as separate balances for each feature (for example, a previous balance for purchases and a previous balance for cash advances). If separate balances are disclosed, a total previous balance is optional.

3. *Accrued finance charges allocated from payments.* Some open-end credit plans provide that the amount of the finance charge that has accrued since the consumer's last payment is directly deducted from each new payment, rather than being separately added to each statement and reflected as an increase in the obligation. In such a plan, the previous balance need not reflect finance charges accrued since the last payment.

7(b) Identification of transactions.

1. *Multifeatured plans.* In identifying transaction under § 226.7(b), transactions may be grouped by feature (such as by disclosing sale transactions separately from cash advance transactions) or may be arranged by date.

7(c) Credits.

1. *Identification—sufficiency.* The creditor need not describe each credit by type (returned merchandise, rebate of finance charge, etc.)—"credit" would suffice—except if the creditor is using the periodic statement to satisfy the billing error correction notice requirement. (See the commentary to § 226.13 (e) and (f).)

2. *Format.* A creditor may list credits relating to credit extensions (payments, rebates, etc.) together with other types of credits (such as deposits to a checking account), as long as the entries are identified so as to inform the consumer which type of credit each entry represents.

3. *Date.* The crediting date need not be identified as "crediting date," unless 2 or more dates are disclosed for a single entry (for example, the posting date and the crediting date).

7(d) Periodic rates.

1. *Disclosure of periodic rates—whether or not actually applied.* Any periodic rate that may be used to compute finance charges (and its corresponding annual percentage rate) must be disclosed whether or not it is

applied during the billing cycle. For example:

- If the consumer's account has both a purchase feature and a cash advance feature, the creditor must disclose the rate for each, even if the consumer only makes purchases on the account during the billing cycle.
- If the rate varies (such as when it is tied to a particular index), the creditor must disclose each rate in effect during the cycle for which the statement was issued.

2. *Disclosure of periodic rates required only if imposition possible.* With regard to the periodic rate disclosure (and its corresponding annual percentage rate), only rates that *could have* been imposed during the billing cycle reflected on the periodic statement need to be disclosed. For example:

- If the creditor is changing rates effective during the next billing cycle (either because it is changing terms or because of a variable rate plan), the rates required to be disclosed under § 226.7(d) are only those in effect during the billing cycle reflected on the periodic statement. For example, if the monthly rate applied during May was 1.5 percent, but the creditor will increase the rate to 1.8 percent effective June 1, 1.5 percent (and its corresponding annual percentage rate) is the only required disclosure under § 226.7(d) for the periodic statement reflecting the May account activity.
- If the consumer has an overdraft line that might later be expanded upon the consumer's request to include secured advances, the rates for the secured advance feature need not be given until such time as the consumer has requested and received access to the additional feature.
- If rates applicable to a particular type of transaction changed after a certain date, and the old rate is only being applied to transactions that took place prior to that date, the creditor need not continue to disclose the old rate for those consumers that have no outstanding balances to which that rate could be applied.

3. *Multiple rates—same transaction.* If two or more periodic rates are applied to the *same* balance for the same type of transaction (for example, if the finance charge consists of a monthly periodic rate of 1.5% applied to the outstanding balance and a required credit life insurance component calculated at .1% per month on the same outstanding balance), the creditor may do either of the following:

- Disclose each periodic rate, the range of balances to which it is applicable, and the corresponding annual percentage rate for each. (For example, 1.5% monthly, 18% annual percentage rate; .1% monthly, 1.2% annual percentage rate.)
- Disclose one composite periodic rate (that is, 1.6% per month) along with the applicable range of balances and corresponding annual percentage rate.

4. *Corresponding annual percentage rate.* In disclosing the annual percentage rate that corresponds to each periodic rate, the creditor may use "corresponding annual percentage rate," "nominal annual percentage rate," "corresponding nominal annual percentage rate," or similar phrases.

5. *Rate same as actual annual percentage rate.* When the corresponding rate is the same as the actual annual percentage rate (historical rate) required to be disclosed (§ 226.7(g)), the creditor need disclose only one annual percentage rate, but must use the phrase "annual percentage rate."

6. *Ranges of balances.* See Comment 6(a)(2)–1.

7(e) Balance on which finance charge computed.

1. *Limitation to periodic rates.* Section 226.7(e) only requires disclosure of the balance(s) to which a periodic rate was applied and does not apply to balances on which other kinds of finance charges (such as transaction charges) were imposed. For example, if a consumer obtains a $1,500 cash advance subject to both a 1% transaction fee and a 1% monthly periodic rate, the creditor need only disclose the balance subject to the monthly rate (which might include portions of earlier cash advances not paid off in previous cycles).

2. *Split rates applied to balance ranges.* If split rates were applied to a balance because different portions of the balance fall within 2 or more balance ranges, the creditor need not separately disclose the portions of the balance subject to such different rates since the range of balances to which the rates apply has been separately disclosed. For example, a creditor could disclose a balance of $700 for purchases even though a monthly periodic rate of 1.5% applied to the first $500, and a monthly periodic rate of 1% to the remainder.

3. *Monthly rate on average daily balance.* If a creditor computes a finance charge on the average daily balance by application of a monthly periodic rate or rates, the balance is adequately disclosed if the statement gives the amount of the average daily balance on which the finance charge was computed, and also states how the balance is determined.

4. *Daily rate on daily balance.* If the finance charge is computed on the balance each day by application of one or more daily periodic rates, the balance on which the finance charge was computed may be disclosed in any of the following ways for each feature:

- If a single daily periodic rate is imposed, the balance to which it is applicable may be stated as:
  - —A balance for each day in the billing cycle.
  - —A balance for each day in the billing cycle on which the balance in the account changes.
  - —The sum of the daily balances during the billing cycle.
  - —The average daily balance during the billing cycle, in which case the creditor shall explain that the average daily balance is or can be multiplied by the number of days in the billing cycle and the periodic rate applied to the product to determine the amount of the finance charge.
- If 2 or more daily periodic rates may be imposed, the balances to which the rates are applicable may be stated as:
  - —A balance for each day in the billing cycle.
  - —A balance for each day in the billing cycle on which the balance in the account changes.
  - —As 2 or more average daily balances, each applicable to the daily periodic rates imposed for the time that those rates were in effect, as long as the creditor explains that the finance charge is or may be determined by (1) multiplying each of the average balances by the number of days in the billing cycle (or if the daily rate varied during the cycle, by multiplying by the number of days the applicable rate was in effect), (2) multiplying each of the results by the applicable daily periodic rate, and (3) adding these products together. If the different rates are due to disclosed ranges of balances (see Comment 7(e)–2), the creditor need give only one average daily balance together with the additional information required by this paragraph.

5. *Explanation of balance computation method.* See the commentary to § 226.6(a)(3).

6. *Information to compute balance.* In connection with disclosing the finance

charge balance, the creditor need not give the consumer all of the information necessary to compute the balance if that information is not otherwise required to be disclosed. For example, if current purchases are included from the date they are posted to the account, the posting date need not be disclosed.

7. *Non-deduction of credits.* The creditor need not specifically identify the total dollar amount of credits not deducted in computing the finance charge balance. Disclosure of the amount of credits not deducted is accomplished by listing the credits (§ 226.7(c)) and indicating which credits will not be deducted in determining the balance (for example, "credits after the 15th of the month are not deducted in computing the finance charge.")

8. *Multifeatured plans.* In a multifeatured plan, the balance on which the finance charge was computed must be disclosed for each feature to which a periodic rate was applied. A total balance for the entire plan is optional.

7(f) Amount of finance charge.

1. *Total.* A total finance charge amount for the plan is not required.

2. *Itemization—types of finance charges.* Each type of finance charge (such as periodic rates, transaction charges, and minimum charges) imposed during the cycle must be separately itemized; for example, disclosure of only a combined finance charge attributable to both a minimum charge and transaction charges would not be permissible. Finance charges of the same type may be disclosed, however, individually or as a total. For example, 5 transaction charges of $1 may be listed separately or as $5.

3. *Itemization—different periodic rates.* Whether different periodic rates are applicable to different types of transactions or to different balance ranges, the creditor may give the finance charge attributable to each rate or may give a total finance charge amount. For example, if a creditor charges 1.5% per month on the first $500 of a balance and 1% per month on amounts over $500, the creditor may itemize the two components ($7.50 and $1.00) of the $8.50 charge, or may disclose $8.50.

4. *Multifeatured plans.* In a multifeatured plan, in disclosing the amount of the finance charge attributable to the application of periodic rates no total periodic rate disclosure for the entire plan need be given.

5. *Finance charges not added to account.* A finance charge that is not included in the new balance because it is payable to a third party (such as required life insurance) must still be shown on the periodic statement as a finance charge.

6. *Finance charges other than periodic rates.* See Comment 6(a)(4)–1 for examples.

7. *Accrued finance charges allocated from payments.* Some plans provide that the amount of the finance charge that has accrued since the consumer's last payment is directly deducted from each new payment, rather than being separately added to each statement and therefore reflected as an increase in the obligation. In such a plan, no disclosure is required of finance charges that have accrued since the last payment.

7(g) Annual percentage rate.

1. *Rate same as corresponding annual percentage rate.* See Comment 7(d)–5. Rate that reflects the finance charge imposed during the cycle may be separately stated for each feature. If separate rates are given, a composite annual percentage rate for the entire plan is optional.

7(h) Other charges.

1. *Identification.* In identifying any "other charges" actually imposed during the billing cycle, the type is adequately described as "late charge" or "membership fee," for example. (See Comment 6(b)–1 for examples of "other charges.")

2. *Date.* The date of imposing or debiting "other charges" need not be disclosed.

3. *Total.* Disclosure of the total amount of other charges is optional.

7(i) Closing date of billing cycle; new balance.

1. *Credit balances.* See Comment 7(a)–1.

2. *Multifeatured plans.* In a multifeatured plan, the new balance may be disclosed for each feature or for the plan as a whole. If separate new balances are disclosed, a total new balance is optional.

3. *Accrued finance charges allocated from payments.* Some plans provide that the amount of the finance charge that has accrued since the consumer's last payment is directly deducted from each new payment, rather than being separately added to each statement and therefore reflected as an increase in the obligation. In such a plan, the new balance need not reflect finance charges accrued since the last payment.

7(j) Free-ride period.

1. *Wording.* Although the creditor is required to indicate any time period the consumer may have to pay the balance outstanding without incurring additional finance charges, no specific wording is required, so long as the language used is consistent with that used on the initial disclosure statement. For example, "To avoid additional finance charges, pay the new balance before " would suffice.

7(k) Address for notice of billing errors.

1. *Wording.* The periodic statement must contain the address for consumers to use in asserting billing errors under § 226.13. Since all disclosures must be "clear," the statement should indicate the general purpose for the address, although no elaborate explanation or particular wording is required.

2. *Telephone number.* A telephone number may be included, but the address for billing error inquiries, which is the required disclosure, must be clear and conspicuous. One way to ensure that the address is clear and conspicuous is to include a precautionary instruction that telephoning will not preserve the consumer's billing error rights. Both of the billing rights statements in Appendix G contain such a precautionary instruction, so that a creditor could, by including either of these statements with each periodic statement, ensure that required address is provided in a clear and conspicuous manner.

References

Statute: section 127(b).

Previous regulation: § 226.7(b)(1) and Interpretation §§ 226.701, 226.703, 226.706, and 226.707.

Other sections: §§ 226.4 through 226.6, 226.8, 226.14, and Appendix G.

1981 changes: Under § 226.7, required terminology is no longer mandated except for the terms "finance charge" and "annual percentage rate." The requirement in the previous regulation about the location of disclosures has been deleted.

Under the revised § 226.7, disclosure of credits to the account no longer have to indicate the type of credit. A short disclosure for variable rate plans must be included on the periodic statement. Disclosures relating to multifeatured accounts have been clarified.

Section 226.7 now specifically requires a periodic statement disclosure of "other charges" (non-finance charges related to the plan) that are actually imposed during the billing cycle.

Disclosures about minimum charges that might be imposed on the account and about the Comparative Index of Credit Cost have been deleted.

Section 226.8—Identification of Transactions

1. *Application of identification rules.* Section 226.8 deals with the requirement (imposed by § 226.7(b)) for identification of each credit transaction made during the billing cycle. The rules for

identifying transactions on periodic statements vary, depending on whether:

- The transaction involves sale credit (purchases) or nonsale credit (cash advances, for example).
- An actual copy of the credit document reflecting the transaction accompanies the statement (this is the distinction between so-called "country club" and "descriptive" billing).
- The creditor and seller are the same or related persons.

2. *Sale credit.* The term "sale credit" refers to a purchase in which the consumer uses a credit card or otherwise directly accesses an open-end line of credit (see Comment 8–3 if access is by means of a check) to obtain goods or services from a merchant, whether or not the merchant is the card issuer. "Sale credit" even includes:

- Premiums for voluntary credit life insurance whether sold by the card issuer or another person.
- The purchase of funds-transfer services (such as telegrams) from an intermediary.

3. *Nonsale credit.* The term "nonsale credit" refers to any form of loan credit including, for example:

- Cash advances.
- Overdraft checking.
- The use of a "supplemental credit device" in the form of a check or draft or the use of the overdraft feature of a debit card, even if such use is in connection with a purchase of goods or services.
- Miscellaneous debits to remedy mispostings, returned checks, and similar entries.

4. *Actual copy.* An actual copy does not include a recreated document. It includes, for example, a duplicate, carbon, or photographic copy, but does not include a so-called "facsimile draft" in which the required information is typed, printed, or otherwise recreated. If a facsimile draft is used, the creditor must follow the rules that apply when a copy of the credit document is not furnished.

5. *Same or related persons.* The term "same or related persons" refers to, for example:

- Franchised or licensed sellers of a creditor's product or service.
- Sellers who assign or sell open-end sales accounts to a creditor or arrange for such credit under a plan that allows the consumer to use the credit only in transactions with that seller.

A person is not related to the creditor merely because, for example:

- The person and the creditor have an agreement by which the person is authorized to honor the creditor's credit card under the terms specified in the agreement.
- The person and the creditor have a corporate connection, such as subsidiary-parent, if that connection is not obvious from the names they use. For example, if XYZ card issuer owns the ABC hotel, the card issuer and the hotel are not "related."

6. *Transactions resulting from promotional material.* In describing transactions with third-party sellers resulting from promotional material mailed by the creditor, creditors may use the rules either for "related" or for "non-related" sellers and creditors.

8(a) Sale credit.

1. *Date—disclosure of only one date.* If only the required date is disclosed for a transaction, the creditor need not identify it as the "transaction date." If the creditor discloses more than one date (for example, the transaction date and the posting date), the creditor must identify each.

2. *Date—disclosure of month and day only.* The month and day are sufficient disclosure of the date on which the transaction took place, unless the posting of the transaction is delayed so long that the year is needed for a clear disclosure to the consumer.

3. *When transaction takes place.* If the consumer conducts the transaction in person, the date of the transaction is the calendar date on which the consumer made the purchase or order, or secured the advance. For transactions billed to the account on an ongoing basis (other than installments to pay a precomputed amount), the date of the transaction is the date on which the amount is debited to the account. This might include, for example, monthly insurance premiums. For mail or telephone orders, a creditor may disclose as the transaction date either the invoice date, the debiting date, or the date the order was placed by telephone.

4. *Transactions not billed in full.* If sale transactions are not billed in full on any single statement, but are billed periodically in precomputed installments, the first periodic statement reflecting the transaction must show either the full amount of the transaction together with the date the transaction actually took place; *or* the amount of the first installment that was debited to the account together with the date of the transaction or the date on which the first installment was debited to the account. In any event, subsequent periodic statements should reflect each installment due, together with either any other identifying information required by § 226.8(a) (such as the seller's name and address in a three-party situation) or other appropriate identifying information relating the transaction to the first billing. The debiting date for the particular installment, or the date the transaction took place, may be used as the date of the transaction on these subsequent statements.

8(a)(1) Copy of credit document provided.

1. *Format.* The information required by § 226.8(a)(1) may appear either on the copy of the credit document reflecting the transaction or on the periodic statement.

8(a)(2) Copy of credit document not provided—creditor and seller same or related person(s).

1. *Property identification—sufficiency of description.* The "brief identification" provision in § 226.8(a)(2) requires a designation that will enable the consumer to reconcile the periodic statement with the consumer's own records. In determining the sufficiency of the description, the following rules apply:

- While item-by-item descriptions are not necessary, reasonable precision is required. For example, "merchandise," "miscellaneous," "second-hand goods," or "promotional items" would not suffice.
- A reference to a department in a sales establishment that accurately conveys the identification of the types of property or services available in the department is sufficient—for example, "jewelry," "sporting goods."

2. *Property identification—number or symbol.* The "brief identification" may be made by disclosing on the periodic statement a number or symbol that is related to an identification list printed elsewhere on the statement.

3. *Property identification—additional document.* In making the "brief identification" required by § 226.8(a)(2), the creditor may identify the property by describing the transaction on a document accompanying the periodic statement (for example, on a facsimile draft). (See also footnote 17.)

4. *Small creditors.* Under footnote 18, which provides a further identification alternative to a creditor with fewer than 15,000 accounts, the creditor need count only its own accounts and not others serviced by the same data processor or other shared-service provider.

8(a)(3) Copy of credit document not provided—creditor and seller not same or related person(s).

1. *Seller's name.* The requirement contemplates that the seller's name will

appear on the periodic statement in essentially the same form as it appears on transaction documents provided to the consumer at the time of the sale. The seller's name may also be disclosed as, for example:

- A more complete spelling of the name that was alphabetically abbreviated on the receipt or other credit document.
- An alphabetical abbreviation of the name on the periodic statement even if the name appears in a more complete spelling on the receipt or other credit document. Terms that merely indicate the form of a business entity, such as "Inc.," "Co.," or "Ltd.," may always be omitted.

2. *Location of transaction.* The disclosure of the location where the transaction took place generally requires an indication of both the city, and the state or foreign country. If the creditor has multiple stores or branches within that city, the creditor need not identify the specific branch at which the sale occurred.

3. *No fixed location.* When no meaningful address is available because the consumer did not make the purchase at any fixed location of the seller, the creditor:

- May omit the address.
- May provide some other identifying designation, such as "aboard plane," "ABC Airways Flight," "customer's home," "telephone order," or "mail order."

8(b) Nonsale credit.

1. *Date of transaction.* If only one of the required dates is disclosed for a transaction, the creditor need not identify it. If the creditor discloses more than one date (for example, transaction date and debiting date), the creditor must identify each.

2. *Amount of transaction.* If credit is extended under an overdraft checking account plan or by means of a debit card with an overdraft feature, the amount to be disclosed is that of the credit extension, not the face amount of the check or the total amount of the debit/credit transaction.

3. *Amount—disclosure on cumulative basis.* If credit is extended under an overdraft checking account plan or by means of a debit card with an overdraft feature, the creditor may disclose the amount of the credit extensions on a cumulative daily basis, rather than the amount attributable to each check or each use of the debit/credit card.

4. *Identification of transaction type.* The creditor may identify a transaction by describing the type of advance it represents, such as cash advance, loan, overdraft loan, or any readily understandable trade name for the credit program.

References

Statute: § 127(b)(2).
Previous regulation: § 226.7(k).
Other sections: §§ 226.7.
1981 changes: Section 226.8 has been streamlined and reorganized to facilitate its use. Technical detail has been deleted from the regulation for inclusion in the commentary. The regulation implements the amended § 127(b)(2) of the act by providing for protection from civil liability under certain circumstances when required information is not provided and by reducing disclosure responsibilities for certain small creditors. For descriptive billing of nonsale transactions, the regulation now permits the use of the debiting date in all cases.

Section 226.9—Subsequent Disclosure Requirements

9(a) Furnishing statement of billing rights.

9(a)(1) Annual statement.

1. *General.* The creditor may provide the annual billing rights statement:

- By sending it in one billing period per year to each consumer that gets a periodic statement for that period; or
- By sending a copy to all of its account holders sometime during the calendar year but not necessarily all in one billing period (for example, sending the annual notice in connection with renewal cards or when imposing annual membership fees).

2. *Substantially similar.* See the commentary to Appendix G–3.

9(a)(2) Alternative summary statement.

1. *Changing from long-form to short-form statement and vice versa.* If the creditor has been sending the long-form annual statement, and subsequently decides to use the alternative summary statement, the first summary statement must be sent no later than 12 months after the last long-form statement was sent. Conversely, if the creditor wants to switch to the long-form, the first long-form statement must be sent no later than 12 months after the last summary statement.

2. *Substantially similar.* See the commentary to Appendix G–4.

9(b) Disclosures for supplemental credit devices and additional features.

1. *Credit device—examples.* "Credit device" includes, for example, a blank check, payee-designated check, blank draft or order, or authorization form for issuance of a check; it does not include a check issued payable to a consumer representing loan proceeds or the disbursement of a cash advance.

2. *Credit feature—examples.* A new credit "feature" would include, for example:

- The addition of overdraft checking to an existing account (although the regular checks that could trigger the overdraft feature are not themselves "devices").
- The option to use an existing credit card to secure cash advances, when previously the card could only be used for purchases.

Paragraph 9(b)(1).

1. *Same finance charge terms.* If the new means of accessing the account is subject to the same finance charge terms as those previously disclosed, the creditor:

- Need only provide a reminder that the new device or feature is covered by the earlier disclosures. (For example, in mailing special checks that directly access the credit line, the creditor might give a disclosure such as "Use this as you would your XYZ card to obtain a cash advance from our bank"); or
- May remake the § 226.6(a) finance charge disclosures.

Paragraph 9(b)(2).

1. *Different finance charge terms.* If the finance charge terms are different from those previously disclosed, the creditor may satisfy the requirement to give the finance charge terms either by giving a complete set of new initial disclosures reflecting the terms of the added device or feature or by giving only the finance charge disclosures for the added device or feature.

9(c) Change in terms.

1. *"Changes" initially disclosed.* No notice of a change in terms need be given if the specific change is set forth initially, such as rate increases under a properly disclosed variable rate plan; a rate increase that occurs when an employee has been under a preferential rate agreement and terminates employment; or an increase that occurs when the consumer has been under an agreement to maintain a certain balance in a savings account in order to keep a particular rate and the account balance falls below the specified minimum. In contrast, notice must be given if the contract allows the creditor to increase the rate at its discretion, but does not include specific terms for an increase (for example, when an increase may occur by vote of the board of directors).

2. *State law issues.* Examples of issues not addressed by § 226.9(c) because they are controlled by state or other applicable law include:

- The types of changes a creditor may make.
- How changed terms affect existing balances, such as when a periodic rate is changed and the consumer does not pay off the entire existing balance before the new rate takes effect.

3. *Change in billing cycle.* Whenever the creditor changes the consumer's billing cycle, it must give a change-in-terms notice if the change either affects any of the terms required to be disclosed under § 226.6 or increases the minimum payment, unless an exception under § 226.9(c)(2) applies; for example, the creditor must give advance notice if the creditor initially disclosed a 25-day free-ride period on purchases and the consumer will have fewer days during the billing cycle change.

9(c)(1) Written notice required.

1. *Affected consumers.* Change-in-terms notices need only go to those consumers who may be affected by the change. For example, a change in the periodic rate for check overdraft credit need not be disclosed to consumers who do not have that feature on their accounts.

2. *Timing—effective date of change.* The rule that the notice of the change in terms be provided at least 15 days before the change takes effect permits mid-cycle changes when there is clearly no retroactive effect, such as the imposition of a transaction fee. Any change in the balance computation method, in contrast, would need to be disclosed at least 15 days prior to the billing cycle in which the change is to be implemented.

3. *Timing—advance notice not required.* Advance notice of 15 days is not necessary—that is, a notice of change in terms is required, but it may be sent as late as the effective date of the change—in 2 circumstances:

- If there is an increased periodic rate or any other finance charge attributable to the consumer's delinquency or default.
- If the consumer agrees to the particular change (for example, an agreed-upon addition or substitution of collateral). But the consumer's general acceptance of the creditor's contract reservation of the right to change terms, or the consumer's use of the account (which might imply acceptance of its terms under state law), are not "agreements" between the consumer and the creditor for purposes of § 226.9(c)(1).

4. *Form of change-in-terms notice.* A complete new set of the initial disclosures containing the changed term complies with § 226.9(c) if the change is highlighted in some way on the disclosure statement, or if the disclosure statement is accompanied by a letter or some other insert that indicates or draws attention to the term change.

5. *Security interest change—form of notice.* A copy of the security agreement that describes the collateral securing the consumer's account may be used as the notice, when the term change is the addition of a security interest or the addition or substitution of collateral.

9(c)(2) Notice not required.

1. *Changes not requiring notice.* The following are examples of changes that do not require a change-in-terms notice:

- A change in the consumer's credit limit.
- A change in the name of the credit card or credit card plan.
- The substitution of one insurer for another.
- A termination or suspension of credit privileges.
- Changes arising merely by operation of law; for example, if the creditor's security interest in a consumer's car automatically extends to the proceeds when the consumer sells the car.

2. *Skip features.* If a credit program allows consumers to skip or reduce one or more payments during the year, or involves temporary reductions in finance charges, no notice of the change in terms is required either prior to the reduction or upon resumption of the higher rates if these features are explained on the initial disclosure statement (including an explanation of the terms upon resumption). For example, a merchant may allow consumers to skip the December payment to encourage holiday shopping, or a teacher's credit union may not require payments during summer vacation. Otherwise, the creditor must give notice prior to resuming the original schedule or rate, even though no notice is required prior to the reduction.

9(d) Finance charge imposed at time of transaction.

1. *Ban on credit card surcharges.* 15 U.S.C. 1666f provides that until February 27, 1984, no seller in any sales transaction may impose a surcharge on a cardholder who elects to use a credit card instead of paying by cash, check, or similar means.

References

Statute: Section 127(a)(7).

Other sections: Sections 226.4 through 226.7 and Appendix G.

Previous regulation: Section 226.7 (d) through (f) and (j) and Interpretation §§ 226.705 and 226.708.

1981 changes: Section 226.9(a) implements the statutory change that the long-form statement of billing rights be provided only once a year. The provision now permits two rather than one means of providing the long-form statement to consumers. The verbatim text of the annual statement is no longer required; creditors may use any version "substantially similar" to the one in Appendix G. If the creditor elects to use the alternative summary statement, the new regulation no longer requires that the long-form statement be sent upon receiving a billing error notice and at the consumer's request. The rules in § 226.708 on switching the type of billing rights statement used have been modified.

Under § 226.9(b) disclosure requirements have been streamlined when supplemental credit devices or new credit features are added to an existing open-end plan.

Section 226.9(c) substantially changes the change-in-terms rules. Change-in-terms disclosures must now be made 15 days before the effective date of the change, rather than 15 days before the billing cycle in which the change will take effect. The kinds of changes that will trigger disclosures have been reduced: change-in-terms notices are no longer required for the types of changes described in § 226.9(c)(2). But the provision reverses Interpretation § 226.705, which indicated that certain changes in the balance computation method did not require disclosure because they could result in lowered finance charges; now, any change in the balance computation method requires disclosure.

When a finance charge is imposed at the time of a transaction, § 226.9(d) only requires disclosure of the finance charge at point of sale; the amount financed and annual percentage rate figured in accordance with the closed-end credit provisions need no longer be disclosed. Furthermore, the finance charge disclosure now may be made orally by the person honoring the card.

Section 226.10—Prompt Crediting of Payments

10(a) General rule.

1. *Crediting date.* Section 226.10(a) does not require the creditor to post the payment to the consumer's account on a particular date; the creditor is only required to credit the payment as of the date of receipt.

2. *Date of receipt.* The "date of receipt" is the date that the payment instrument or other means of completing the payment reaches the creditor. For example:

- Payment by check is received when the creditor gets it, not when the

funds are collected.
- In a payroll deduction plan in which funds are deposited to an asset account held by the creditor, and from which payments are made periodically to an open-end credit account, payment is received on the date when it is debited to the asset account (rather than on the date of the deposit), provided the payroll deduction method is voluntary and the consumer retains use of the funds until the contractual payment date.
- If the consumer elects to have payment made by a third-party payor such as a financial institution, through a preauthorized payment or telephone bill-payment arrangement, payment is received when the creditor gets the third-party payor's check or other transfer medium, such as an electronic fund transfer, as long as the payment meets the creditor's requirements as specified under § 226.10(b).

10(b) Specific requirements for payments.

1. *Payment requirements.* The creditor may specify requirements for making payments, such as:
- Requiring that payments be accompanied by the account number of the payment stub.
- Setting a cut-off hour for payment to be received, or set different hours for payment by mail and payments made in person.
- Specifying that only checks or money orders should be sent by mail.
- Specifying that payment is to be made in U.S. dollars.
- Specifying one particular address for receiving payments, such as a post office box.

The creditor may be prohibited, however, from specifying payment by preauthorized electronic fund transfer. (See § 913 of the Electronic Fund Transfer Act.)

2. *Payment requirements—limitations.* Requirements for making payments must be reasonable; it should not be difficult for most consumers to make conforming payments. For example, it would not be reasonable to require that all payments be made in person between 10 a.m. and 11 a.m., since this would require consumers to take time off from their jobs to deliver payments.

3. *Acceptance of non-conforming payments.* If the creditor accepts a non-conforming payment (for example, payment at a branch office, when it had specified that payment be sent to headquarters), finance charges may accrue for the period between receipt and crediting of payments.

4. *Implied guidelines for payments.* In the absence of specified requirements for making payments (see § 226.10(b)):
- Payments may be made at any location where the creditor conducts business.
- Payments may be made any time during the creditor's normal business hours.
- Payments may be made by cash, money order, draft, or other similar instrument in properly negotiable form, or by electronic fund transfer if the creditor and consumer have so agreed.

References

Statute: § 164.
Other sections: § 226.70.
Previous regulation: § 226.7(g).
1981 changes: Much of the explanatory detail of the previous regulation is now in the commentary. The revised regulation gives the creditor 5 days in which to credit non-conforming payments, whereas the previous regulation required the crediting of such payments promptly, with an outside limit of 5 days. The 5 days in which to credit are available whenever the creditor accepts payment that does not conform to the creditor's disclosed specifications, in contrast to the previous regulation, which only allowed deferred crediting for payments made at the wrong location.

Section 226.11—Treatment of Credit Balances

1. *Timing of refund.* The creditor may also fulfill its obligations under § 226.11 by:
- Refunding any credit balance to the consumer immediately.
- Refunding any credit balance prior to receiving a written request (under § 226.11(b)) from the consumer.
- Making a good faith effort to refund any credit balance before 6 months have passed. If that attempt is unsuccessful, the creditor need not try again to refund the credit balance at the end of the 6-month period.

2. *Amount of refund.* The phrase "any part of the credit balance remaining in the account" in § 226.11(b) and (c) means the amount of the credit balance at the time the creditor is required to make the refund. The creditor may take into consideration intervening purchases or other debits to the consumer's account (including those that have not yet been reflected on a periodic statement) that decrease or eliminate the credit balance.

Paragraph 11(b).

1. *Written requests—standing orders.* The creditor is not required to honor standing orders requesting refunds of any credit balance that may be created on the consumer's account.

Paragraph 11(c).

1. *Good faith effort to refund.* The creditor must take positive steps to return any credit balance that has remained in the account for over 6 months. This includes, if necessary, attempts to trace the consumer through the consumer's last known address or telephone number, or both.

2. *Good faith effort unsuccessful.* Section 226.11 imposes no further duties on the creditor if a good faith effort to return the balance is unsuccessful. The ultimate disposition of the credit balance (or any credit balance of $1 or less) is to be determined under other applicable law.

References

Statute: Section 165.
Previous regulation: § 226.7(h).
1981 changes: Under the previous regulation, the creditor's duty to refund credit balances applied only to "excess payments"; § 226.10 of the revised regulation implements the amendments to § 165 of the statute which impose refunding duties on the creditor whatever the source of the credit balance. The revised regulation permits the creditor, in computing the refund, to take account of intervening debits, not just the difference between the previous balance and the overpayment as is provided in the previous regulation. The revised regulation gives the creditor 7 business days in which to make the refund after receiving the consumer's written request, whereas the previous regulation required the creditor to make the refund promptly, with an outside limit of 5 business days. This provision also implements the amended statute by requiring a good faith effort to refund the credit balance after 6 months.

Section 226.12—Special Credit Card Provisions

1. *Scope.* Sections 226.12(a) and (b) deal with the issuance and liability rules for credit cards, whether the card is intended for consumer, business, or any other purposes. Sections 226.12(a) and (b) are exceptions to the general rule that the regulation applies only to consumer credit. (See §§ 226.1 and 226.3.)

12(a) Issuance of credit cards.

Paragraph 12(a)(1).

1. *Explicit request.* A request or application for a card must be explicit. For example, a request for overdraft

privileges on a checking account does not constitute an application for a credit card with overdraft checking features.

2. *Addition of credit features.* If the consumer has a non-credit card, the addition of credit features to the card (for example, the granting of overdraft privileges on a checking account when the consumer already has a check guarantee card) constitutes issuance of a credit card.

3. *Variance of card from request.* The request or application need not correspond exactly to the card that is issued. For example:

- The name of the card requested may be different when issued.
- The card may have features in addition to those reflected in the request or application.

4. *Permissible form of request.* The request or application may be oral (in response to a telephone solicitation by a card issuer, for example) or written.

5. *Time of issuance.* A credit card may be issued in response to a request made before any cards are ready for issuance (for example, if a new program is established), even if there is some delay in issuance.

6. *Persons to whom cards may be issued.* A card issuer may issue a credit card to the person who requests it, and to anyone else for whom that person requests a card and who will be an authorized user on the requester's account. In other words, cards may be sent to consumer A on A's request, and also (on A's request) to consumers B and C, who will be authorized users on A's account. In these circumstances, the following rules apply:

- The additional cards may be imprinted in either A's name or in the names of B and C.
- No liability for unauthorized use (by persons other than B and C), not even the $50, may be imposed on B or C since they are merely users and not "cardholders" as that term is defined in § 226.2 and used in § 226.12(b); of course, liability of up to $50 for unauthorized use of B's and C's cards may be imposed on A.
- Whether B and C may be held liable for their own use, or on the account generally, is a matter of state or other applicable law.

7. *Issuance of non-credit cards.* The issuance of an unsolicited device that is not, but may become, a credit card, is not prohibited provided:

- The device has some substantive purpose other than obtaining credit, such as access to non-credit services offered by the issuer;
- It cannot be used as a credit card when issued; and
- A credit capability will be added only on the recipient's request.

For example, the card issuer could send a check guarantee card on an unsolicited basis, but could not add a credit feature to that card without the consumer's specific request. The re-encoding of a debit card or other existing card that had no credit privileges when issued would be appropriate after the consumer has specifically requested a card with credit privileges. Similarly, the card issuer may add a credit feature, for example, by reprogramming the issuer's computer program or automated teller machines, or by a similar program adjustment.

Paragraph 12(a)(2).

1. *Renewal.* "Renewal" generally contemplates the regular replacement of existing cards because of, for example, security reasons or new technology or systems. It also includes the re-issuance of cards that have been suspended temporarily, but does not include the opening of a new account after a previous account was closed.

2. *Substitution—examples.* "Substitution" encompasses the replacement of one card with another because the underlying account relationship has changed in some way—such as when the card issuer has:

- Changed its name.
- Changed the name of the card.
- Changed the credit or other features available on the account. For example, the original card could be used to make purchases and obtain cash advances at teller windows. The substitute card might be usable, in addition, for obtaining cash advances through automated teller machines. (If the substitute card constitutes an access device, as defined in Regulation E, then the Regulation E issuance rules would have to be followed.)
- Substituted a card user's name on the substitute card for the cardholder's name appearing on the original card.
- Changed the merchant base. However, the new card must be honored by at least one of the persons that honored the original card.

3. *Substitution—successor card issuer.* "Substitution" also occurs when a successor card issuer replaces the original card issuer (for example, when a new card issuer purchases the accounts of the original issuer and issues its own card to replace the original one). A permissible substitution exists even if the original issuer retains the existing receivables and the new card issuer acquires the right only to future receivables, provided use of the original card is cut off when use of the new card becomes possible.

4. *Substitution—non-credit-card plan.* A credit card that replaces a retailer's open-end credit plan *not* involving a credit card is not considered a substitute for the retailer's plan—even if the consumer used the retailer's plan. A credit card cannot be issued in these circumstances without a request or application.

5. *One-for-one rule.* An accepted card may be replaced by no more than one renewal or substitute card. For example, the card issuer may not replace a credit card permitting purchases and cash advances with two cards, one for the purchases and another for the cash advances.

6. *One-for-one rule—exception.* The regulation does not prohibit the card issuer from replacing a debit/credit card with a credit card and another card with only debit functions (or debit functions plus an associated overdraft capability), since the latter card could be issued on an unsolicited basis under Regulation E.

7. *Methods of terminating replaced card.* The card issuer need not physically retrieve the original card, provided the old card is voided in some way; for example:

- The issuer includes with the new card a notification that the existing card is no longer valid and should be destroyed immediately.
- The original card contained an expiration date.
- The card issuer, in order to preclude use of the card, reprograms computers or issues instructions to authorization centers.

8. *Incomplete replacement.* If a consumer has duplicate credit cards on the same account (Card A—one type of bank credit card, for example), the card issuer may not replace the duplicate cards with one Card A and one Card B (Card B—another type of bank credit card) unless the consumer requests Card B.

12(b) Liability of cardholder for unauthorized use.

1. *Meaning of "cardholder."* For purposes of this provision, "cardholder" includes any person (including organizations) to whom a credit card is issued for any purpose, including business. When a corporation is the cardholder, required disclosures should be provided to the corporation (as opposed to an employee user).

12(b)(1) Limitation on amount.

1. *Meaning of "authority."* Footnote 22 defines unauthorized use in terms of whether the user has "actual, implied, or apparent authority." Whether such

authority exists must be determined under state or other applicable law.

2. *Liability limits—dollar amounts.* As a general rule, the cardholder's liability for a series of unauthorized uses cannot exceed either $50 or the value obtained through the unauthorized use before the care issuer is notified, whichever is less.

12(b)(2) Conditions of liability.

1. *Issuer's option not to comply.* A card issuer that chooses not to impose any liability on cardholders for unauthorized use need not comply with the disclosure and identification requirements discussed below.

Paragraph 12(b)(2)(ii).

1. *Disclosure of liability and means of notifying issuer.* The disclosures referred to in § 226.12(b)(2)(ii) may be given, for example, with the initial disclosures under § 226.6, on the credit card itself, or on periodic statements. They may be given at any time preceding the unauthorized use of the card.

Paragraph 12(b)(2)(iii).

1. *Means of identifying cardholder or user.* To fulfill the condition set forth in § 226.12(b)(2)(iii), the issuer must provide some method whereby the cardholder or the authorized user can be identified. This could include, for example, signature, photograph, or fingerprint on the card, or electronic or mechanical confirmation.

2. *Identification by magnetic strip.* Unless a magnetic strip (or similar device not readable without physical aids) must be used in conjunction with a secret code or the like, it would not constitute sufficient means of identification. Sufficient identification also does not exist if a "pool" or group card, issued to a corporation and signed by a corporate agent who will not be a user of the card, is intended to be used by another employee for whom no means of identification is provided.

3. *Transactions not involving card.* The cardholder may not be held liable under § 226.12(b) when the card itself (or some other sufficient means of identification of the cardholder) is not presented. Since the issuer has not provided a means to identify the user under these circumstances, the issuer has not fulfilled one of the conditions for imposing liability. For example, when merchandise is ordered by telephone by a person without authority to do so, using a credit card account number or other number only (which may be widely available), no liability may be imposed on the cardholder.

12(b)(3) Notification to card issuer.

1. *How notice must be provided.* Notice given in a normal business manner—for example, by mail, telephone, or personal visit—is effective even though it is not given to, or does not reach, some particular person within the issuer's organization. Notice also may be effective even though it is not given at the address or phone number disclosed by the card issuer under § 226.12(b)(2)(ii).

2. *Who must provide notice.* Notice of loss, theft, or possible unauthorized use need not be initiated by the cardholder. Notice is sufficient so long as it gives the "pertinent information" which would include the name or card number of the cardholder and an indication that unauthorized use has or may have occurred.

12(b)(5) Business use of credit cards.

1. *Agreement for higher liability for business use cards.* The card issuer may not rely on § 226.12(b)(5) if the business is clearly not in a position to provide 10 or more cards to employees (for example, if the business has only 3 employees). On the other hand, the issuer need not monitor the personnel practices of the business to make sure that it has at least 10 employees at all times.

2. *Unauthorized use by employee.* The protection afforded to an employee against liability for unauthorized use in excess of the limits set in § 226.12(b) applies only to unauthorized use by someone other then the employee. If the employee uses the card in an unauthorized manner, the regulation sets no restriction on the employee's potential liability for such use.

12(c) Right of cardholder to assert claims or defenses against card issuer.

1. *Relationship to § 226.13.* The § 226.12(c) credit card "holder in due course" provision deals with the consumer's right to assert against the card issuer a claim or defense concerning property or services purchased with a credit card, if the merchant has been unwilling to resolve the dispute. Even though certain merchandise disputes, such as non-delivery of goods, may also constitute "billing errors" under § 226.13, that section operates independently of § 226.12(c). The cardholder whose asserted billing error involves undelivered goods may institute the error resolution procedures of § 226.13; but whether or not the cardholder has done so, the cardholder may assert claims or defenses under § 226.12(c). Conversely, the consumer may pay a disputed balance and thus have no further right to assert claims and defenses, but still may assert a billing error if notice of that billing error is given in the proper time and manner. An assertion that a particular transaction resulted from unauthorized use of the card could also be both a "defense" and a billing error.

2. *Claims and defenses assertible.* Section 226.12(c) merely preserves the consumer's right to assert against the card issuer any claims or defenses that can be asserted against the merchant. It does not determine what claims or defenses are valid as to the merchant; this determination must under be made under state or other applicable law.

12(c)(1) General rule.

1. *Situations excluded and included.* The consumer may assert claims or defenses only when the goods or services are "purchased with the credit card." This could include:

- Mail or telephone orders, if the purchase is charged to the credit card account.

But it would exclude:

- Use of a credit card to obtain a cash advance, even if the consumer then uses the money to purchase goods or services. Such a transaction would not involve "property or services purchased with the credit card."
- The purchase of goods or services by use of a check accessing an overdraft account and a credit card used solely for identification of the consumer. (On the other hand, if the credit card is used to make partial payment for the purchase and not merely for identification, the right to assert claims or defenses would apply to credit extended via the credit card, although not to the credit extended on the overdraft line.)
- Purchases made by use of a check guarantee card in conjunction with a cash advance check (or by cash advance checks alone). See footnote 24. A cash advance check is a check that, when written, does not draw on an asset account; instead, it is charged entirely to an open-end credit account.
- Purchases effected by use of either a check guarantee card or a debit card when used to draw on overdraft credit lines (see footnote 24). The debit card exemption applies whether the card accesses an asset account via point-of-sale terminals, automated teller machines, or in any other way, and whether the card qualifies as an "access device" under Regulation E or is only a paper-based debit card. If a card serves both as an ordinary credit card and also as check guarantee or debit card, a transaction will be subject to this rule on asserting claims and

defenses when used as an ordinary credit card, but not when used as a check guarantee or debit card.

12(c)(2) Adverse credit reports prohibited.

1. *Scope of prohibition.* Although an amount in dispute may not be reported as delinquent until the matter is resolved:

- That amount may be reported as disputed.
- Nothing in this provision prohibits the card issuer from undertaking its normal collection activities for delinquent accounts.

12(c)(3) Limitations.

Paragraph 12(c)(3)(i).

1. *Resolution with merchant.* The consumer must have tried to resolve the dispute with the merchant. This does not require any special procedures or correspondence between them, and is a matter for factual determination in each case. The consumer is not required to seek satisfaction from the manufacturer of the goods involved. When the merchant is in bankruptcy proceedings, the consumer is not required to file a claim in those proceedings.

Paragraph 12(c)(3)(ii).

1. *Geographic limitation.* The question of where as transaction occurs (as in the case of mail or telephone orders, for example) is to be determined under state or other applicable law.

2. *Merchant honoring card.* The exceptions (stated in footnote 26) to the amount and geographic limitations do not apply if the merchant merely honors, or indicates through signs or advertising that it honors, a particular credit card.

12(d) Offsets by card issuer prohibited.

Paragraph 12(d)(1).

1. *"Holds" on accounts.* "Freezing" or placing a hold on funds in the cardholder's deposit account is the functional equivalent of an offset and would contravene the prohibition in § 226.12(d)(1), unless done in the context of one of the exceptions specified in § 226.12(d)(2). For example, if the terms of a security agreement permitted the card issuer to place a hold on the funds, the hold would not violate the offset prohibition. Similarly, if an order of a bankruptcy court required the card issuer to turn over deposit account funds to the trustee in bankruptcy, the issuer would not violate the regulation by placing a hold on the funds in order to comply with the court order.

2. *Funds intended as deposits.* If the consumer tenders funds as a deposit (to a checking account, for example), the card issuer may not apply the funds to repay indebtedness on the consumer's credit card account.

3. *Types of indebtedness; overdraft accounts.* The offset prohibition applies to any indebtedness arising from transactions under a credit card plan, including accrued finance charges and other charges on the account. The prohibition also applies to balances arising from transactions not using the credit card itself but taking place under plans that involve credit cards. For example, if the consumer writes a check that accesses an overdraft line of credit, the resulting indebtedness is subject to the offset prohibition since it is incurred through a credit card plan, even though the consumer did not use an associated check guarantee or debit card.

4. *When prohibition applies in case of termination of account.* The offset prohibition applies even after the card issuer terminates the cardholder's credit card privileges, if the indebtedness was incurred prior to termination. If the indebtedness was incurred after termination, the prohibition does not apply.

Paragraph 12(d)(2).

1. *Security interest—limitations.* In order to qualify for the exception stated in § 226.12(d)(2), a security interest must be affirmatively agreed to by the consumer, must be disclosed in the issuer's initial disclosures under § 226.6, and must be obtained and enforced only through procedures equally available to other creditors. For example, the consumer may offer a savings account (as an alternative to other personal property, such as an automobile) as security for credit card indebtedness. Another example of a permissible security interest in deposit account funds would be one granted by the consumer in return for an incentive offered by the issuer (for example, lower rates on the credit card account).

2. *Security interest—after-acquired property.* As used in § 226.12(d), the term "security interest" does not exclude (as it does for other Regulation Z purposes) interests in after-acquired property. Thus, a consensual security interest in deposit-account funds, including funds deposited after the granting of the security interest, would constitute a permissible exception to the prohibition on offsets.

3. *Court order.* If the card issuer obtains a judgment against the cardholder, and if state and other applicable law and the terms of the judgment do not so prohibit, the card issuer may offset the indebtedness against the cardholder's deposit account.

Paragraph 12(d)(3).

1. *Automatic payment plans—scope of exception.* With regard to automatic debit plans under § 226.12(d)(3), the following rules apply:

- The cardholder's authorization must be in writing and signed or initialed by the cardholder.
- The authorizing language need not appear directly above or next to the cardholder's signature or initials, provided it appears on the same document and that it clearly spells out the terms of the automatic debit plan.
- If the cardholder has the option to accept or reject the automatic debit feature (such option may be required under § 913 of the Electronic Fund Transfer Act), the fact that the option exists should be clearly indicated.

2. *Automatic payment plans—additional exceptions.* The following practices are not prohibited by § 226.12(d)(1):

- Automatically deducting charges for participation in a program of banking services (one aspect of which may be a credit card plan).
- Debiting the cardholder's deposit account on the cardholder's *specific* request rather than on an *automatic* periodic basis (for example, a cardholder might check a box on the credit card bill stub, requesting the issuer to debit the cardholder's account to pay that bill).

12(e) Prompt notification of returns and crediting of refunds.

Paragraph 12(e)(1).

1. *Normal channels.* The term "normal channels" refers to any network or interchange system used for the processing of the original charge slips (or equivalent information concerning the transaction).

Paragraph 12(e)(2).

1. *Crediting account.* The card issuer need not actually post the refund to the consumer's account within 3 business days after receiving the credit statement, provided that it credits the account as of a date within that time period.

References

Statute: Secs. 103(1), 132, 133, 135, 162, 166, 167, 169, and 170.

Other sections: § 226.13.

Other regulations: Regulation E (12 CFR 205).

Previous regulation: § 226.13.

1981 changes: The issuance rules in § 226.12(a) make clear that cards may be sent to the person making the request and also to any other person for whom a card is requested, except that no liability for unauthorized use may be imposed on persons who are only authorized users.

The principal differences in § 226.12(b) about conditions of liability are as follows: the requirement that the cardholder be given a postage-paid, preaddressed card or envelope for notification of loss or theft has been deleted (corresponding to an amendment to the act); the required disclosures of maximum liability and of means of notification have been simplified; and the required provision of a means of identification has been changed in that the issuer now may provide a means to identify either the cardholder or the authorized user. Finally, anyone may provide the notification to the card issuer, not just the cardholder.

Section 226.12(d) on offsets clarifies that the offset prohibition does not apply to consensual security interests. The separate promptness standard which used to apply in addition to the 7-business-day and 3-business-day standards has been deleted from § 226.12(e) on prompt notification of returns. Section 226.12(f) now clarifies rules on clearing accounts.

Section 226.12(g), dealing with the relationship of the regulation to Regulation E (Electronic Fund Transfers), has been added.

Section 226.13—Billing Error Resolution

1. *General prohibitions.* Footnote 27 prohibits a creditor from responding to a consumer's billing error allegation by accelerating the debt or closing the account, and reflects protections authorized by § 161(d) of the Truth in Lending Act and § 701 of the Equal Credit Opportunity Act. The footnote also alerts creditors that failure to comply with the error resolution procedures may result in the forfeiture of disputed amounts as prescribed in § 161(e) of the act. (Any failure to comply may also be a violation subject to the liability provisions of § 130 of the act.)

2. *Charges for error resolution.* If a billing error occurred, whether as alleged or in a different amount or manner, the creditor may not impose a charge related to any aspect of the error resolution process (including charges for documentation or investigation) and must credit the consumer's account if such a charge was assessed pending resolution. Since the act grants the consumer error resolution rights, the creditor should avoid any chilling effect on the good faith assertion of errors that might result if charges are assessed when no billing error has occurred.

13(a) Definition of billing error.

1. *Actual, implied, or apparent authority.* Whether use of a credit card or open-end credit plan is authorized is determined by state or other applicable law.

Paragraph 13(a)(3).

1. *Coverage.* Section 226.13(a)(3) covers disputes about goods or services that are "not accepted" or "not delivered . . . as agreed"; for example:

- The appearance on a periodic statement of a purchase, when the consumer refused to take delivery of goods because they did not comply with the contract.
- Delivery of property or services different from that agreed upon.
- Delivery of the wrong quantity.
- Late delivery.
- Delivery to the wrong location.

Section 226.13(a)(3) does not apply to a dispute relating to the quality of property or services that the consumer accepts. Whether acceptance occured is determined by state or other applicable law.

Paragraph 13(a)(5).

1. *Computational errors.* In periodic statements that are combined with other information, the error resolution procedures are triggered only if the consumer asserts a computational billing error in the credit-related portion of the periodic statement. For example:

- If a bank combines a periodic statement reflecting the consumer's credit card transactions with the consumer's monthly checking statement, a computational error in the checking account portion of the combined statement is not a billing error.

Paragraph 13(a)(6).

1. *Documentation requests.* A request for documentation such as receipts or sales slips, unaccompanied by an allegation of an error under § 226.13(a) or a request for additional clarification under § 226.13(a)(6), does not trigger the error resolution procedures. For example, a request for documentation merely for purposes such as tax preparation or recordkeeping does not trigger the error resolution procedures.

13(b) Billing error notice.

1. *Withdrawal.* The consumer's withdrawal of a billing error notice may be oral or written.

Paragraph 13(b)(1).

1. *Failure to send periodic statement—timing.* If the creditor has failed to send a periodic statement, the 60-day period runs from the time the statement should have been sent. Once the statement is provided, the consumer has another 60 days to assert any billing errors reflected on it.

2. *Failure to reflect credit—timing.* If the periodic statement fails to reflect a credit to the account, the 60-day period runs from transmittal of the statement on which the credit should have appeared.

3. *Transmittal.* If a consumer has arranged for periodic statements to be held at the financial institution until called for, the statement is "transmitted" when it is first made available to the consumer.

Paragraph 13(b)(2).

1. *Identity of the consumer.* The billing error notice need not specify both the name and the account number if the information supplied enables the creditor to identify the consumer's name and account.

13(c) Time for resolution; general procedures.

1. *Temporary or provisional corrections.* A creditor may temporarily correct the consumer's account in response to a billing error notice, but is not excused from complying with the remaining error resolution procedures within the time limits for resolution.

2. *Correction without investigation.* A creditor may correct a billing error in the manner and amount asserted by the consumer without the investigation or the determination normally required. The creditor must comply, however, with all other applicable provisions. If a creditor follows this procedure, no presumption is created that a billing error occurred.

Paragraph 13(c)(2).

1. *Time for resolution.* The phrase "two complete billing cycles" means 2 actual billing cycles occurring after receipt of the billing error notice, not a measure of time equal to 2 billing cycles. For example, if a creditor on a monthly billing cycle receives a billing error notice mid-cycle, it has the remainder of that cycle plus the next 2 full billing cycles to resolve the error.

13(d) Rules pending resolution.

1. *Disputed amount.* "Disputed amount" is the dollar amount alleged by the consumer to be in error. When the allegation concerns the description or identification of the transaction (such as the date or the seller's name) rather than a dollar amount, the disputed amount is the amount of the transaction or charge that corresponds to the disputed transaction identification. If the consumer alleges a failure to send a periodic statement under § 226.13(a)(7), the disputed amount is the entire balance owing.

13(d)(1) Consumer's right to withhold disputed amount; collection action prohibited.

1. *Prohibited collection actions.* During the error resolution period, the creditor is prohibited from trying to collect the disputed amount from the consumer. Prohibited collection actions

include, for example, instituting court action, taking a lien, or instituting attachment proceedings.

2. Right to withhold payment. The disclosure that payment of any disputed amount is not required pending error resolution need not appear in any specific place on the periodic statement and it need not state the specific amount that the consumer may withhold. The creditor may preprint on its periodic statement forms a statement that payment of any disputed amount is not required pending resolution.

3. *Imposition of additional charges on undisputed amounts.* The consumer's withholding of the disputed amount from the total bill cannot subject the undisputed portion to the imposition of finance or other charges. For example, if on an account with a free-ride period, a consumer disputes a $2 item out of a total bill of $300 and pays $298 within the free-ride period, the consumer would not lose the free-ride as to the undisputed portion, even if the creditor determines later that no billing error occurred.

4. *Automatic payment plans—coverage.* The coverage of this provision is limited to the card issuer's intra-institutional payment plans. It does not apply to:

- Inter-institutional payment plans that permit a cardholder to pay automatically any credit card indebtedness from an asset account not held by the card issuer receiving payment.
- Intra-institutional automatic payment plans offered by financial institutions that are not credit card issuers.

5. *Automatic payment plans—time of notice.* While the card issuer does not have to restore or prevent the debiting of a disputed amount if the billing error notice arrives after the 3-business-day cut-off, the card issuer must, however, prevent the automatic debit of any part of the disputed amount that is still outstanding and unresolved at the time of the next scheduled debit date.

13(d)(2) Adverse credit reports prohibited.

1. *Report of dispute.* Although the creditor must not issue an adverse credit report because the consumer fails to pay the disputed amount or any related charges, the creditor may report that the amount or the account is in dispute. Also, the creditor may report the account as delinquent if undisputed amounts remain unpaid.

2. *"Person."* During the error resolution period, the creditor is prohibited from making an adverse credit report about the disputed amount to any person—including employers, insurance companies, other creditors, and credit bureaus.

3. *Creditor's agent.* Whether an agency relationship exists between a creditor and an issuer of an adverse credit report is determined by state or other applicable law.

13(e) Procedures if billing error occurred as asserted.

1. *Correction of error.* The phrase "as applicable" means that the necessary corrections vary with the type of billing error that occurred. For example, a misidentified transaction (or a transaction that is identified by one of the alternative methods in § 226.8) is cured by properly identifying the transaction and crediting related finance and any other charges imposed. The creditor is not required to cancel the amount of the underlying obligation incurred by the consumer.

2. *Form of correction notice.* The written correction notice may take a variety of forms. It may be sent separately, or it may be included on or with a periodic statement that is mailed within the time for resolution. If the periodic statement is used, the amount of the billing error must be specifically identified.

If a separate billing error correction notice is provided, the accompanying or subsequent periodic statement reflecting the corrected amount may simply identify it as "credit."

13(f) Procedures if different billing error or no billing error occurred.

1. *Different billing error.* Examples of a "different billing error" include:

- Differences in the amount of an error (for example, the customer asserts a $55.00 error but the error was only $53.00).
- Differences in other particulars asserted by the consumer (such as when a consumer asserts that a particular transaction never occurred, but the creditor determines that only the seller's name was disclosed incorrectly).

2. *Form of creditor's explanation.* The written explanation (which also may notify the consumer of corrections to the account) may take a variety of forms. It may be sent separately, or it may be included on or with a periodic statement that is mailed within the time for resolution. If the creditor uses the periodic statement for the explanation and correction(s), the corrections must be specifically identified. If a separate explanation, including the correction notice, is provided, the enclosed or subsequent periodic statement reflecting the corrected amount may simply identify it as a "credit." The explanation may be combined with the creditor's notice to the consumer of amounts still owing, which is required under § 226.13(g)(1), provided it is sent within the time limit for resolution. (See Comment 13(e)–1.)

13(g) Creditor's rights and duties after resolution.

Paragraph 13(g)(1).

1. *Amounts owed by consumer.* Amounts the consumer still owes may include both minimum periodic payments and related finance and other charges that accrued during the resolution period.

2. *Time of notice.* The creditor need not send the notice of amount owed within the time period for resolution, although it is under a duty to send the notice promptly after resolution of the alleged error. If the creditor combines the notice of the amount owed with the explanation required under § 226.13(f)(1), the combined notice must be provided within the time limit for resolution.

Paragraph 13(g)(2).

1. The creditor need not allow any free-ride period disclosed under §§ 226.6(a)(1) and 226.7(j) to pay the amount due under § 226.13(g)(1) if no error occurred and the consumer was not entitled to a free-ride period at the time the consumer asserted the error.

Paragraph 13(g)(3).

1. *Time for payment.* The consumer has a minimum of 10 days to pay (measured from the time the consumer could reasonably be expected to have received notice of the amount owed) before the creditor may issue an adverse credit report; if an initially disclosed free-ride period allows the consumer a longer time in which to pay, the consumer has the benefit of that longer period.

Paragraph 13(g)(4).

1. *Credit reporting.* Under § 226.13(g)(4)(i) and (iii) the creditor's additional credit reporting responsibilities must be accomplished promptly. The creditor need not establish costly procedures to fulfill this requirement. For example, a creditor that reports to a credit bureau on scheduled updates need not transmit corrective information by an unscheduled computer or magnetic tape; it may provide the credit bureau with the correct information by letter or other commercially reasonable means when using the scheduled update would not be "prompt." The creditor is not responsible for ensuring that the credit bureau corrects its information immediately.

2. *Adverse report to credit bureau.* If a creditor made an adverse report to a

credit bureau that disseminated the information to other creditors, the creditor fulfills its § 226.13(g)(4)(ii) obligations by providing the consumer with the name and address of the credit bureau.

13(i) Relation to Electronic Fund Transfer Act and Regulation E.

1. *Coverage.* Credit extended directly from a non-overdraft credit line is governed solely by Regulation Z, even though a combined credit card/access device is used to obtain the extension.

2. *Incidental credit under agreement.* Credit extended incident to an electronic fund transfer under an agreement between the consumer and the financial institution is governed by § 226.13(i), which provides that certain error resolution procedures in both this regulation and Regulation E apply. Incidental credit that is not extended under an agreement between the consumer and the financial institution is governed *solely* by the error resolution procedures in Regulation E. For example:

- Credit inadvertently extended incident to an electronic fund transfer is governed solely by the Regulation E error resolution procedures, if the bank and the consumer do not have an agreement to extend credit when the consumer's account is overdrawn.

2. *Application to debit/credit transactions—examples.* If a consumer withdraws money at an automated teller machine and activates an overdraft credit feature on the checking account:

- An error asserted with respect to the transaction is subject, for error resolution purposes, to the applicable Regulation E provisions (such as timing and notice) for the entire transaction.
- The creditor need not provisionally credit the consumer's account, under § 205.11(c)(2)(i) of Regulation E, for any portion of the unpaid extension of credit.
- The creditor must credit the consumer's account under § 205.11(e) with any finance or other charges incurred as a result of the alleged error.
- The provisions of § 226.13 (d) and (g) apply only to the credit portion of the transaction.

References

Statute: Sections 161 and 162.

Other regulations: Regulation E (12 CFR 205).

Previous regulation: §§ 226.2(j) and (cc), and 226.14.

1981 changes: Section 226.13 reflects several substantive changes from the previous regulation and a complete restructuring of the error resolution provisions. The new organization, for example, arranges the creditor's responsibilities in chronological sequence.

Section 226.13(a)(7) implements amended § 161(b) of the act, and provides that the creditor's failure to send a periodic statement to the consumer's current address is a billing error, unless the creditor received written notice of the address change fewer than 20 days (instead of 10 days) before the end of the billing cycle.

Several provisions regarding the creditor's duties after a billing error is alleged have been revised. The previous regulation immunized a creditor from liability for inadvertently taking collection action or making an adverse credit report within 2 days after receiving a billing error notice; these provisions are deleted from the revised regulation. The revised regulation no longer requires placement "on the face" of the periodic statment of the disclosure about payment of disputed amounts.

The revised regulation changes the rule in the previous regulation that a card issuer must prevent or restore an automatic debit of a disputed amount if it receives a billing error notice within 16 days after transmitting the periodic statement that reflects the alleged error. Under the revised regulation, the card issuer must prevent an automatic debit if it receives a billing error notice up to 3 days before the scheduled payment date (provided that the notice is received within the 60 days for the consumer to assert the error).

Section 226.14—Determination of Annual Percentage Rate

14(a) General rule.

1. *Tolerance.* The tolerance of ⅛ of 1 percentage point above or below the annual percentage rate applies to any required disclosure of the annual percentage rate. The disclosure of the annual percentage rate is required in §§ 226.6, 226.7, 226.9, 226.15, 226.16, and 226.26.

2. *Rounding.* The regulation does not require that the annual percentage rate be calculated to any particular number of decimal places; rounding is permissible within the ⅛ of 1 percent tolerance. For example, an exact annual percentage rate of 14.33333% may be stated as 14.33% or as 14.3%, or even as 14¼%; but it could not be stated as 14.2% or 14%, since each varies by more than the permitted tolerance.

3. *Periodic rates.* No explicit tolerance exists for any periodic rate as such; a disclosed periodic rate may vary from precise accuracy (for example, due to rounding) only to the extent that its annualized equivalent is within the tolerance permitted § 226.14(a). Further, a periodic rate need not be calculated to any particular number of decimal places.

4. *Finance charges.* The regulation does not prohibit creditors from assessing finance charges on balances that include prior, unpaid finance charges; state or other applicable law may do so, however.

14(b) Annual percentage rate for initial disclosures and for advertising purposes.

1. *Corresponding annual percentage rate computation.* For initial disclosures (under § 226.6) and for advertising (under § 226.16), the annual percentage rate is determined by multiplying the periodic rate by the number of periods in the year. This computation reflects the fact that, in such disclosures, the rate (known as the corresponding annual percentage rate) is prospective and does not involve any particular finance charge or periodic balance. This computation also is used to determine any annual percentage rate for oral disclosures under § 226.26(a).

14(c) Annual percentage rate for periodic statements.

1. *General rule.* Section 226.14(c) requires disclosure of the corresponding annual percentage rate for each periodic rate (under § 226.7(d)). It is figured by multiplying each periodic rate by the number of periods per year. This disclosure is like that provided on the initial disclosure statement. The periodic statement also must reflect (under § 226.7(g)) the annualized equivalent of the rate actually applied during a particular cycle (the historical rate); this rate may differ from the corresponding annual percentage rate because of the inclusion of fixed, minimum, or transaction charges. Sections 226.14 (c)(1) through (c)(4) state the computation rules for the historical rate.

2. *Periodic rates.* Section 226.14(c)(1) applies if the only finance charge imposed is due to the application of a periodic rate to a balance. The creditor may compute the annual percentage rate either:

- By multiplying each periodic rate by the number of periods in the year; or
- By the "quotient" methods. This method refers to a composite annual percentage rate when different periodic rates apply to different balances. For example, a particular plan may involve a periodic rate of 1½% on balances up to $500, and 1% on balances over

$500. If, in a given cycle, the consumer has a balance of $800, the finance charge would consist of $7.50 (500×.015) plus $3.00 (300×.01), for a total finance charge of $10.50. The annual percentage rate for this period may be disclosed either as 18% on $500 and 12% on $300, or as 15.75% on a balance of $800 (the quotient of $10.50 divided by $800, multiplied by 12).

3. *Charges not based on periodic rates.* Section 226.14(c)(2) applies if the finance charge imposed includes a charge not due to the application of a periodic rate (other than a charge relating to a specific transaction). For example, if the creditor imposes a minimum $1 finance charge on all balances below $50, and the consumer's balance was $40 in a particular cycle, the creditor would disclose an annual percentage rate of (30% 1/40×12).

4. *No balance.* Footnote 32 to § 226.14(c)(2) would apply not only when minimum charges are imposed on an account with no balance, but also to a plan in which a periodic rate is applied to advances from the date of the transaction. For example, if on May 19 the consumer pays the new balance in full from a statement dated May 1, and has no further transactions reflected on the June 1 statement, that statement would reflect a finance charge with no account balance.

5. *Transaction charges.* Section 226.14(c)(3) transaction charges include, for example:

- A loan fee of $10 imposed on a particular advance.
- A charge of 3% of the amount of each transaction.

The reference to avoiding duplication in the computation requires that the amounts of transactions on which transaction charges were imposed not be included both in the amount of total balances *and* in the "other amounts on which a finance charge was imposed" figure. For further explanation and examples of how to determine the components of this formula, see Appendix F.

6. *Charges related to opening account.* Footnote 33 is applicable to § 226.14(c)(2) and (c)(3). The charges involved here do not relate to a specific transaction or to activity on the account, but relate solely to the opening of the account. Inclusion of these charges in the annual percentage rate calculation results in significant distortions of the annual percentage rate and delivery of a possibly misleading disclosure to consumers. The rule in footnote 33 applies even if the loan fee, points, or similar charges are billed on a subsequent periodic statement or withheld from the proceeds of the first advance on the account.

7. *Classification of charges.* If the finance charge includes a charge not due to the application of a periodic rate, the creditor must determine the proper annual percentage rate computation method according to the type of charge imposed. If the charge is tied to a specific transaction (for example, 3% of the amount of each transaction), then the method in § 226.14(c)(3) must be used. If a fixed or minimum charge is applied, that is, one not tied to any specific transaction, then the formula in § 226.14(c)(2) is appropriate.

8. *Small finance charges.* Section 226.14(c)(4) gives the creditor an alternative to § 226.14(c)(2) and (c)(3) if small (50 cents or less) minimum or fixed fees are involved. For example, while a monthly activity fee of 50 cents on a balance of $20 would produce an annual percentage rate of 30% under the rule in § 226.14(c)(2), the creditor may disclose an annual percentage rate of 18% if the periodic rate generally applicable to all balances is 1½% per month. This option is consistent with the provision in footnote 11 to §§ 226.6 and 226.7 permitting the creditor to disregard the effect of minimum charges in disclosing the ranges of balances to which periodic rates apply.

14(d) Calculations where daily periodic rate applied.

1. *Quotient methods.* Section 226.14(d) addresses use of a daily periodic rate(s) to determine some or all of the finance charge and use of the quotient method to determine the annual percentage rate. Since the quotient formula in § 226.14(c)(1)(ii) does not work when a daily rate is being applied to a series of daily balances, § 226.14(d) gives the creditor 2 alternative ways to figure the annual percentage rate—either of which satisfies the requirement in § 226.7(g).

2. *Daily rate with specific transaction charge.* If the finance charge results from a charge relating to a specific transaction and the application of a daily periodic rate, the calculation method in § 226.14(d)(2) should be used.

References

Statute: Section 107.

Other sections: §§ 226.6, 226.7, 226.9, 226.15, 226.16, and 226.26.

Previous regulation: § 226.5(a) and Interpretation §§ 226.501 and 226.506.

1981 changes: Section 226.14 reflects the statutory amendment permitting a ⅛ of 1 percent tolerance for annual percentage rates. The revised regulation no longer reflects the provision dealing with finance charges imposed on specified ranges or brackets of balances. The revised regulation includes a footnote providing that loan fees, points, or similar charges unrelated to any specific transaction are not figured into the annual percentage rate computation.

Section 226.15—Right of Rescission

1. *Transactions not covered.* Credit extensions that are not subject to the regulation are not covered by § 226.15 even if the customer's principal dwelling is the collateral securing the credit. For this purpose, "credit extensions" also would include the occurrences listed in Comment 15(a)(1)–1. For example, the right of rescission does not apply to the opening of a business-purpose credit line, even though the loan is secured by the customer's principal dwelling.

15(a) Consumer's right to rescind. Paragraph 15(a)(1).

1. *Occurrences subject to right.* Under an open-end credit plan secured by the consumer's principal dwelling, the right of rescission generally arises with each of the following occurrences:

- Opening the account.
- Each credit extension.
- Increasing the credit limit.
- Adding to an existing account a security interest in the consumer's principal dwelling.
- Increasing the dollar amount of the security interest taken in the dwelling to secure the plan. For example, a consumer may open an account with a $10,000 credit limit, $5,000 of which is initially secured by the consumer's principal dwelling. The consumer has the right to rescind at that time and (except as noted in § 226.15(a)(1)(ii)) with each extension on the account. Later, if the creditor decides that it wants the credit line fully secured, and increases the amount of its interest in the consumer's dwelling, the consumer has the right to rescind the increase.

2. *Exceptions.* Although the consumer generally has the right to rescind with each transaction on the account, § 125(e) of the act provides an exception: until March 31, 1985, the creditor need not provide the right to rescind at the time of each credit extension made under an open-end credit plan secured by the consumer's principal dwelling to the extent that the credit extended is in accordance with a previously established credit limit for the plan. The consumer will have the right to rescind each extension made after March 31, 1985, under such a secured open-end credit plan, whether that plan was established before or after that date.

3. *Security interest arising from transaction.* In order for the right of rescission to apply, the security interest must be retained as part of the credit transaction. For example:

- A security interest that is acquired by a contractor who is also extending the credit in the transaction.
- A mechanic's or materialman's lien that is retained by a subcontractor or supplier of a contractor-creditor, even when the latter has waived its own security interest in the consumer's home.

The security interest is not part of the credit transaction, and therefore the transaction is not subject to the right of rescission when, for example:

- A mechanic's or materialman's lien is obtained by a contractor who is not a party to the credit transaction but merely is paid with the proceeds of the consumer's cash advance.
- All security interests that may arise in connection with the credit transaction are validly waived.
- The creditor obtains a lien and completion bond that in effect satisfies all liens against the consumer's principal dwelling as a result of the credit transaction.

Although liens arising by operation of law are not considered security interests for purposes of disclosure under § 226.2, that section specifically includes them in the definition for purposes of the right of rescission. Thus, even though an interest in the consumer's principal dwelling is not a required disclosure under § 226.6(c), it may still give rise to the right of rescission.

4. *Consumer.* To be a consumer within the meaning of § 226.2, that person must at least have an ownership interest in the dwelling that is encumbered by the creditor's security interest, although that person need not be a signatory to the credit agreement. For example, if only one spouse enters into a secured plan, the other spouse is a consumer if the ownership interest of that spouse is subject to the security interest.

5. *Principal dwelling.* A consumer can only have *one* principal dwelling at a time. A vacation or other second home would not be a principal dwelling. A transaction secured by a second home (such as a vacation home) that is not currently being used as the consumer's principal dwelling is not rescindable, even if the consumer intends to reside there in the future. When a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within one year or upon completion of construction, the new dwelling is considered the principal dwelling when it secures the open-end credit line. Dwelling, as defined in § 226.2, includes structures that are classified as personalty under state law. For example, a transaction secured by a mobile home, trailer, or houseboat used as the consumer's principal dwelling may be rescindable.

6. *Special rule for principal dwelling.* When the consumer is acquiring or constructing a new principal dwelling, *any* credit plan or extension secured by the equity in the consumer's current principal dwelling (for example, an advance to be used as a bridge loan) is still subject to the right of rescission.

Paragraph 15(a)(2).

1. *Consumer's exercise of right.* The consumer must exercise the right of rescission in writing, but not necessarily on the notice supplied under § 226.15(b). Whatever the means of sending the notification of rescission—mail, telegram, or other written means—the time period for the creditor's performance under § 226.15(d)(2) does not begin to run until the notification has been received. The creditor may designate an agent to receive the notification so long as the agent's name and address appear on the notice provided to the consumer under § 226.15(b).

Paragraph 15 (a)(3).

1. *Rescission period.* the period within which the consumer may exercise the right to rescind runs for 3 business days from the last of 3 events:

- The occurrence that gives rise to the right of rescission.
- Delivery of *all* material disclosures that are relevant to the plan.
- Delivery to the consumer of the required rescission notice.

For example, an account is opened on Friday, June 1, and the disclosures and notice of the right to rescind were given on Thursday, May 31; the rescission period will expire at midnight of the third business day after June 1—that is, Tuesday June 5. In another example, if the disclosures are given and the account is opened on Friday, June 1, and the rescission notice is given on Monday, June 4, the rescission period expires at midnight of the third business day after June 4—that is Thursday, June 7. The consumer must place the rescission notice in the mail, file it for telegraphic transmission, or deliver it to the creditor's place of business within that period in order to exercise the right.

2. *Material disclosures.* Footnote 36 sets forth the material disclosures that must be provided before the rescission period can begin to run. The creditor must provide sufficient information to satisfy the requirements of § 226.6 for these disclosures. A creditor may satisfy this requirement by giving an initial disclosure statement that complies with the regulation. Failure to give the other required initial disclosures (such as the billing rights statement) does not prevent the running of the rescission period, although that failure may result in civil liability or administrative sanctions.

3. *Material disclosures—variable rate program.* For a variable rate program, the material disclosures also include the disclosures listed in footnote 12 to § 226.6(a)(2): the circumstances under which the rate may increase; the limitations on the increase; and the effect of an increase.

4. *Unexpired right of rescission.* When the creditor has failed to take the action necessary to start the 3-day rescission period running, the right to rescind automatically lapses on the occurrence of the earliest of the following 3 events:

- The expiration of 3 years after the occurrence giving rise to the right of rescission.
- Transfer of all the consumer's interest in the property.
- Sale of the consumer's interest in the property, including a transaction in which the consumer sells the dwelling and takes back legal title through a purchase money note and mortgage.

Transfer of all the consumer's interest includes such transfer as bequests and gifts. A sale or transfer of the property need not be voluntary to terminate the right to rescind. For example, a foreclosure sale would terminate an unexpired right to rescind. As provided in § 125 of the act, the 3-year limit may be extended by an administrative proceeding to enforce the provisions of § 226.15. A partial transfer of the consumer's interest, such as a transfer bestowing co-ownership on a spouse, does not terminate the right of rescission.

Paragraph 15(a)(4).

1. *Joint owners.* When more than one consumer has the right to rescind a transaction, any one of them may exercise that right and cancel the transaction on behalf of all. For example, if both a husband and wife have the right to rescind a transaction, either spouse acting alone may exercise the right and both are bound by the rescission.

15(b) Notice of right to rescind.

1. *Who receives notice.* Each consumer entitled to rescind must be given:

- Two copies of the rescission notice.
- The material disclosures.

In a transaction involving joint owners, both of the whom are entitled to rescind, both must receive the notice of the right to rescind and disclosures. For example, if both spouses are entitled to rescind a transaction, each must receive 2 copies of the rescission notice and one copy of the disclosures.

2. *Format.* The rescission notice may be physically separated from the material disclosures or combined with the material disclosures, so long as the information required to be included on the notice is set forth in a clear and conspicuous manner. See the model notices in Appendix G.

3. *Content.* The notice must include all of the information outlined in § 226.15(b)(1) through (5). The requirement in § 226.15(b) that the transaction or occurrence be identified may be met by providing the date of the transaction or occurrence. The notice may include additional information related to the required information, such as:

- A description of the property subject to the security interest.
- A statement that joint owners may have the right to rescind and that a rescission by one is effective for all.
- The name and address of an agent of the creditor to receive notice of rescission.

4. *Time of providing notice.* The notice required by § 226.15(b) need not be given before the occurrence giving rise to the right of rescission. The creditor may deliver the notice after the occurrence, but the rescission period will not begin to run until the notice is given. For example, if the creditor provides the notice on May 15, but disclosures were given and the credit limit was raised on May 10, the 3-business-day rescission period will run from May 15.

15(c) Delay of creditor's performance.

1. *General rule.* Until the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded, the creditor must not, either directly or through a third party:

- Disburse advances to the consumer.
- Begin performing services for the consumer.
- Deliver materials to the consumer.

2. *Escrow.* The creditor may disburse advances during the rescission period in a valid escrow arrangement. The creditor may not, however, appoint the consumer as "trustee" or "escrow agent" and distribute funds to the consumer in that capacity during the delay period.

3. *Permissible actions.* Section 226.15(c) does not prevent the creditor from taking other steps during the delay, short of beginning actual performance. The creditor may, for example:

- Prepare the cash advance check.
- Perfect the security interest.
- Accrue finance charges during the delay period.

4. *Performance by third party.* The creditor is relieved from liability for failure to delay performance if a third party with no knowledge that the rescission right has been activated provides materials or services, as long as any debt incurred for materials or services obtained by the consumer during the rescission period is not secured by the security interest in the consumer's dwelling. For example, if a consumer uses a bank credit card to purchase materials from a merchant in an amount below the floor limit, the merchant might not contact the card issuer for authorization and therefore would not know that materials should not be provided.

5. *Delay beyond rescission period.* The creditor must wait until it is reasonably satisfied that the consumer has not rescinded. For example, the creditor may satisfy itself by doing one of the following:

- Waiting a reasonable time after expiration of the rescission period to allow for delivery of a mailed notice.
- Obtaining a written statement from the consumer that the right has not been exercised.

When more than one consumer has the right to rescind, the creditor cannot reasonably rely on the assurance of only one consumer, because other consumers may exercise the right.

15(d) Effects of rescission.

Paragraph 15(d)(1).

1. *Termination of security interest.* Any security interest giving rise to the right of rescission becomes void when the consumer exercises the right of rescission. The security interest is automatically negated, regardless of its status and whether or not it was recorded or perfected. Under § 226.15(d)(2), however, the creditor must take any action necessary to reflect the fact that the security interest no longer exists.

2. *Extent of termination.* The creditor's security interest is void to the extent that it is related to the occurrence giving rise to the right of rescission. For example, upon rescission:

- If the consumer's right to rescind is activated by the opening of a plan, any security interest in the principal dwelling is void.
- If the right arises due to an increase in the credit limit, the security interest is void as to the amount of credit extensions over the prior limit, but the security interest in amounts up to the original credit limit is unaffected.
- If the right arises with each individual credit extension, then the interest is void as to that extension, and other extensions are unaffected.

Paragraph 15(d)(2).

1. *Refunds to consumer.* The consumer cannot be required to pay any amount in the form of money or property either to the creditor or to a third party as part of the occurrence subject to the right of rescission. Any amounts of this nature already paid by the consumer must be refunded. "Any amount" includes finance charges already accrued, as well as other charges such as application and commitment fees or fees for a title search or appraisal, whether paid to the creditor, paid directly to a third party, or passed on from the creditor to the third party. It is irrelevant that these amounts may not represent profit to the creditor. For example:

- If the occurrence is the opening of the plan, the creditor must return any membership or application fee paid.
- If the occurrence is the increase in a credit limit or the addition of a security interest, the creditor must return any fee imposed for a new credit report or filing fees.
- If the occurrence is a credit extension, the creditors must return fees such as application, title, and appraisal or survey fees, as well as any finance charges related to the credit extension.

2. *Amounts not refundable to consumer.* Creditors need not return any money given by the consumer to a third party outside of the occurrence, such as costs incurred for a building permit or for a zoning variance. Similarly, the term "any amount" does not apply to money or property given by the creditor to the consumer; those amounts must be tendered by the consumer to the creditor under § 226.15(d)(3).

3. *Reflection of security interest termination.* The creditor must take whatever steps are necessary to indicate that the security interest is terminated. Those steps include the cancellation of documents creating the security interest, and the filing of release or termination statements in the public record. In a transaction involving subcontractors or suppliers that also hold security interests related to the occurrence rescinded by the consumer, the creditor must insure that the termination of their security interests is also reflected. The 20-day period for the creditor's action

refers to the time within which the creditor must begin the process. It does not require all necessary steps to have been completed within that time, but the creditor is responsible for seeing the process through to completion.

Paragraph 15(d)(3).

1. *Property exchange.* Once the creditor has fulfilled its obligation under § 226.15(d)(2), the consumer must tender to the creditor any property or money the creditor has already delivered to the consumer. At the consumer's option, property may be tendered at the location of the property. For example, if fixtures or furniture have been delivered to the consumer's home, the consumer may tender them to the creditor by making them available for pick-up at the home, rather than physically returning them to the creditor's premises. Money already given to the consumer *must* be tendered at the creditor's place of business. For purpose of property exchange, the following additional rules apply:

- A cash advance is considered money for purposes of this section even if the creditor knows what the consumer intends to purchase with the money.
- In a 3-party open-end credit plan (that is, if the creditor and seller are not the same or related persons), extensions by the creditor that are used by the consumer for purchases from third-party sellers are considered to be the same as cash advances for purposes of tendering value to the creditor, even though the transaction is a purchase for other purposes under the regulation. For example, if a consumer exercises the unexpired right to rescind after using a 3-party credit card for one year, the consumer would tender the amount of the purchase price for the items charged to the account, rather than tendering the items themselves to the creditor.

2. *Reasonable value.* If returning the property would be extremely burdensome to the consumer, the consumer may offer the creditor its reasonable value rather than returning the property itself. For example, if building materials have already been incorporated into the consumer's dwelling, the consumer may pay their reasonable value.

Paragraph 15(d)(4).

1. *Modifications.* The procedures outlined in § 226.15(d)(2) and (d)(3) may be modified by a court. For example, when a consumer is in bankruptcy proceedings and prohibited from returning anything to the creditor, or when the equities dictate, a modification might be made.

15(e) Consumer's waiver of right to rescind.

1. *Need for waiver.* To waive the right to rescind, the consumer must have a bona fide personal financial emergency that must be met before the end of the rescission period. The existence of the consumer's waiver will not, of itself, automatically insulate the creditor from liability for failing to provide the right of rescission.

2. *Procedure.* To waive or modify the right to rescind, the consumer must give a written statement that specifically waives or modifies the right, and also includes a brief description of the emergency. Each consumer entitled to rescind must sign the waiver statement. In a transaction involving multiple consumers, such as a husband and wife using their home as collateral, the waiver must bear the signatures of both spouses.

15(f) Exempt transactions.

1. *Residential mortgage transaction.* Although residential mortgage transactions would seldom be made on bona fide open-end credit plans (under which repeated transactions must be reasonably contemplated), an advance on an open-end plan could be for a downpayment for the purchase of a dwelling that would then secure the remainder of the line. In such a case, only the particular advance for the downpayment would be exempt from the rescission right.

2. *State creditors.* Cities and other political subdivisions of states acting as creditors are not exempt from § 226.15.

3. *Spreader clause.* When the creditor holds a mortgage or deed of trust on the consumer's principal dwelling and that mortgage or deed of trust contains a "spreader clause" (also known as a "dragnet" or cross-collateralization clause), subsequent occurrences such as the opening of a plan or individual credit extensions are subject to the right of rescission to the same degree as if the security interest were taken directly to secure the open-end plan, unless the creditor effectively waives its security interest under the spreader clause with respect to the subsequent open-end credit extensions.

References

Statute: Secs. 113, 125, and 130.

Other sections: §§ 226.2 and Appendix G.

Previous regulation: § 226.9.

1981 changes: Section 226.15 reflects the statutory amendments of 1980, providing for a limited right of rescission for a 3-year trial period when individual credit extensions are made in accordance with a previously established credit limit for an open-end credit plan.

The right to rescind applies not only to real property used as the consumer's principal dwelling, but to personal property as well. The regulation provides no specific text or format for the rescission notice.

When a consumer exercises the right to rescind, the creditor now has 20 days to return a consumer's money or property and take the necessary action to terminate the security interest. The creditor has 20 days to take possession of the money or property after the consumer's tender before the consumer may keep it without further obligation.

Under the revised regulation, the waiver provision has been relaxed. The lien status of the mortgage is irrelevant for purposes of the residential mortgage transaction exemption. The exemption for agricultural loans from the right to rescind has been deleted.

Section 226.16—Advertising

1. *Clear and conspicuous standard.* Section 226.16 is subject to the general "clear and conspicuous" standard for Subpart B (see § 226.5(a)(1)) but prescribes no specific rules for the format of the necessary disclosures. The credit terms need not be printed in a certain type size nor need they appear in any particular place in the advertisement.

16(a) Actually available terms.

1. *General rule.* To the extent that an advertisement mentions specific credit terms, it may state only those terms that the creditor is actually prepared to offer. For example, a creditor may not advertise a very low annual percentage rate that will not in fact be available at any time. Section 226.16(a) is not intended to inhibit the promotion of new credit programs, but to bar the advertising of terms that are not and will not be available. For example, a creditor may advertise terms that will be offered for only a limited period, or terms that will become available at a future date.

2. *Specific credit terms.* "Specific credit terms" is not limited to the disclosures required by the regulation but would include any specific components of a credit plan, such as the minimum periodic payment amount or seller's points in a plan secured by real estate.

16(b) Advertisement of terms that require additional disclosures.

1. *Use of positive terms.* An advertisement must state a credit term as a positive number in order to trigger additional disclosures. For example, "no

annual membership fee" would not trigger the additional disclosures required by § 226.16(b).

2. *Implicit terms.* Section 226.16(b) applies even if the triggering term is not stated explicitly, but may be readily determined from the advertisement. For example, a statement that "the equity in your home becomes spendable with an XYZ line of credit" implicitly states that the creditor will take a security interest in the consumer's home.

3. *Membership fees.* A membership fee is not a triggering term nor need it be disclosed under § 226.16(b)(3) if it is required for participation in the plan whether or not an open-end credit feature is attached. (See Comment 6(b)–1.)

4. *Variable rate plans.* An advertisement for a variable rate plan complies with § 226.16(b)(2) if it discloses that "the annual percentage rate may vary" or a similar statement, but the advertisement need not include the information required by footnote 12 to § 226.6(a)(2).

5. *Triggering terms.* The following are examples of terms that trigger additional disclosures:

- "Charge it—it won't be billed to your account until February."
- "Small montly service charge on the remaining balance."
- "12% Annual Percentage Rate."
- "A $15 annual membership fee buys you $2,000 in credit."

16(c) Catalogs and multiple-page advertisements.

1. *Definition.* The multiple-page advertisements to which § 226.16(c) refers are advertisements consisting of a series of sequentially numbered pages—for example, a supplement to a newspaper. A mailing consisting of several separate flyers or pieces of promotional material in a single envelope does not constitute a single multiple-page advertisement for purposes of § 226.16(c).

Paragraph 16(c)(1).

1. *General.* Section 226.16(c)(1) permits creditors to put credit information together in one place in a catalog or multiple-page advertisement. The rule applies only if the catalog or multiple-page advertisement contains one or more of the triggering terms from § 226.16(b).

Paragraph 16(c)(2).

1. *Table or schedule if credit terms depend on outstanding balance.* If the credit terms of a plan vary depending on the amount of the balance outstanding, rather than the amount of any property purchased, a table or schedule complies with § 226.16(c)(2) if it includes the required disclosures for representative balances. For example, a creditor would disclose that a periodic rate of 1.5% is applied to balances of $500 or less, and a 1% rate is applied to balances greater than $500.

References

Statute: Secs. 141 and 143.
Previous regulation: § 226.10 (a) through (c) and Interpretation § 226.1002.
Other sections: §§ 226.2 and 226.6.
1981 changes: Section 226.16 reflects the statutory changes to § 143 of the act which reduce both the number of triggering terms and the additional disclosures required by the use of those terms. Membership or participation fees are included among the additional disclosures required when a triggering term is used. The substance of Interpretation § 226.1002, requiring disclosure of representative amounts of credit in catalogs and multiple-page advertisements, has been incorporated in simplified form in paragraph (c).

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of disclosures.
Paragraph 17(a)(1).

1. *Clear and conspicuous.* This standard requires that disclosures be in a reasonably understandable form. For example, while the regulation requires no mathematical progression or format, the disclosures must be presented in a way that does not obscure the relationship of the terms to each other. In addition, although no minimum type size is mandated, the disclosures must be legible, whether typewritten, handwritten, or printed by computer.

2. *Segregation of disclosures.* The disclosures may be grouped together and segregated from other information in a variety of ways. For example, the disclosures may appear on a separate sheet of paper or may be set off from other information on the contract or other documents:

- By outlining them in a box.
- By bold print dividing lines.
- By a different color background.
- By a different type style.

3. *Location.* The regulation imposes no specific location requirements on the segregated disclosures. For example:

- They may appear on a disclosure statement separate from all other material.
- They may be placed on the same document with the credit contract or other information, so long as they are segregated from that information.
- They may be shown on the front or back of a document.
- They need not begin at the top of a page.
- They may be continued from one page to another.

4. *Content of segregated disclosures.* Footnotes 37 and 38 contain exceptions to the requirement that the disclosures under § 226.18 be segregated from material that is not directly related to those disclosures. Footnote 37 lists the items that may be added to the segregated disclosures, even though not directly related to those disclosures. Footnote 38 lists the items required under § 226.18 that may be deleted from the segregated disclosures and appear elsewhere. Any one or more of these additions or deletions may be combined and appear either together with or separate from the segregated disclosures. The itemization of the amount financed under § 226.18(c), however, must be separate from the other segregated disclosures under § 226.18.

5. *Directly related.* The segregated disclosures may, at the creditor's option, include any information that is directly related to those disclosures. Directly related information includes, for example, the following:

- A description of a grace period after which a late payment charge will be imposed. For example, the disclosure given under § 226.18(l) may state that a late charge will apply to "any payment received more than 15 days after the due date."
- A statement that the transaction is not secured. For example, the creditor may add a category labelled "unsecured" or "not secured" to the security interest disclosures given under § 226.18(m).
- The basis for any estimates used in making disclosures. For example, if the maturity date of a loan depends solely on the occurrence of a future event, the creditor may indicate that the disclosures assume that event will occur at a certain time.
- The conditions under which a demand feature may be exercised. For example, in a loan subject to demand after 5 years, the disclosures may state that the loan will become payable on demand in 5 years.
- When a variable rate feature is disclosed on other documents under footnote 43 to § 226.18(f), a reference to the variable rate feature and/or to other documents on which the variable rate disclosures are made.

- An explanation of the use of pronouns or other references to the parties to the transaction. For example, the disclosures may state, "'You' refers to the customer and 'we' refers to the creditor."
- Instructions to the creditor or its employees on the use of a multiple-purpose form. For example, the disclosures may state, "Check box if applicable."

6. *Multiple-purpose forms.* The creditor may design a disclosure statement that can be used for more than one type of transaction, so long as the required disclosures for individual transactions are clear and conspicuous. (See the commentary to Appendices G and H for a discussion of the treatment of disclosures that do not apply to specific transactions.) Any disclosure listed in § 226.18 (except the itemization of the amount financed under § 226.18(c)) may be included on a standard disclosure statement even though not all of the creditor's transactions include those features. For example, the statement may include:

- The variable rate disclosure under § 226.18(f).
- The demand feature disclosure under § 226.18(i).
- A reference to the possibility of a security interest arising from a spreader clause, under § 226.18(m).
- The assumption policy disclosure under § 226.18(q).
- The required deposit disclosure under § 226.18(r).

Paragraph 17(a)(2).

1. *When disclosures must be more conspicuous.* The following rules apply to the requirement that the terms "annual percentage rate" and "finance charge" be shown more conspicuously:

- The terms must be more conspicuous only in relation to the other required disclosures under § 226.18. For example, when the disclosures are included on the contract document, those 2 terms need not be more conspicuous as compared to the heading on the contract document or information required by state law.
- The terms need not be more conspicuous except as part of the finance charge and annual percentage rate disclosures under § 226.18 (d) and (e), although they may, at the creditor's option, be highlighted wherever used in the required disclosures. For example, the terms may, but need not, be highlighted when used in disclosing a prepayment penalty under § 226.18(k) or a required deposit under § 226.18(r).
- The creditor's identity under § 226.18(a) may, but need not, be more prominently displayed than the finance charge and annual percentage rate.

2. *Making disclosures more conspicuous.* The terms "finance charge" and "annual percentage rate" may be made more conspicuous in any way that highlights them in relation to the other required disclosures. For example, they may be:

- Capitalized when other disclosures are printed in capital and lower case.
- Printed in larger type, bold print or different type face.
- Printed in a contrasting color.
- Underlined.
- Set off with asterisks.

17(b) Time of disclosures.

1. *Consummation.* As a general rule, disclosures must be made before "consummation" of the transaction. The disclosures need not be given by any particular time before consummation, except in certain mortgage transactions under § 226.19. (See the commentary to § 226.2(a)(13) regarding the definition of consummation.)

2. *Converting open-end to closed-end credit.* If an open-end credit account is converted to a closed-end transaction under a written agreement with the consumer, the creditor must provide a set of closed-end credit disclosures before consummation of the closed-end transaction. (See the commentary to § 226.5 regarding conversion of closed-end to open-end credit.)

17(c) Basis of disclosures and use of estimates.

Paragraph 17(c)(1).

1. *Legal obligation.* The disclosures should reflect the credit terms to which the parties are legally bound at the outset of the transaction.

- The legal obligation is normally determined by applicable state or other law, but certain transactions are specifically addressed in this commentary. (See, for example, the discussion of buydown transactions elsewhere in the commentary to § 226.17(c).)
- The fact that a credit contract may later be deemed unenforceable by a court on the basis of equity or other grounds does not, by itself, mean that disclosures based on that contract did not reflect the legal obligation.
- The legal obligation normally is presumed to be contained in the note or contract that evidences the agreement. But this presumption is rebutted if another agreement between the parties legally modifies that note or contract.

2. *Modification of obligation.* If the parties informally agree to a modification of the legal obligation, the modification should not be reflected in the disclosures unless it rises to the level of a change in the terms of the legal obligation. For example:

- If the creditor-employer offers a preferential employee rate, the disclosures should reflect the terms of the legal obligation. (See the commentary to § 226.18(f) for a discussion of whether employee transactions are variable rate transactions.)
- If the contract provides for a certain monthly payment schedule but payments are made on a voluntary payroll deduction plan or an informal principal reduction agreement, the disclosures should reflect the schedule in the contract.
- If the contract provides for regular monthly payments but the creditor informally permits the consumer to defer payments from time to time, for instance, to take account of holiday seasons or seasonal employment, the disclosures should reflect the regular monthly payments.

3. *Third-party buydowns.* In certain transactions, a seller or other third party may pay an amount, either to the creditor or to the consumer, in order to reduce the consumer's payments or buy down the interest rate for all or a portion of the credit term. For example, a consumer and a bank agree to a mortgage with an interest rate of 15% and level payments over 25 years. By a separate agreement, the seller of the property agrees to subsidize the consumer's payments for the first 2 years of the mortgage, giving the consumer an effective rate of 12% for that period.

- If the lower rate is reflected in the credit contract between the consumer and the bank, the disclosures must take the buydown into account. For example, the annual percentage rate must be a composite rate that takes account of both the lower initial rate and the higher subsequent rate, and the payment schedule disclosures must reflect the 2 payment levels. However, the amount paid by the seller would not be specifically reflected in the disclosures given by the bank, since that amount constitutes seller's points and thus is not part of the finance charge.
- If the lower rate is not reflected in the credit contract between the

consumer and the bank and the consumer is legally bound to the 15% rate from the outset, the disclosures given by the bank must not reflect the seller buydown in any way. For example, the annual percentage rate and payment schedule would not take into account the reduction in the interest rate and payment level for the first 2 years resulting from the buydown.

4. *Consumer buydowns.* In certain transactions, the consumer may pay an amount to the creditor to reduce the payments or buy down the interest rate on the transaction. Consumer buydowns must be reflected in the disclosures given for that transaction. To illustrate, in a mortgage transaction, the creditor and consumer agree to a note specifying a 14% interest rate. However, in a separate document, the consumer agrees to pay 4 points to the creditor at consummation, in return for a reduction in the interest rate to 12% for a portion of the mortgage term. In the disclosures given for the mortgage, the creditor must reflect the terms of the buydown agreement. For example:

- The 4 points are prepaid finance charges (even if deposited in an escrow account).
- A composite annual percentage rate must be calculated, taking into account both interest rates, as well as the effect of the prepaid finance charges.
- The payment schedule must reflect the multiple payment levels resulting from the buydown.

5. *Split buydowns.* In certain transactions, a third party (such as a seller) and a consumer both pay an amount to the creditor to reduce the interest rate. The creditor must include the portion paid by the consumer in the finance charge and disclose the corresponding multiple payment levels and composite annual percentage rate. The portion paid by the third party and the corresponding reduction in interest rate, however, should not be reflected in the disclosures unless the lower rate is reflected in the credit contract. (See the discussion on third-party and consumer buydown transactions elsewhere in the commentary to § 226.17(c).)

6. *Wrap-around financing.* Wrap-around transactions, usually loans, involve the creditor's wrapping the outstanding balance on an existing loan and advancing additional funds to the consumer. The pre-existing loan, which is wrapped, may be to the same consumer or to a different consumer. In either case, the consumer makes a single payment to the new creditor, who makes the payments on the pre-existing loan to the original creditor. Wrap-around loans or sales are considered new single-advance transactions, with an amount financed equalling the sum of the new funds advanced by the wrap creditor and the remaining principal owed to the original creditor on the pre-existing loan. In disclosing the itemization of the amount financed, the creditor may use a label such as "the amount that will be paid to creditor X" to describe the remaining principal balance on the pre-existing loan. This approach to Truth in Lending calculations has no effect on calculations required by other statutes, such as state usury laws.

7. *Wrap-around financing with balloon payments.* For wrap-around transactions involving a large final payment of the new funds before the maturity of the pre-existing loan, the amount financed is the sum of the new funds and the remaining principal on the pre-existing loan. The disclosures should be based on the shorter term of the wrap loan, with a large final payment of both the new funds and the total remaining principal on the pre-existing loan (although only the wrap loan will actually be paid off at that time).

8. *Morris Plan transactions.* When a deposit account is created for the sole purpose of accumulating payments and then is applied to satisfy entirely the consumer's obligation in the transaction, each deposit made into the account is considered the same as a payment on a loan for purposes of making disclosures.

9. *Number of transactions.* Creditors have flexibility in handling credit extensions that may be viewed as multiple transactions. For example:

- When a creditor finances the credit sale of a radio and a television on the same day, the creditor may disclose the sales as either 1 or 2 credit sale transactions.
- When a creditor finances a loan along with a credit sale of health insurance, the creditor may disclose in one of several ways: a single credit sale transaction, a single loan transaction, or a loan and a credit sale transaction.
- The separate financing of a downpayment in a credit sale transaction may, but need not, be disclosed as 2 transactions (a credit sale and a separate transaction for the financing of the downpayment).

Paragraph 17(c)(2).

1. *Basis for estimates.* Disclosures may be estimated when the exact information is unknown at the time disclosures are made. Information is unknown if it is not reasonably available to the creditor at the time the disclosures are made. The "reasonably available" standard requires that the creditor, acting in good faith, exercise due diligence in obtaining information. For example, the creditor must at a minimum utilize generally accepted calculation tools, but need not invest in the most sophisticated computer program to make a particular type of calculation. The creditor normally may rely on the representations of other parties in obtaining information. For example, the creditor might look to the consumer for the time of consummation, to insurance companies for the cost of insurance, or to realtors for taxes and escrow fees. The creditor may utilize estimates in making disclosures even though the creditor knows that more precise information will be available by the point of consummation. However, new disclosures may be required under §§ 226.17(f) or 226.19.

2. *Labelling estimates.* Estimates must be designated as such in the segregated disclosures. Even though other disclosures are based on the same assumption on which a specific estimated disclosure was based, the creditor has some flexibility in labelling the estimates. Generally, only the particular disclosure for which the exact information is unknown is labelled as an estimate. However, when several disclosures are affected because of the unknown information, the creditor has the option of labelling either every affected disclosure or only the disclosure primarily affected. For example, when the finance charge is unknown because the date of consummation is unknown, the creditor must label the finance charge as an estimate and may also label as estimates the total of payments and the payment schedule. When many disclosures are estimates, the creditor may use a general statement, such as "all numerical disclosures except the late payment disclosure are estimates," as a method to label those disclosures as estimates.

Paragraph 17(c)(3)

1. *Minor variations.* Section 226.17(c)(3) allows creditors to disregard certain factors in calculating and making disclosures. For example:

- Creditors may ignore the effects of collecting payments in whole cents. Because payments cannot be collected in fractional cents, it is often difficult to amortize exactly an obligation with equal payments; the amount of the last payment may require adjustment to account for the rounding of the other payments to whole cents.
- Creditors may base their disclosures on calculation tools that

assume that all months have an equal number of days, even if their practice is to take account of the variations in months for purposes of collecting interest. For example, a creditor may use a calculation tool based on a 360-day year, when it in fact collects interest by applying a factor of 1/365 of the annual rate to 365 days. This rule does not, however, authorize creditors to ignore, for disclosure purposes, the effects of applying 1/360 of an annual rate to 365 days.

Paragraph 17(c)(4).

1. *Payment schedule irregularities.* When one or more payments in a transaction differ from the others because of a long or short first period, the variations may be ignored in disclosing the payment schedule, finance charge, annual percentage rate, and other terms. For example:

- A 36-month auto loan might be consummated on June 8 with payments due on July 1 and the first of each succeeding month. The creditor may base its calculations on a payment schedule that assumes 36 equal intervals and 36 equal installment payments, even though a precise computation would produce slightly different amounts because of the shorter first period.
- By contrast, in the same example, if the first payment were not scheduled until August 1, the irregular first period would exceed the limits in § 226.17(c)(4); the creditor could not use the special rule and could not ignore the extra days in the first period in calculating its disclosures.

2. *Measuring odd periods.* In determining whether a transaction may take advantage of the rule in § 226.17(c)(4), the creditor must measure the variation against a regular period. For purposes of that rule:

- The first period is the period from the date on which the finance charge begins to be earned to the date of the first payment.
- The term is the period from the date on which the finance charge begins to be earned to the date of the final payment.
- The regular period is the most common interval between payments in the transaction.

In transactions involving regular periods that are monthly, semimonthly or multiples of a month, the length of the irregular and regular periods may be calculated on the basis of either the actual number of days or an assumed 30-day month. In other transactions, the length of the periods is based on the actual number of days.

Paragraph 17(c)(5).

1. *Demand disclosures.* Disclosures for demand obligations are based on an assumed 1-year term, unless an alternate maturity date is stated in the legal obligation. Whether an alternate maturity date is stated in the legal obligation is determined by applicable law. An alternate maturity date is not inferred from an informal principal reduction agreement or a similar understanding between the parties. However, when the note itself specifies a principal reduction schedule (for example, "payable on demand or $2,000 plus interest quarterly"), an alternate maturity is stated and the disclosures must reflect that date.

2. *Future event as maturity date.* An obligation whose maturity date is determined solely by a future event, as for example, a loan payable only on the sale of property, is not a demand obligation. Because no demand feature is contained in the obligation, demand disclosures under § 226.18(i) are inapplicable. The disclosures should be based on the creditor's estimate of the time at which the specified event will occur, and may indicate the basis for the creditor's estimate, as noted in the commentary to § 226.17(a).

3. *Demand after stated period.* Most demand transactions contain a demand feature that may be exercised at any point during the term, but certain transactions convert to demand status only after a fixed period. For example, in states prohibiting due-on-sale clauses, the Federal National Mortgage Association (FNMA) requires mortgages that it purchases to include a call option rider that may be exercised after 7 years. These mortgages are generally written as long-term obligations, but contain a demand feature that may be exercised only within a 30-day period at 7 years. The disclosures for these transactions should be based upon the legally agreed-upon maturity date. Thus, if a mortgage containing the 7-year FNMA call option is written as a 20-year oligation, the disclosures should be based on the 20-year term, with the demand feature disclosed under § 226.18(i).

4. *Balloon mortgages.* Balloon payment mortgages, with payments based on a long-term amortization schedule and a large final payment due after a shorter term, are not demand obligations unless a demand feature is specifically contained in the contract. For example, a mortgage with a term of 5 years and a payment schedule based on 20 years would not be treated as a mortgage with a demand feature, in the absence of any contractual demand provisions. In this type of mortgage, disclosures should be based on the 5-year term.

Paragraph 17(c)(6).

1. *Series of advances.* Section 226.17(c)(6)(i) deals with a series of advances under an agreement to extend credit up to a certain amount. A creditor may treat all of the advances as a single transaction or disclose each advance as a separate transaction. If these advances are treated as 1 transaction and the timing and amounts of advances are unknown, creditors must make disclosures based on estimates, as provided in § 226.17(c)(2). If the advances are disclosed separately, disclosures must be provided before each advance occurs, with the disclosures for the first advance provided by consummation.

2. *Construction loans.* Section 226.17(c)(6)(ii) provides a flexible rule for disclosure of construction loans that may be permanently financed. These transactions have 2 distinct phases, similar to 2 separate transactions. The construction loan may be for initial construction or subsequent construction, such as rehabilitation or remodelling. The construction period usually involves several disbursements of funds at times and in amounts that are unknown at the beginning of that period, with the consumer paying only accrued interest until construction is completed. Unless the obligation is paid at that time, the loan then converts to permanent financing in which the loan amount is amortized just as in a standard mortgage transaction. Section 226.17(c)(6)(ii) permits the creditor to give either one combined disclosure for both the construction financing and the permanent financing, or a separate set of disclosures for the 2 phases. This rule is available whether the consumer is initially obligated to accept construction financing only or is obligated to accept both construction and permanent financing from the outset. If the consumer is obligated on both phases and the creditor chooses to give 2 sets of disclosures, both sets must be given to the consumer initially, because both transactions would be consummated at that time. (Appendix D provides a method of calculating the annual percentage rate and other disclosures for construction loans, which may be used, at the creditor's option, in disclosing construction financing.)

3. *Multiple-advance construction loans.* Section 226.17(c)(6)(i) and (ii) are not mutually exclusive. For example, in a transaction that finances the construction of a dwelling that may be

permanently financed by the same creditor, the construction phase may consist of a series of advances under an agreement to extend credit up to a certain amount. In these cases, the creditor may disclose the construction phase as either 1 or more than 1 transaction and also disclose the permanent financing as a separate transaction.

4. *Residential mortgage transaction.* See the commentary to § 226.2(a)(24) for a discussion of the effect of § 226.17(c)(6) on the definition of a residential mortgage transaction.

5. *Allocation of points.* When a creditor utilizes the special rule in § 226.17(c)(6) to disclose credit extensions as multiple transactions, buyers points or similar amounts imposed on the consumer must be allocated for purposes of calculating disclosures. While such amounts should not be taken into account more than once in making calculations, they may be allocated between the transactions in any manner the creditor chooses. For example, if a construction-permanent loan is subject to 5 points imposed on the consumer and the creditor chooses to disclose the 2 phases separately, the 5 points may be allocated entirely to the construction loan, entirely to the permanent loan, or divided in any manner between the two. However, the entire 5 points may not be applied twice, that is, to both the construction and the permanent phases.

17(d) Multiple creditors; multiple consumers.

1. *Multiple creditors.* If a credit transaction involves more than one creditor:

- The creditors must choose which of them will make the disclosures.
- A single, complete set of disclosures must be provided, rather than partial disclosures from several creditors.
- Each creditor in the transaction is legally responsible for seeing that the disclosures are provided.
- All disclosures for the transaction must be given, even if the disclosing creditor would not otherwise have been obligated to make a particular disclosure. For example, if one of the creditors is the seller, the total sale price disclosure under § 226.18(j) must be made, even though the disclosing creditor is not the seller.

2. *Multiple consumers.* When 2 consumers are joint obligors with primary liability on an obligation, the disclosures may be given to either one of them. If one consumer is merely a surety or guarantor, the disclosures must be given to the principal debtor. In rescindable transactions, however, separate disclosures must be given to each consumer who has the right to rescind under § 226.23.

17(e) Effect of subsequent events.

1. *Events causing inaccuracies.* Inaccuracies in disclosures are not violations if attributable to events occurring after the disclosures are made. For example, when the consumer fails to fulfill a prior commitment to keep the collateral insured and the creditor then provides the coverage and charges the consumer for it, such a change does not make the original disclosures inaccurate. The creditor may, however, be required to make new disclosures under §§ 226.17(f) or 226.19 if the events occurred between disclosure and consummation or under § 226.20 if the events occurred after consummation.

17(f) Early disclosures.

1. *Change in rate.* No redisclosure is required for changes that occur between the time disclosures are made and consummation, unless the annual percentage rate in the consummated transaction exceeds the limits prescribed in § 226.22(a) (⅛ of 1 percentage point in regular transactions and ¼ of 1 percentage point in irregular transactions). To illustrate:

- If disclosures are made in a regular transaction on July 1, the transaction is consummated on July 15, and the actual annual percentage rate varies by more than ⅛ of 1 percentage point from the disclosed annual percentage rate, the creditor must either redisclose the changed terms or furnish a complete set of new disclosures before consummation. Redisclosure is required even if the disclosures made on July 1 are based on estimates and marked as such.

2. *Variable rate.* The addition of a variable rate feature to the credit terms, after early disclosures are given, requires new disclosures.

3. *Content of new disclosures.* If redisclosure is required, the creditor has the option of either providing a complete set of new disclosures, or providing disclosures of only the terms that vary from those originally disclosed. (See the commentary to § 226.19(b).)

4. *Special rules.* In residential mortgage transactions subject to § 226.19, the creditor must redisclose if, between the delivery of the required early disclosures and consummation, the annual percentage rate changes by more than a stated tolerance. When subsequent events occur *after* consummation, new disclosures are required only if there is a refinancing or an assumption within the meaning of § 226.20.

17(g) Mail or telephone orders—delay in disclosures.

1. *Conditions for use.* When the creditor receives a mail or telephone request for credit, the creditor may delay making the disclosures until the first payment is due if the following conditions are met:

- The credit request is initiated without face-to-face or direct telephone solicitation. (Creditors may, however, use the special rule when credit requests are solicited by mail.)
- The creditor has supplied the specified credit information about its credit terms either to the individual consumer or to the public generally. That information may be distributed through advertisements, catalogs, brochures, special mailers, or similar means.

2. *Insurance.* The location requirements for the insurance disclosures under § 226.18(n) permit them to appear apart from the other disclosures. Therefore, a creditor may mail an insurance authorization to the consumer and then prepare the other disclosures to reflect whether or not the authorization is completed by the consumer. Creditors may also disclose the insurance cost on a unit-cost basis, if the transaction meets the requirements of § 226.17(g).

17(h) Series of sales—delay in disclosures.

1. *Applicability.* The creditor may delay the disclosures for individual credit sales in a series of such sales until the first payment is due on the current sale, assuming the 2 conditions in this paragraph are met. If those conditions are not met, the general timing rules in § 266.17(b) apply.

17(i) Interim student credit extensions.

1. *Definition.* Student credit plans involve extensions of credit for education purposes where the repayment amount and schedule are not known at the time credit is advanced. Creditors in interim student credit extensions need not disclose the terms set forth in this paragraph at the time the credit is actually extended, but must make complete disclosures at the time the creditor and consumer agree upon the repayment schedule for the total obligation. At that time, a new set of disclosures must be made of all applicable items under § 226.18.

2. *Basis of disclosures.* The disclosures given at the time of execution of the interim note should

reflect two annual percentage rates, one for the interim period and one for the repayment period. Interest subsidies, such as payments made by either a state or the federal government on an interim loan, must be excluded in computing the annual percentage rate on the interim obligation, when the consumer has no contingent liability for payment of those amounts. A loan guarantee fee that is paid separately by the student at the outset or withheld from the proceeds of the loan is a prepaid finance charge. That sum is deducted from the loan proceeds to determine the amount financed and included in the calculation of the finance charge.

3. *Consolidation.* Consolidation of the interim student credit extensions through a renewal note with a set repayment schedule is treated as a new transaction with disclosures made as they would be for a refinancing. Any unearned portion of the finance charge must be reflected in the new finance charge and annual percentage rate, and is not added to the new amount financed. In itemizing the amount financed under § 226.18(c), the creditor may combine the principal balances remaining on the interim extensions at the time of consolidation and categorize them as the amount paid on the consumer's account.

4. *Origination fee disclosure.* Pub. L. 97–35 (August 13, 1981) amended the Higher Education Act of 1965 to permit lenders to charge up to a 5% origination fee on certain student credit extensions; such as federally-guaranteed student loans. On credit extended before August 1, 1982, creditors are not to take those fees into account in calculating and disclosing the annual percentage rate. The fee must, however, be taken into account for purposes of other calculations and disclosures. To illustrate:

- The origination fee is not deducted in calculating the amount financed that is used to determine the annual percentage rate.
- The origination fee must be deducted as a prepaid finance charge in determining the amount financed that is disclosed under § 226.18(c).
- The origination fee must be disclosed as a prepaid finance charge in the itemization of the amount financed under § 226.18(c).

References

Statute: Sections 121, 122, 124, and 128, and the Higher Education Act of 1965 (20 U.S.C. 1071) as amended by Pub. L. 97–35, August 13, 1981.

Other sections: § 226.2 and Appendix H.

Previous regulation: §§ 226.6 and 226.8.

1981 changes: With few exceptions, the disclosures must now appear apart from all other information, and may not be interspersed with that information. The disclosures must be based on the legal obligation between the parties, rather than any side agreement.

The assumed maturity period for demand loans has been increased from 6 months to 1 year. Any alternate maturity date must be stated in the legal obligation rather than inferred from the documents, in order to form a basis for disclosures.

In multiple-advance transactions, a series of advances up to a certain amount and construction loans that may be permanently financed may be disclosed, at the creditor's option, as either a single transaction or several transactions. Appendix D is applicable only to multiple advances for the construction of a dwelling, whereas its predecessor, Interpretation § 226.813, could be used for all multiple-advance transactions.

If disclosures are made before the date of consummation, the creditor need not provide updated disclosures at consummation unless the annual percentage rate has changed beyond certain limits or a variable rate feature has been added.

Section 226.18—Content of Disclosures

1. *As applicable.* The disclosures required by this section need be made only as applicable. Any disclosure not relevant to a particular transaction may be eliminated entirely. For example:

- In a loan transaction, the creditor may delete disclosure of the total sale price.
- In a credit sale requiring disclosure of the total sale price under § 226.18(j), the creditor may delete any reference to a downpayment where no downpayment is involved.

Where the amounts of several numerical disclosures are the same, the "as applicable" language also permits creditors to combine the terms, so long as it is done in a clear and conspicuous manner. For example:

- In a transaction in which the amount financed equals the total of payments, the creditor may disclose "amount financed/total of payments," together with descriptive language, followed by a single amount.
- However, if the terms are separated on the disclosure statement and separate space is provided for each amount, both disclosures must be completed, even though the same amount is entered in each space.

2. *Format.* See the commentary to § 226.17 and Appendix H for a discussion of the format to be used in making these disclosures, as well as acceptable modifications.

18(a) Creditor.

1. *Identification of creditor.* The creditor making the disclosures must be identified. This disclosure may, at the creditor's option, appear apart from the other disclosures. Use of the creditor's name is sufficient, but the creditor may also include an address and/or telephone number. In transactions with multiple creditors, any one of them may make the disclosures; the one doing so must be identified.

18(b) Amount financed.

1. *Disclosure required.* The net amount of credit extended must be disclosed using the term "amount financed" and a descriptive explanation similar to the phrase in the regulation.

2. *Rebates and loan premiums.* In a loan transaction, the creditor may offer a premium in the form of cash or merchandise to prospective borrowers. Similarly, in a credit sale transaction, a seller's or manufacturer's rebate may be offered to prospective purchasers of the creditor's goods or services. At the creditor's option, these amounts may be either reflected in the Truth in Lending disclosures or disregarded in the disclosures. If the creditor chooses to reflect them in the § 226.18 disclosures, rather than disregard them, they may be taken into account in any manner as part of those disclosures.

Paragraph 18(b)(1).

1. *Downpayments.* A downpayment is defined in § 226.2(a)(18) to include, at the creditor's option, certain deferred downpayments or pick-up payments. A deferred downpayment that meets the criteria set forth in the definition may be treated as part of the downpayment, at the creditor's option.

- Deferred downpayments that are not treated as part of the downpayment (either because they do not meet the definition or because the creditor simply chooses not to treat them as downpayments) are included in the amount financed.
- Deferred downpayments that are treated as part of the downpayment are not part of the amount financed under § 226.18(b)(1).

Paragraph 18(b)(2).

1. *Adding other amounts.* Fees or other charges that are not part of the finance charge and that are financed

rather than paid separately at consummation of the transaction are included in the amount financed. Typical examples are real estate settlement charges and premiums for voluntary credit life and disability insurance excluded from the finance charge under § 226.4. This paragraph does not include any amounts already accounted for under § 226.18(b)(1), such as taxes, tag and title fees, or the costs of accessories or service policies that the creditor includes in the cash price.

Paragraph 18(b)(3).

1. *Prepaid finance charges.* Prepaid finance charges, as defined in § 226.2, must be deducted in calculating the amount financed. Under § 226.2, add-on and discount charges are not considered prepaid finance charges. Other types of finance charges added to the face amount of the note, such as loan fees financed by the creditor, need not be treated as prepaid finance charges. The computational step called for by this paragraph should not duplicate any subtraction accounted for under § 226.18(b)(1). To illustrate:

- A consumer applies for a loan of $2500, subject to simple interest, with a $40 loan fee. The creditor assesses the $40 loan fee by increasing the face amount of the obligation to $2540. If the creditor chooses not to treat the loan fee as a prepaid finance charge, the principal for purposes of § 226.18(b)(1) is $2500 and no amounts are deducted under § 226.18(b)(3). If the creditor chooses to treat the loan fee as a prepaid finance charge, the principal for purposes of § 226.18(b)(1) is $2540 and $40 is deducted under § 226.18(b)(3).

2. *Add-on or discount charges.* All finance charges must be deducted from the amount of credit in calculating the amount financed. If the principal loan amount reflects finance charges that meet the definition of a prepaid finance charge in § 226.2, those charges are included in the § 226.18(b)(1) amount and deducted under § 226.18(b)(3). However, if the principal loan amount includes finance charges that do not meet the definition of a prepaid finance charge, the § 226.18(b)(1) amount must exclude those finance charges. The following examples illustrate the application of § 226.18(b) to these types of transactions. Each example assumes a loan request of $1000 for 1 year, subject to a 6 percent precomputed interest rate, with a $10 loan fee paid separately at consummation.

- The creditor assesses add-on interest of $60 which is added to the $1000 in loan proceeds for an obligation with a face amount of $1060. The principal for purposes of § 226.18(b)(1) is $1000, no amounts are added under § 226.18(b)(2), and the $10 loan fee is a prepaid finance charge to be deducted under § 226.18(b)(3). The amount financed is $990.
- The creditor assesses discount interest of $60 and distributes $940 to the consumer, who is liable for an obligation with a face amount of $1000. The principal under § 226.18(b)(1) is $940, which results in an amount financed of $930, after deduction of the $10 prepaid finance charge under § 226.18(b)(3).
- The creditor assesses $60 in discount interest by increasing the face amount of the obligation to $1060, with the consumer receiving $1000. The principal under § 226.18(b)(1) is thus $1000 and the amount financed $990, after deducting the $10 prepaid finance charge under § 226.18(b)(3).

18(c) Itemization of amount financed.

1. *Disclosure required.* The creditor has 2 alternatives in complying with § 226.18(c):

- The creditor may inform the consumer, on the segregated disclosures, that a written itemization of the amount financed will be provided on request, furnishing the itemization only if the customer in fact requests it.
- The creditor may provide an itemization as a matter of course, without notifying the consumer of the right to receive it or waiting for a request.

Whether given as a matter of course or only on request, the itemization must be provided at the same time as the other disclosures required by § 226.18, although separate from those disclosures.

2. *Additional information.* Section 226.18(c) establishes only a minimum standard for the material to be included in the itemization of the amount financed. Creditors have considerable flexibility in revising or supplementing the information listed in § 226.18(c) and shown in model form H–3, although no changes are required. The creditor may, for example, do one or more of the following:

- Include amounts that reflect payments not part of the amount financed. For example, escrow items and certain insurance premiums may be included, as discussed in the commentary to § 226.18(g).
- Organize the categories in any order. For example, the creditor may rearrange the terms in a mathematical progression that depicts the arithmetic relationship of the terms.
- Add categories. For example, in a credit sale, the creditor may include the cash price and the downpayment.
- Further itemize each category. For example, the amount paid directly to the consumer may be subdivided into the amount given by check and the amount credited to the consumer's savings account.
- Label categories with different language from that shown in § 226.18(c). For example, an amount paid on the consumer's account may be revised to specifically identify the account as "your auto loan with us."
- Delete, leave blank, mark "N/A" or otherwise note inapplicable categories in the itemization. For example, in a credit sale with no prepaid finance charges or amounts paid to others, the amount financed may consist of only the cash price less downpayment. In this case, the itemization may be composed of only a single category and all other categories may be eliminated.

3. *Amounts appropriate to more than one category.* When an amount may appropriately be placed in any of several categories and the creditor does not wish to revise the categories shown in § 226.18(c), the creditor has considerable flexibility in determining where to show the amount. For example:

- In a credit sale, the portion of the purchase price being financed by the creditor may be viewed as either an amount paid to the consumer or an amount paid on the consumer's account.

4. *RESPA transactions.* The Real Estate Settlement Procedures Act (RESPA) requires creditors to provide good faith estimates of closing costs. Transactions subject to RESPA are exempt from the requirements of § 226.18(c), when the creditor complies with the good faith estimates requirement of RESPA. The itemization of the amount financed need not be given, even though the content and timing of the good faith estimates under RESPA differ from the § 226.18(c) requirement.

Paragraph 18(c)(1)(i).

1. *Amounts paid to consumer.* This encompasses funds given to the consumer in the form of cash or a check, including joint proceeds checks, as well as funds placed in an asset account. It may include money in an interest-

bearing account even if that amount is considered a required deposit under § 226.18(r). For example, in a transaction with total loan proceeds of $500, the consumer receives a check for $300 and $200 is required by the creditor to be put into an interest-bearing account. Whether or not the $200 is a required deposit, it is part of the amount financed. At the creditor's option, it may be broken out and labeled in the itemization of the amount financed.

Paragraph 18(c)(1)(ii).

1. *Amounts credited to consumer's account.* The term "consumer's account" refers to an account in the nature of a debt with that creditor. It may include, for example, an unpaid balance on a prior loan, a credit sale balance or other amounts owing to that creditor. It does not include asset accounts of the consumer such as savings or checking accounts.

Paragraph 18(c)(1)(iii).

1. *Amounts paid to others.* This includes, for example, tag and title fees; amounts paid to insurance companies for insurance premiums; security interest fees, and amounts paid to credit bureaus, appraisers or public officials. When several types of insurance premiums are financed, they may, at the creditor's option, be combined and listed in one sum, labeled "insurance" or similar term. This includes, but is not limited to, different types of insurance premiums paid to 1 company and different types of insurance premiums paid to different companies. Except for insurance companies and other categories noted in footnote 40, third parties must be identified by name.

Paragraph 18(c)(1)(iv).

1. *Prepaid finance charge.* The prepaid finance charges must be shown as a total amount but may, at the creditor's option, also be further itemized and described. All amounts must be reflected in this total, even if portions of the prepaid finance charge are also reflected elsewhere. For example, if at consummation the creditor collects interim interest of $30 and a credit report fee of $10, a total prepaid finance charge of $40 must be shown. At the creditor's option, the credit report fee paid to a third party may also be shown elsewhere as an amount included in § 226.18(c)(1)(iii). The creditor may also further describe the 2 components of the prepaid finance charge, although no itemization of this element is required by § 226.18(c)(1)(iv).

18(d) Finance charge.

1. *Disclosure required.* The creditor must disclose the finance charge as a dollar amount, using the term "finance charge," and must include a brief description similar to that in § 226.18(d). The creditor may, but need not, further modify the descriptor for variable rate transactions, with a phrase such as "which is subject to change." The finance charge must be shown on the disclosures only as a total amount; the elements of the finance charge must not be itemized in the segregated disclosures, although the regulation does not prohibit their itemization elsewhere.

2. *Tolerance.* A tolerance for the finance charge is provided in footnote 41.

18(e) Annual percentage rate.

1. *Disclosure required.* The creditor must disclose the cost of the credit as an annual rate, using the term "annual percentage rate," plus a brief descriptive phrase comparable to that used in § 226.18(e). For variable rate transactions, the descriptor may be further modified with a phrase such as "which is subject to change." Under § 226.17(a), the terms "annual percentage rate" and "finance charge" must be more conspicuous than the other required disclosures.

2. *Exception.* Footnote 42 provides an exception for certain transactions in which no annual percentage rate disclosure is required.

18(f) Variable rate.

1. *Coverage.* The requirements of § 226.18(f) apply to all transactions in which the terms of the legal obligation allow the creditor to increase the rate originally disclosed to the consumer. The provisions, however, do not apply to increases resulting from delinquency (including late payment), default, assumption, acceleration or transfer of the collateral.

2. *Basis for disclosures.* For transactions subject to the requirements of § 226.18(f), the disclosures must be given for the full term of the transaction and must be based on the terms in effect at the time of consummation. However in a variable rate transaction with either the seller buydown that is reflected in the credit contract or a consumer buydown, disclosures should not be based solely on the initial terms. In those transactions, the disclosed annual percentage rate should be a composite rate based on the lower rate for the buydown period and the rate that is the basis of the variable rate feature for the remainder of the term. (See the commentary to § 226.17(c) for a discussion of buydown transactions.)

3. *Terms used in disclosure.* In describing the variable rate feature, the creditor need not use any prescribed terminology. For example, limitations and hypothetical examples may be described in terms of interest rates rather than annual percentage rates. The model forms in Appendix H provide examples of ways in which the variable rate disclosures may be made.

4. *Other variable rate regulations.* Transactions in which the creditor is required to comply with and has complied with variable rate regulations of other federal agencies are exempt from the requirements of this section, by virtue of footnote 43. Those variable rate regulations include the adjustable mortgage loan instrument regulation issued by the Federal Home Loan Bank Board (12 CFR 545.6-4(a)), the graduated payment adjustable mortgage loan instrument regulation issued by the Federal Home Loan Bank Board (12 CFR 545.6-4(b)), and the adjustable-rate mortgage regulation issued by the Comptroller of the Currency (12 CFR Part 29). The exception in footnote 43 is also available to institutions that are required by state law to comply with the federal variable rate regulations noted above.

5. *Eamples of variable rate transactions.* The following transactions constitute variable rate transactions:

- Renegotiable rate mortgage instruments that involve a series of short-term loans secured by a long-term obligation, where the lender is obligated to renew the short-term loans at the consumer's option. At the time of renewal, the lender has the option of increasing the interest rate. Disclosures must be given for the longer term of the obligation, with all disclosures calculated on the basis of the rate in effect at the time of consummation of the transaction.
- "Shared equity" or "shared appreciation" mortgages that have a fixed rate of interest and an appreciation share based on the consumer's equity in the mortgaged property. The appreciation share is payable in a lump sum at a specified time. Disclosures must be based on the fixed interest rate. The shared appreciation feature, including the conditions for its imposition, the time at which it would be collected, and the limitation on the creditor's share, must be described under § 226.18(f). (As discussed in § 226.2, other types of shared-equity arrangements are not considered "credit" and are not subject to Regulation Z.)
- Preferred rate employee loans where the terms of the legal obligation provide that the rate will increase only if the employee leaves the employ of the creditor and the note reflects the preferred rate. The disclosures are to be based on that rate, with the hypothetical example

based on the increase from the preferred rate.

Graduated payment mortgages and step-rate transactions without a variable rate feature are not considered variable rate transactions.

Paragraph 18(f)(1).

1. *Circumstances.* The circumstances under which the rate may increase include identification of any index to which the rate is tied, as well as any conditions or events on which the increase is contingent.

- When no specific index is used, any identifiable factors used to determine whether to increase the rate must be disclosed.
- When the increase in the rate is purely discretionary, the fact that any increase is within the creditor's discretion must be disclosed.
- When the index is internally defined (for example, by that creditor's prime rate), the creditor may comply with this requirement by either a brief description of that index or a statement that any increase is in the discretion of the creditor. An externally defined index, however, must be identified.

Paragraph 18(f)(2).

1. *Limitations.* This includes any maximum imposed on the amount of an increase in the rate at any time, as well as any maximum on the total increase over the life of the transaction. When there are no limitations, the creditor may, but need not, disclose that fact. Limitations do not include legal limits in the nature of usury or rate ceilings under state or federal statutes or regulations.

Paragraph 18(f)(3).

1. *Effects.* Disclosure of the effect of an increase refers to an increase in the number or amount of payments or an increase in the final payment. If the effect cannot be determined, the creditor must provide a statement of the possible effects. For example, if the excercise of the variable rate feature may result in either more or larger payments, both possibilities must be noted.

Paragraph 18(f)(4).

1. *Hypothetical example.* The example may, at the creditor's option, appear apart from the other disclosures. The creditor may provide either a standard example that represents the general type of credit offered by that creditor or an example that directly reflects the terms and conditions of the particular transaction.

2. *Demand obligations.* In demand obligations with no alternate maturity date, the creditor need not provide a hypothetical example.

18(g) Payment schedule.

1. *Amounts included in repayment schedule.* The repayment schedule should reflect all components of the finance charge, not merely the portion attributable to interest. The payments may include amounts beyond the amount financed and finance charge. For example, the disclosed payments may, at the creditor's option, reflect certain insurance premiums where the premiums are not part of either the amount financed or the finance charge, as well as real estate escrow amounts such as taxes added to the payment in mortgage transactions.

2. *Deferred downpayments.* As discussed in the commentary to § 226.2(a)(18), deferred downpayments or pick-up payments that meet the conditions set forth in the definition of downpayment may be treated as part of the downpayment. Even if treated as a downpayment, that amount may nevertheless be disclosed as part of the payment schedule, at the creditor's option.

Paragraph 18(g)(1).

1. *Demand obligations.* In demand obligations with no alternate maturity date, the creditor has the option of disclosing only the due dates or periods of scheduled interest payments in the first year (for example, "interest payable quarterly" or "interest due the first of each month"). The amounts of the interest payments need not be shown.

Paragraph 18(g)(2).

1. *Abbreviated disclosure.* The creditor may disclose an abbreviated payment schedule when the amount of each regularly scheduled payment (other than the first or last payment) includes an equal amount to be applied on principal and a finance charge computed by application of a rate to the decreasing unpaid balance. This option is also available when mortgage guarantee insurance premiums, paid either monthly or annually, cause variations in the amount of the scheduled payments, reflecting the continual decrease in the premium due. The creditor using this alternative must disclose the dollar amount of the highest and lowest payments and make reference to the variation in payments.

2. *Combined payment schedule disclosures.* Creditors may combine the option in this paragraph with the general payment schedule requirements in transactions where only a portion of the payment schedule meets the conditions of § 226.18(g)(2). For example, in a graduated payment mortgage where payments rise sharply for 5 years and then decline over the next 25 years because of decreasing mortgage insurance premiums, the first 5 years would be disclosed under the general rule in § 226.18(g) and the next 25 years according to the abbreviated schedule in § 226.18(g)(2).

3. *Effect on other disclosures.* Section 226.18(g)(2) applies only to the payment schedule disclosure. The actual amounts of payments must be taken into account in calculating and disclosing the finance charge and the annual percentage rate.

18(h) Total of payments.

1. *Disclosure required.* The total of payments must be disclosed using that term, along with a descriptive phrase similar to the one in the regulation. The descriptive explanation may be revised to reflect a variable rate feature with a brief phrase such as "based on the current annual percentage rate which may change."

2. *Calculation of total of payments.* The total of payments is the sum of the payments disclosed under § 226.18(g). For example, if the creditor disclosed a deferred portion of the downpayment as part of the payment schedule, that payment must be reflected in the total disclosed under this paragraph.

3. *Exception.* Footnote 44 permits creditors to omit disclosure of the total of payments in single-payment transactions. This exception does not apply to a transaction calling for a single payment of principal combined with periodic payments of interest.

4. *Demand obligations.* In demand obligations with no alternate maturity date, the creditor may omit disclosure of payment amounts under § 226.18(g)(1). In those transactions, the creditor need not disclose the total of payments.

18(i) Demand feature.

1. *Disclosure requirements.* The disclosure requirements of this provision apply not only to transactions payable on demand from the outset, but also to transactions that are not payable on demand at the time of consummation but convert to a demand status after a stated period. In demand obligations in which the disclosures are based on an assumed maturity of 1 year under § 226.17(c)(5), that fact must also be stated. Appendix H contains model clauses that may be used in making this disclosure.

2. *Covered demand features.* The type of demand feature triggering the disclosures required by § 226.18(i) includes only those demand features contemplated by the parties as part of the legal obligation. For example, this provision does not apply to transactions that convert to a demand status as a result of the consumer's default.

3. *Relationship to payment schedule disclosures.* As provided in § 226.18(g)(1), in demand obligations with no alternate maturity date, the creditor need only disclose the due

dates or payment periods of any scheduled interest payments for the first year. If the demand obligation states an alternate maturity, however, the disclosed payment schedule must reflect that stated term; the special rule in § 226.18(g)(1) is not available.

18(j) Total sale price.

1. *Disclosure required.* In a credit sale transaction, the "total sale price" must be disclosed using that term, along with a descriptive explanation similar to the one in the regulation. For variable rate transactions, the descriptive phrase may, at the creditor's option, be modified to reflect the variable rate feature. For example, the descriptor may read: "The total cost of your purchase on credit, which is subject to change, including your downpayment of * * *." The reference to a downpayment may be eliminated in transactions calling for no downpayment.

2. *Calculation of total sale price.* The figure to be disclosed is the sum of the cash price, other charges added under § 226.18(b)(2), and the finance charge disclosed under § 226.18(d).

18(k) Prepayment.

1. *Disclosure required.* The creditor must give a definitive statement of whether or not a penalty will be imposed or a rebate will be given.

- The fact that no penalty will be imposed may not simply be inferred from the absence of a penalty disclosure; the creditor must indicate that prepayment will not result in a penalty.
- If a penalty or refund is possible for one type of prepayment, even though not for all, a positive disclosure is required. This applies to any type of prepayment, whether voluntary or involuntary as in the case of prepayments resulting from acceleration.
- Any difference in rebate or penalty policy, depending on whether prepayment is voluntary or not, must not be disclosed with the segregated disclosures.

2. *Rebate-penalty disclosure.* A single transaction may involve both a precomputed finance charge and a finance charge computed by application of a rate to the unpaid balance (for example, simple interest student loans with loan fees and mortgages with mortgage guarantee insurance). In these cases, disclosures about both prepayment rebates and penalties are required. Sample from H-15 in Appendix H illustrates a mortgage transaction in which both rebate and penalty disclosures are necessary.

Paragraph 18(k)(1).

1. *Penalty.* This applies only to those transactions in which the interest calculation takes account of each reduction in principal. The term "penalty" as used here encompasses only those charges that are assessed strictly because of the prepayment in full of a simple interest obligation, as an addition to all other amounts. Items which are not penalties include, for example:

- Prepaid finance charges collected at the outset of the transaction, such as points in a mortgage loan.
- Loan guarantee fees.
- Interim interest on a student loan.

However, a minimum finance charge is a penalty in a simple interest transaction.

Paragraph 18(k)(2).

1. *Rebate of finance charge.* This applies to any finance charges that do not take account of each reduction in the principal balance of an obligation. This category includes, for example:

- Precomputed finance charges such as add-on charges.
- Charges that take account of some but not all reductions in principal, such as mortgage guarantee insurance assessed on the basis of an annual declining balance, when the principal is reduced on a monthly basis.
- Prepaid finance charges, such as points or loan fees collected at the outset of the transaction.

No description of the method of computing earned or unearned finance charges is required or permitted as part of the segregated disclosures under this section, although such information may be provided elsewhere in the contract.

18(l) Late payment.

1. *Definition.* This paragraph requires a disclosure only if charges are added to individual delinquent installments by a creditor who otherwise considers the transaction ongoing on its original terms. Late payment charges do not include:

- The right of acceleration.
- Fees imposed for actual collection costs, such as repossession charges or attorney's fees.
- Deferral and extension charges.
- The continued accrual of simple interest at the contract rate after the payment due date. However, an increase in the interest rate is a late payment charge to the extent of the increase.

2. *Content of disclosure.* Many state laws authorize the calculation of late charges on the basis of either a percentage or a specified dollar amount, and permit imposition of the lesser or greater of the 2 charges. The disclosure made under § 226.18(l) may reflect this alternative. For example, stating that the charge in the event of a late payment is 5% of the late amount, not to exceed $5.00, is sufficient. Many creditors also permit a grace period during which no late charge will be assessed; this fact may be disclosed as directly related information. (See the commentary to § 226.17(a).)

18(m) Security interest.

1. *Purchase money transactions.* When the collateral is the item purchased as part of, or with the proceeds of, the credit transaction, § 226.18(m) requires only a general identification such as "the property purchased in this transaction." The creditor may give a more specific identification of the collateral, although only the abbreviated disclosure is necessary. Any transaction in which the credit is being used to purchase the collateral is considered a purchase money transaction and the abbreviated property identification may be used, whether the obligation is treated as a loan or a credit sale.

2. *Non-purchase money transactions.* In non-purchase money transactions, the property subject to the security interest must be identified by item or type. This disclosure is satisfied by a general disclosure of the category of property subject to the security interest, such as "household goods," "motor vehicles," or "securities." At the creditor's option, however, a more precise identification of the property or goods may be provided.

3. *Mixed collateral.* In some transactions in which the credit is used to purchase the collateral, the creditor may also take other property of the consumer as security. In those cases, a combined disclosure must be provided, consisting of the abbreviated property identification for the purchase money collateral (although more detail may be given, at the creditor's option) and a more specific identification of the other collateral.

4. *After-acquired property.* An after-acquired property clause is not a security interest to be disclosed under § 226.18(m).

5. *Spreader clause.* The fact that collateral for pre-existing credit with the institution is being used to secure the present obligation constitutes a security interest and must be disclosed. (Such security interests may be known as "spreader" or "dragnet" clauses, or as "cross-collateralization" clauses.) A specific identification of that collateral is unnecessary but a reminder of the interest arising from the prior

indebtedness is required. The disclosure may be made by using language such as "collateral securing other loans with us may also secure this loan." At the creditor's option, a more specific description of the property involved may be given.

6. *Terms used in disclosure.* No specified terminology is required in disclosing a security interest. Although the disclosure may, at the creditor's option, use the term "security interest," the creditor may designate its interest by using, for example, "pledge," "lien," or "mortgage."

7. *Collateral from third party.* In certain transactions, the consumer's obligation may be secured by collateral belonging to a third party. For example, a loan to a student may be secured by an interest in the property of the student's parents. In such cases, the security interest is taken in connection with the transaction and must be disclosed, even though the property encumbered is owned by someone other than the consumer.

18(n) Insurance.

1. *Location.* This disclosure may, at the creditor's option, appear apart from the other disclosures. It may appear with any other information, including the amount financed itemization, any information prescribed by state law, or other supplementary material. When this information is disclosed with the other segregated disclosures, however, no additional explanatory material may be included.

18(o) Certain security interest charges.

1. *Format.* No special format is required for these disclosures; under § 226.4(e), taxes and fees paid to government officials with respect to a security interest may be aggregated, or may be broken down by individual charge. For example, the disclosure could be labelled "filing fees and taxes" and all funds disbursed for such purposes may be aggregated in a single disclosure. This disclosure may appear, at the creditor's option, apart from the other required disclosures. The inclusion of this information on a statement required under the Real Estate Settlement Procedures Act is sufficient disclosure for purposes of Truth in Lending.

18(p) Contract reference.

1. *Content.* Creditors may substitute, for the phrase "appropriate contract document," a reference to specific transaction documents in which the additional information is found, such as "promissory note" or "retail installment sale contract." A creditor may, at its option, delete inapplicable items in the contract reference, as for example when the contract documents contain no information regarding the right of acceleration.

18(q) Assumption policy.

1. *Policy statement.* Because a creditor's assumption policy may be based on a variety of circumstances not determinable at the time the disclosure is made, the creditor may use phrases such as "subject to conditions" or "under certain circumstances" in complying with § 226.18(q). The provision requires only that the consumer be told whether or not a subsequent purchaser might be allowed to assume the obligation on its original terms and does not contemplate any explanation of the criteria or conditions for assumability.

2. *Original terms.* The phrase "original terms" for purposes of § 226.18(q) does not preclude the imposition of an assumption fee, but a modification of the basic credit agreement, such as a change in the contract interest rate, represents different terms.

18(r) Required deposit.

1. *Disclosure required.* The creditor must inform the consumer of the existence of a required deposit. (Appendix H provides a model clause that may be used in making that disclosure.) Footnote 45 describes 3 types of deposits that need not be considered required deposits. Use of the phrase "need not" permits creditors to include the disclosure even in cases where there is doubt as to whether the deposit constitutes a required deposit.

2. *Escrow accounts.* The escrow exception in footnote 45 applies, for example, to accounts for such items as maintenance fees, repairs, or improvements, whether in a realty or a nonrealty transaction. (See the commentary to § 226.17(c)(1) regarding the use of escrow accounts in consumer buydown transactions.)

3. *Interest-bearing accounts.* When a deposit earns at least 5 percent interest per year, no disclosure is required under § 226.18(r). This exception applies whether the deposit is held by the creditor or by a third party.

4. *Morris Plan transactions.* A deposit under a Morris Plan, in which a deposit account is created for the sole purpose of accumulating payments and this is applied to satisfy entirely the consumer's obligation in the transaction, is not a required deposit.

5. *Examples of amounts excluded.* The following are among the types of deposits that need not be treated as required deposits:

- Requirement that a borrower be a customer or a member even if that involves a fee or a minimum balance.
- Required property insurance escrow on a mobile home transaction.
- Refund of interest when the obligation is paid in full.
- Deposits that are immediately available to the consumer.
- Funds deposited with the creditor to be disbursed (for example, for construction) before the loan proceeds are advanced.
- Escrow of condominium fees.
- Escrow of loan proceeds to be released when the repairs are completed.

References

Statute: section 128, and the Real Estate Settlement Procedures Act (12 U.S.C. 2602).

Other sections: §§ 226.2, 226.17, and Appendix H.

Other regulations: 12 CFR 545.6-4 (a) and (b), and 12 CFR 29.

Previous regulation: §§ 226.4 and 226.8.

1981 changes: Five of the required disclosures must be explained to the consumer in a manner similar to the descriptive phrases shown in the regulation. A written itemization of the amount financed need not be provided unless the consumer requests it. The finance charge must be provided in all transactions, including real estate transactions, but must be shown only as a total amount. The disclosed finance charge is considered accurate if it is within a specified range.

The variable rate hypothetical is required in all variable rate transactions and may be either general or transaction-specific. The penalty and rebate disclosures in the event of prepayment have been modified and combined. The requirement of an explanation of how the rebates or penalties are computed has been eliminated. The late payment disclosure has also been narrowed to include only charges imposed before maturity for late payments.

The information required in the security interest disclosure has been decreased by the deletion of the type of security interest and a reduction in the property description requirement. The disclosure of the required deposit is limited to a statement that the annual percentage rate does not reflect the required deposit; the presence of a required deposit has no effect on the annual percentage rate.

Two disclosure requirements have been added: a reference to the contract documents for additional information and, in a residential mortgage

transaction, a statement of the creditor's assumption policy.

Section 226.19—Certain Residential Mortgage Transactions

19(a) Time of disclosure.

1. *Coverage.* This section requires early disclosure of credit terms in residential mortgage transactions that are also subject to the Real Estate Settlement Procedures Act (RESPA) and its implementing Regulation X, administered by the Department of Housing and Urban Development (HUD). To be covered by this section, a transaction must be both a residential mortgage transaction under § 226.2(a) and a federally related mortgage loan under RESPA. "Federally related mortgage loan" is defined under RESPA (12 USC 2602) and Regulation X (24 CFR 3500.5(b)), and is subject to any interpretations by HUD.

2. *Timing and use of estimates.* Truth in Lending disclosures must be given (a) before consummation, or (b) within 3 business days after the creditor receives the consumer's written application, whichever is earlier. The 3-day period for disclosing credit terms coincides with the time period within which creditors subject to RESPA must provide good faith estimates of settlement costs. If the creditor does not know the precise credit terms, the creditor must base the disclosures on the best information reasonably available and indicate that the disclosures are estimates under § 226.17(c)(2). If many of the disclosures are estimates, the creditor may include a statement to that effect (such as "all numerical disclosures except the late payment disclosure are estimates") instead of separately labelling each estimate. In the alternative, the creditor may label as an estimate only the items primarily affected by unknown information. (See the commentary to § 226.17(c)(2).) The creditor may provide explanatory material concerning the estimates and the contingencies that may affect the actual terms, either on a separate document or on the same document (but separate from the required disclosures).

3. *Written application.* Creditors may rely on RESPA and Regulation X (including any interpretations issued by HUD) in deciding whether a "written application" has been received. In general, Regulation X requires disclosures "to every person from whom the Lender receives or for whom it prepares a written application on an application form or forms normally used by the Lender for a Federally Related Mortgage Loan" (24 CFR 3500.6(a)). An application is received when it reaches the creditor in any of the ways applications are normally transmitted—by mail, hand delivery, or through an intermediary agent or broker.

4. *Exceptions.* The creditor may determine within the 3-day period that the application will not or cannot be approved on the terms requested, as, for example, when a consumer applies for a type or amount of credit that the creditor does not offer, or the consumer's application cannot be approved for some other reason. In that case, the creditor need not make the disclosures under this section. If the creditor fails to provide early disclosures and the transaction is later consummated on the original terms, the creditor will be in violation of this provision. If, however, the consumer amends the application because of the creditor's unwillingness to approve it on its original terms, no violation occurs for not providing disclosures based on the original terms. But the amended application is a new application subject to this section.

5. *Itemization of amount financed.* In many residential mortgage transactions, the itemization of the amount financed required by § 226.18(c) will contain items, such as origination fees or points, that also must be disclosed as part of the good faith estimates of settlement costs required under RESPA. Creditors furnishing the RESPA good faith estimates need not give consumers any itemization of the amount financed, either with the disclosures provided within 3 days after application or with the disclosures given at consummation or settlement.

19(b) Rediscloure required.

1. *Conditions for redisclosure.* Creditors must make new disclosures if the annual percentage rate at consummation differs from the estimate originally disclosed by more than ⅛ of 1 percentage point in regular transactions or ¼ of 1 percentage point in irregular transactions, as defined in § 226.22. The creditor must also redisclose if a variable rate feature is added to the credit terms after the original disclosures have been made. The creditor has the option of redisclosing information under other circumstances, if it wishes to do so.

2. *Content of new disclosures.* If redisclosure is required, the creditor may provide a complete set of new disclosures, or may redisclose only the terms that vary from those originally disclosed. If the creditor chooses to provide a complete set of new disclosures, the creditor may but need not highlight the new terms, provided that the disclosures comply with the format requirements of § 226.17(a). If the creditor chooses to disclose only the new terms, all the new terms must be disclosed. For example, a different annual percentage rate will almost always produce a different finance charge, and often a new schedule of payments; all of these changes would have to be disclosed. If, in addition, unrelated terms such as the amount financed or prepayment penalty vary from those originally disclosed, the accurate terms must be disclosed. However, no new disclosures are required if the *only* inaccuracies involve estimates other than the annual percentage rate, and no variable rate feature has been added.

3. *Timing.* Redisclosures, when necessary, must be given no later than "consummation or settlement." "Consummation" is defined in § 226.2(a). "Date of settlement" is defined in Regulation X (24 CFR 3500.2(a)) and is subject to any interpretations issued under RESPA and Regulation X.

References

Statute: Section 128(b)(2) and the Real Estate Settlement Procedures Act (12 U.S.C. 2602).

Other sections: §§ 226.2, 226.17, and 226.22.

Other regulations: Regulation X (24 CFR 3500.2(a), 3500.5(b), and 3500.6(a)).

Previous regulation: None.

1981 changes: This section implements § 128(b)(2), a new provision that requires early disclosure of credit terms in certain mortgage transactions.

Section 226.20—Subsequent Disclosure Requirements

20(a) Refinancings.

1. *Definition.* A refinancing is a new transaction requiring a complete new set of disclosures. Whether a refinancing has occurred is determined by reference to whether the original obligation has been satisfied or extinguished and replaced by a new obligation, based on the parties' contract and applicable law. The refinancing may involve the consolidation of several existing obligations, disbursement of new money to the consumer or on the consumer's behalf, or the rescheduling of payments under an existing obligation. In any form, the new obligation must completely replace the prior one.

- Changes in the terms of an existing obligation, such as the deferral of individual installments, will not constitute a refinancing unless accomplished by the cancellation of that obligation and the substitution of a new obligation.
- A substitution of agreements that meets the refinancing definition will require new disclosures, even if the

substitution does not substantially alter the prior credit terms.

2. *Exceptions.* A transaction is subject to § 226.20(a) only if it meets the general definition of a refinancing. Section 226.20(a) (1) through (5) lists 5 events that are not treated as refinancings, even if they are accomplished by cancellation of the old obligation and substitution of a new one.

3. *Variable rate.* If a variable rate feature was properly disclosed under the regulation, a rate change in accord with those disclosures is not a refinancing. For example, a renegotiable rate mortgage that was disclosed as a variable rate transaction is not subject to new disclosure requirements when the variable rate feature is invoked. However, if the variable rate feature was not previously disclosed, a later change in the rate results in a new transaction subject to new disclosures.

4. *Unearned finance charge.* In a transaction involving precomputed finance charges, the creditor must include in the finance charge on the refinanced obligation any unearned portion of the original finance charge that is not rebated to the consumer or credited against the underlying obligation. For example, in a transaction with an add-on finance charge, a creditor advances new money to a consumer in a fashion that extinguishes the original obligation and replaces it with a new one. The creditor neither refunds the unearned finance charge on the original obligation to the consumer nor credits it to the remaining balance on the old obligation. Under these circumstances, the unearned finance charge must be included in the finance charge on the new obligation and reflected in the annual percentage rate disclosed on refinancing. Accrued but unpaid finance charges are included in the amount financed in the new obligation.

Paragraph 20(a)(1).

1. *Renewal.* This exception applies both to obligations with a single payment of principal and interest and to obligations with periodic payments of interest and a final payment of principal. In determining whether a new obligation replacing an old one is a renewal of the original terms or a refinancing, the creditor may consider it a renewal even if:

- Accrued unpaid interest is added to the principal balance.
- Changes are made in the terms of renewal resulting from the factors listed in § 226.17(c)(3).
- The principal at renewal is reduced by a curtailment of the obligation.

Paragraph 20(a)(2).

1. *Annual percentage rate reduction.* A reduction in the annual percentage rate with a corresponding change in the payment schedule is not a refinancing. A corresponding change in the payment schedule could include, for example, a change in the maturity or a reduction in the payment amount or the number of payments. If the annual percentage rate is subsequently increased (even though it remains below its original level) and the increase is effected in such a way that the old obligation is satisfied and replaced, new disclosures must then be made.

Paragraph 20(a)(3).

1. *Court agreements.* This exception includes, for example, agreements such as reaffirmations of debts discharged in bankruptcy, settlement agreements, and post-judgment agreements. (See the commentary to § 226.2(a)(14) for a discussion of court-approved agreements that are not considered "credit.")

Paragraph 20(a)(4).

1. *Workout agreements.* A workout agreement is not a refinancing unless the annual percentage rate is increased or additional credit is advanced beyond amounts already accrued plus insurance premiums.

Paragraph 20(a)(5).

1. *Insurance renewal.* The renewal of optional insurance added to an existing credit transaction is not a refinancing, assuming that appropriate Truth in Lending disclosures were provided for the initial purchase of the insurance.

20(b) Assumptions.

1. *General definition.* An assumption as defined in § 226.20(b) is a new transaction and new disclosures must be made to the subsequent consumer. An assumption under the regulation requires the following 3 elements:

- A residential mortgage transaction.
- An express acceptance of the subsequent consumer by the creditor.
- A written agreement.

2. *Existing residential mortgage transaction.* A transaction may be a residential mortgage transaction as to one consumer and not to the other consumer. In that case, the creditor must look to the assuming consumer in determining whether a residential mortgage transaction exists. To illustrate:

- The original consumer obtained a mortgage to purchase a home for vacation purposes. The loan was not a residential mortgage transaction as to that consumer. The mortgage is assumed by a consumer who will use the home as a principal dwelling. As to that consumer, the loan is a residential mortgage transaction. For purposes of § 226.20(b), the assumed loan is an "existing residential mortgage transaction" requiring disclosures, if the other criteria for an assumption are met.

3. *Express agreement.* "Expressly agrees" means that the creditor's agreement must relate specifically to the new debtor and must unequivocally accept that debtor as a primary obligor. The following events are not construed to be express agreements between the creditor and the subsequent consumer:

- Approval of creditworthiness.
- Notification of a change in records.
- Mailing of a coupon book to the subsequent consumer.
- Acceptance of payments from the new consumer.

4. *Retention of original consumer.* The retention of the original consumer as an obligor in some capacity does not prevent the change from being an assumption, provided the new consumer becomes a primary obligor. But the mere addition of a guarantor to an obligation for which the original consumer remains primarily liable does not give rise to an assumption. However, if neither party is designated as the primary obligor but the creditor accepts payment from the subsequent consumer, an assumption exists for purposes of § 226.20(b).

5. *Status of parties.* Section 226.20(b) applies only if the previous debtor was a consumer and the obligation is assumed by another consumer. It does not apply, for example, when an individual takes over the obligation of a corporation.

6. *Change in terms.* A change in terms destroys the existing obligation and the transaction is treated as a new transaction under the regulation, not as an assumption. A change in terms includes, for example:

- A change in the contract interest rate unless the change is in accordance with a variable rate feature that was properly disclosed in the existing obligation.
- A change in the length of the term.
- The addition of points.

Minor changes that do not destroy the existing obligation include, for example:

- Assumption fees for processing loan documents.
- Insurance fees.
- Credit report fees.

7. *Disclosures.* For transactions that are assumptions within this provision, the creditor must make disclosures based on the "remaining obligation." For example:

- The amount financed is the remaining principal balance plus

any arrearages or other accrued charges from the original transaction.

- If the finance charge is computed from time to time by application of a percentage rate to an unpaid balance, in determining the amount of the finance charge and the annual percentage rate to be disclosed, the creditor should disregard any prepaid finance charges paid by the original obligor, but must include in the finance charge any prepaid finance charge imposed in connection with the assumption.
- If the creditor requires the assuming consumer to pay any charges as a condition of the assumption, those sums are prepaid finance charges as to that consumer, unless exempt from the finance charge under § 226.4.

If a transaction involves add-on or discount finance charges, the creditor may make abbreviated disclosures, as outlined in § 226.20(b)(1) through (5).

References

Statute: None.
Other sections: § 226.2.
Previous regulation: § 226.8(j) through (l), and Interpretation §§ 226.807, 226.811, 226.814, and 226.817.
1981 changes: While the previous regulation treated virtually any change in terms as a refinancing requiring new disclosures, this regulation limits refinancings to transactions in which the entire original obligation is extinguished and replaced by a new one. Redisclosure is no longer required for deferrals or extensions.

The assumption provision retains the substance of § 226.8(k) and Interpretation § 226.807 of the previous regulation, but limits its scope to residential mortgage transactions.

Section 226.21—Treatment of Credit Balances

1. *Credit balance.* A credit balance arises whenever the creditor receives or holds funds in an account in excess of the total balance due from the consumer on that account. A balance might result, for example, from the debtor's paying off a loan by transmitting funds in excess of the total balance owed on the account, or from the early payoff of a loan entitling the consumer to a rebate of insurance premiums and finance charges. However, § 226.21 does not determine whether the creditor in fact owes or holds sums for the consumer. For example, if a creditor has no obligation to rebate any portion of precomputed finance charges on prepayment, the consumer's early payoff would not create a credit balance with respect to those charges. Similarly, nothing in this provision interferes with any rights the creditor may have under the contract or under state law with respect to set-off, cross collateralization, or similar provisions.

2. *Total balance due.* The phrase "total balance due" refers to the total outstanding balance. Thus, this provision does not apply where the consumer has simply paid an amount in excess of the payment due for a given period.

3. *Timing of refund.* The creditor may also fulfill its obligation under this section by:

- Refunding any credit balance to the consumer immediately.
- Refunding any credit balance prior to a written request from the consumer.
- Making a good faith effort to refund any credit balance before 6 months have passed. If that attempt is unsuccessful, the creditor need not try again to refund the credit balance at the end of the 6-month period.

Paragraph 21(b).

1. *Written requests—standing orders.* The creditor is not required to honor standing orders requesting refunds of any credit balance that may be created on the consumer's account.

Paragraph 21(c).

1. *Good faith effort to refund.* The creditor must take positive steps to return any credit balance that has remained in the account for over 6 months. This includes, if necessary, attempts to trace the consumer through the consumer's last known address or telephone number, or both.

2. *Good faith effort unsuccessful.* Section 226.21 imposes no further duties on the creditor if a good faith effort to return the balance is unsuccessful. The ultimate disposition of the credit balance (or any credit balance of $1 or less) is to be determined under other applicable law.

References

Statute: § 165.
Other sections: None.
Previous regulation: None.
1981 changes: This section implements § 165 of the act, which was expanded by the 1980 statutory amendments to apply to closed-end as well as open-end credit.

Section 226.22—Determination of the Annual Percentage Rate

22(a) Accuracy of the annual percentage rate.

Paragraph 22(a)(1).

1. *Calculation method.* The regulation recognizes both the actuarial method and the United States Rule Method (U.S. Rule) as measures of an exact annual percentage rate. Both methods yield the same annual percentage rate when payment intervals are equal. They differ in their treatment of unpaid accrued interest.

2. *Actuarial method.* When no payment is made, or when the payment is insufficient to pay the accumulated finance charge, the actuarial method requires that the unpaid finance charge be added to the amount financed and thereby capitalized. Interest is computed on interest since in succeeding periods the interest rate is applied to the unpaid balance including the unpaid finance charge. Appendix J provides instructions and examples for calculating the annual percentage rate using the actuarial method.

3. *U.S. Rule.* The U.S. Rule produces no compounding of interest in that any unpaid accrued interest is accumulated separately and is not added to principal. In addition, under the U.S. Rule, no interest calculation is made until a payment is received.

4. *Basis for calculations.* When a transaction involves "step rates" or "split rates"—that is, different rates applied at different times or to different portions of the principal balance—a single composite annual percentage rate must be calculated and disclosed for the entire transaction.

Paragraph 22(a)(2).

1. *Regular transactions.* The annual percentage rate for a regular transaction is considered accurate if it varies in either direction by not more than ⅛ of 1 percentage point from the actual annual percentage rate. For example, when the exact annual percentage rate is determined to be 10⅛%, a disclosed annual percentage rate from 10% to 10¼%, or the decimal equivalent, is deemed to comply with the regulation.

Paragraph 22(a)(3).

1. *Irregular transactions.* The annual percentage rate for an irregular transaction is considered accurate if it varies in either direction by not more than ¼ of 1 percentage point from the actual annual percentage rate. This tolerance is intended for more complex transactions that do not call for a single advance and a regular series of equal payments at equal intervals. The ¼ of 1 percentage point tolerance may be used, for example, in a construction loan where advances are made as construction progresses, or in a transaction where payments vary to reflect the consumer's seasonal income. It may also be used in transactions with graduated payment schedules where the contract commits the consumer to

several series of payments in different amounts. It does not apply, however, to loans with variable rate features where the initial disclosures are based on a regular amortization schedule over the life of the loan, even though payments may later change because of the variable rate feature.

22(b) Computation tools.

Paragraph 22(b)(1).

1. *Board tables.* Volumes I and II of the Board's Annual Percentage Rate Tables provide a means of calculating annual percentage rates for regular and irregular transactions, respectively. An annual percentage rate computed in accordance with the instructions in the tables is deemed to comply with the regulation, even where use of the tables produces a rate that falls outside the general standard of accuracy. To illustrate:

- Volume I may be used for single advance transactions with completely regular payment schedules or with payment schedules that are regular except for an odd first payment, odd first period or odd final payment. When used for a transaction with a large final balloon payment, Volume I may produce a rate that is considerably higher than the exact rate produced using a computer program based directly on Appendix J. However, the Volume I rate—produced using certain adjustments in that volume—is considered to be in compliance.

Paragraph 22(b)(2).

1. *Other calculation tools.* Creditors need not use the Board tables in calculating the annual precentage rates. Any computation tools may be used, so long as they produce annual percentage rates within ⅛ or ¼ of 1 percentage point, as applicable, of the precise actuarial or U.S. Rule annual percentage rate.

22(c) Single add-on rate transactions.

1. *General rule.* Creditors applying a single add-on rate to all transactions up to 60 months in length may disclose the same annual percentage rate for all those transactions, although the actual annual percentage rate varies according to the length of the transaction. Creditors utilizing this provision must show the highest of those rates. For example:

- An add-on rate of 10 percent converted to an annual percentage rate produce the following actual annual percentage rates at various maturities: at 3 months, 14.94 percent; at 21 months, 18.18 percent; and at 60 months, 17.27 percent. The creditor must disclose an annual percentage rate of 18.18 percent (the highest annual percentage rate) for any transaction up to 5 years, even though that rate is precise only for a transaction of 21 months.

22(d) Certain transactions involving ranges of balances.

1. *General rule.* Creditors applying a fixed dollar finance charge to all balances within a specified range of balances may understate the annual percentage rate by up to 8 percent of that rate, by disclosing for all those balances the annual percentage rate computed on the median balance within that range. For example:

- If a finance charge of $9 applies to all balances between $91 and $100, an annual percentage rate of 10 percent (the rate on the median balance) may be disclosed as the annual percentage rate for all balances, even though a $9 finance charge applied to the lowest balance ($91) would actually produce an annual percentage rate of 10.7 percent.

References

Statute: Section 107.

Other sections: § 226.17(c)(4) and Appendix J.

Previous regulation: § 226.5(b) through (e).

1981 changes: The section now provides a larger tolerance (¼ of 1 percentage point) for irregular transactions. It also eliminates, as of April 1, 1982, the regulatory provision that protects creditors against liability for using faulty calculation tools.

Section 226.23—Right of Rescission

1. *Transactions not covered.* Credit extensions that are not subject to the regulation are not covered by § 226.23 even if a customer's principal dwelling is the collateral securing the credit. For example, the right of rescission does not apply to a business purpose loan, even though the loan is secured by the customer's principal dwelling.

23(a) Consumer's right to rescind.

Paragraph 23(a)(1).

1. *Security interest arising from transaction.* In order for the right of rescission to apply, the security interest must be retained as part of the credit transaction. For example:

- A security interest that is acquired by a contractor who is also extending the credit in the transaction.
- A mechanic's or materialman's lien that is retained by a subcontractor or supplier of the contractor-creditor, even when the latter has waived its own security interest in the consumer's home.

The security interest is not part of the credit transaction and therefore the transaction is not subject to the right of rescission when, for example:

- A mechanic's or materialman's lien is obtained by a contractor who is not a party to the credit transaction but is merely paid with the proceeds of the consumer's unsecured bank loan.
- All security interests that may arise in connection with the credit transaction are validly waived.
- The creditor obtains a lien and completion bond that in effect satisfies all liens against the consumer's principal dwelling as a result of the credit transaction.

Although liens arising by operation of law are not considered security interests for purposes of disclosure under § 226.2, that section specifically includes them in the definition for purposes of the right of rescission. Thus, even though an interest in the consumer's principal dwelling is not a required disclosure under § 226.18(m), it may still give rise to the right of rescission.

2. *Consumer.* To be a consumer within the meaning of § 226.2, that person must at least have an ownership interest in the dwelling that is encumbered by the creditor's security interest, although that person need not be a signatory to the credit agreement. For example, if only one spouse signs a credit contract, the other spouse is a consumer if the ownership interest of that spouse is subject to the security interest.

3. *Principal dwelling.* A consumer can only have *one* principal dwelling at a time. A vacation or other second home would not be a principal dwelling. A transaction secured by a second home (such as a vacation home) that is not currently being used as the consumer's principal dwelling is not rescindable, even if the consumer intends to reside there in the future. When a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within one year or upon completion of construction, the new dwelling is considered the principal dwelling when it secures the acquisition or construction loan. Dwelling, as defined in § 226.2, includes structures that are classified as personalty under state law. For example, a transaction secured by a mobile home, trailer or houseboat used as the consumer's principal dwelling may be rescindable.

4. *Special rule for prinicipal dwelling.* When the creditor is acquiring or constructing a new principal dwelling, *any* loan secured by the equity in the

consumer's current principal dwelling (for example, a bridge loan) is still subject to the right of rescission regardless of the purpose of that loan.

5. *Addition of a security interest.* Under footnote 47, the addition of a security interest to a pre-existing obligation is rescindable. The right of rescission applies only to the added security interest, however, and not to the original obligation. In those situations, only the § 226.23(b) notice need be delivered, not new material disclosures; the rescission period will begin to run from the delivery of the notice.

Paragraph 23(a)(2).

1. *Consumer's exercise of right.* The consumer must exercise the right of rescission in writing but not necessarily on the notice supplied under § 226.23(b). Whatever the means of sending the notification of rescission—mail, telegram or other witten means—the time period for the creditor's performance under § 226.23(d)(2) does not begin to run until the notification has been received. The creditor may designate an agent to receive the notification so long as the agent's name and address appear on the notice provided to the consumer under § 226.23(b).

Paragraph 23(a)(3).

1. *Rescission period.* The period within which the consumer may exercise the right to rescind runs for 3 business days from the last of 3 events:

- Consummation of the transaction.
- Delivery of all material disclosures.
- Delivery to the consumer of the required rescission notice.

For example, if a transaction is consummated on Friday, June 1, and the disclosures and notice of the right to rescind were given on Thursday, May 31, the rescission period will expire at midnight of the third business day after June 1—that is, Tuesday, June 5. In another example, if the disclosures are given and the transaction consummated on Friday, June 1, and the rescission notice is given on Monday, June 4, the rescission period expires at midnight of the third business day after June 4—that is, Thursday, June 7. The consumer must place the rescission notice in the mail, file it for telegraphic transmission, or deliver it to the creditor's place of business within that period in order to exercise the right.

2. *Material disclosures.* Footnote 48 sets forth the material disclosures that must be provided before the rescission period can begin to run. Failure to provide information regarding the annual pecentage rate also includes failure to inform the consumer of the existence of a variable rate feature. Failure to give the other required disclosures does not prevent the running of the rescission period, although that failure may result in civil liability or administrative sanctions.

3. *Unexpired right of rescission.* When the creditor has failed to take the action necessary to start the 3-business day rescission period running, the right to rescind automatically lapses on the occurrence of the earliest of the following 3 events:

- The expiration of 3 years after consummation of the transaction.
- Transfer of all the consumer's interest in the property.
- Sale of the consumer's interest in the property, including a transaction in which the consumer sells the dwelling and takes back legal title through a purchase money note and mortgage.

Transfer of all the consumer's interest includes such transfers as bequests and gifts. A sale or transfer of the property need not be voluntary to terminate the right to rescind. For example, a foreclosure sale would terminate an unexpired right to rescind. As provided in § 125 of the act, the 3-year limit may be extended by an administrative proceeding to enforce the provisions of this section. A partial transfer of the consumer's interest, such as a transfer bestowing co-ownership on a spouse, does not terminate the right of rescission.

Paragraph 23(a)(4).

1. *Joint owners.* When more than one consumer has the right to rescind a transaction, any of them may exercise that right and cancel the transaction on behalf of all. For example, if both husband and wife have the right to rescind a transaction, either spouse acting alone may exercise the right and both are bound by the rescission.

23(b) Notice of right to rescind.

1. *Who receives notice.* Each consumer entitled to rescind must be given:

- Two copies of the rescission notice.
- The material disclosures.

In a transaction involving joint owners, both of whom are entitled to rescind, both must receive the notice of the right to rescind and disclosures. For example, if both spouses are entitled to rescind a transaction, each must receive 2 copies of the rescission notice and one copy of the disclosures.

2. *Format.* The notice must be on a separate piece of paper, but may appear with other information such as the itemization of the amount financed. The material must be clear and conspicuous, but no minimum type size or other technical requirements are imposed. The notices in Appendix H provide models that creditors may use in giving the notice.

3. *Content.* The notice must include all of the information outlined in § 226.23(b)(1) through (5). The requirement in § 226.23(b) that the transaction be identified may be met by providing the date of the transaction. The creditor may provide a separate form that the consumer may use to exercise the right of rescission, or that form may be combined with the other rescission disclosures, as illustrated in Appendix H. The notice may include additional information related to the required information, such as:

- A description of the property subject to the security interest.
- A statement that joint owners may have the right to rescind and that a rescission by one is effective for all.
- The name and address of an agent of the creditor to receive notice of rescission.

4. *Time of providing notice.* The notice required by § 226.23(b) need not be given before consummation of the transaction. The creditor may deliver the notice after the transaction is consummated, but the rescission period will not begin to run until the notice is given. For example, if the creditor provides the notice on May 15, but disclosures were given and the transaction was consummated on May 10, the 3-business day rescission period will run from May 15.

23(c) Delay of creditor's performance.

1. *General rule.* Until the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded, the creditor must not, either directly or through a third party:

- Disburse loan proceeds to the consumer.
- Begin performing services for the consumer.
- Deliver materials to the consumer.

2. *Escrow.* The creditor may disburse loan proceeds during the rescission period in a valid escrow arrangement. The creditor may not, however, appoint the consumer as "trustee" or "escrow agent" and distribute funds to the consumer in that capacity during the delay period.

3. *Permissible actions.* Section 226.23(c) does not prevent the creditor from taking other steps during the delay, short of beginning actual performance. The creditor may, for example:

- Prepare the loan check.
- Perfect the security interest.
- Prepare to discount or assign the contract to a third party.

- Accrue finance charges during the delay period.

4. *Delay beyond rescission period.* The creditor must wait until it is reasonably satisfied that the consumer has not rescinded. For example, the creditor may satisfy itself by doing one of the following:

- Waiting a reasonable time after expiration of the rescission period to allow for delivery of a mailed notice.
- Obtaining a written statement from the consumer that the right has not been exercised.

When more than one consumer has the right to rescind, the creditor cannot reasonably rely on the assurance of only one consumer, because other consumers may exercise the right.

23(d) Effects of rescission.

Paragraph 23(d)(1).

1. *Termination of security interest.* Any security interest giving rise to the right of rescission becomes void when the consumer exercises the right of rescission. The security interest is automatically negated regardless of its status and whether or not it was recorded or perfected. Under § 226.23(d)(2), however, the creditor must take any action necessary to reflect the fact that the security interest no longer exists.

Paragraph 23(d)(2).

1. *Refunds to consumer.* The consumer cannot be required to pay any amount in the form of money or property either to the creditor or to a third party as part of the credit transaction. Any amounts of this nature already paid by the consumer must be refunded. "Any amount" includes finance charges already accrued, as well as other charges such as application and commitment fees or fees for a title search or appraisal, whether paid to the creditor, paid directly to a third party, or passed on from the creditor to the third party. It is irrelevant that these amounts may not represent profit to the creditor.

2. *Amounts not refundable to consumer.* Creditors need not return any money given by the consumer to a third party outside of the credit transaction, such as costs incurred for a building permit or for a zoning variance. Similarly, the term "any amount" does not apply to any money or property given by the creditor to the consumer; those amounts must be tendered by the consumer to the creditor under § 226.23(d)(3).

3. *Reflection of security interest termination.* The creditor must take whatever steps are necessary to indicate that the security interest is terminated. Those steps include the cancellation of documents creating the security interest, and the filing of release or termination statements in the public record. In a transaction involving subcontractors or suppliers that also hold security interests related to the credit transaction, the creditor must insure that the termination of their security interests is also reflected. The 20-day period for the creditor's action refers to the time within which the creditor must begin the process. It does not require all necessary steps to have been completed within that time, but the creditor is responsible for seeing the process through to completion.

Paragraph 23(d)(3).

1. *Property exchange.* Once the creditor has fulfilled its obligations under § 226.23(d)(2), the consumer must tender to the creditor any property or money the creditor has already delivered to the consumer. At the consumer's option, property may be tendered at the location of the property. For example, if lumber or fixtures have been delivered to the consumer's home, the consumer may tender them to the creditor by making them available for pick-up at the home, rather than physically returning them to the creditor's premises. Money already given to the consumer *must* be tendered at the creditor's place of business.

2. *Reasonable value.* If returning the property would be extremely burdensome to the consumer, the consumer may offer the creditor its reasonable value rather than returning the property itself. For example, if building materials have already been incorporated into the consumer's dwelling, the consumer may pay their reasonable value.

Paragraph 23(d)(4).

1. *Modifications.* The procedures outlined in § 226.23(d) (2) and (3) may be modified by a court. For example, when a consumer is in bankruptcy proceedings and prohibited from returning anything to the creditor, or when the equities dictate, a modification might be made.

23(e) Consumer's waiver of right to rescind.

1. *Need for waiver.* To waive the right to rescind, the consumer must have a bona fide personal financial emergency that must be met before the end of the rescission period. The existence of the consumer's waiver will not, of itself, automatically insulate the creditor from liability for failing to provide the right of rescission.

2. *Procedure.* To waive or modify the right to rescind, the consumer must give a written statement that specifically waives or modifies the right, and also includes a brief description of the emergency. Each consumer entitled to rescind must sign the waiver statement. In a transaction involving multiple consumers, such as a husband and wife using their home as collateral, the waiver must bear the signatures of both spouses.

23(f) Exempt transactions.

1. *Residential mortgage transaction.* Any transaction to construct or acquire a principal dwelling, whether considered real or personal property, is exempt. (See the commentary to § 226.23(a).) For example, a credit transaction to acquire a mobile home or houseboat to be used as the consumer's principal dwelling would not be rescindable.

2. *Lien status.* The lien status of the mortgage is irrelevant for purposes of the exemption in § 226.23(f)(1); the fact that a loan has junior lien status does not by itself preclude application of this exemption. For example, a home buyer may assume the existing first mortgage and create a second mortgage to finance the balance of the purchase price. Such a transaction would not be rescindable.

3. *Combined-purpose transaction.* A loan to acquire a principal dwelling and make improvements to that dwelling is exempt if treated as one transaction. If, on the other hand, the loan for the acquisition of the principal dwelling and the subsequent advances for improvements are treated as more than one transaction, then only the transaction that finances the acquisition of that dwelling is exempt.

4. *New advances.* The exemption in § 226.23(f)(2) applies only to refinancings or consolidations by the original creditor. If the transaction involves the advance of new money, then only the amount of the new money is rescindable. For example, if the sum of the outstanding principal balance plus the earned finance charge is $1,000 and the new amount financed is $1,000, then the refinancing would be exempt. On the other hand, if the new amount financed exceeds $1,000, then the amount in excess of that $1,000 would be rescindable. A model rescission notice applicable to transactions involving new money appears in Appendix H.

5. *State creditors.* Cities and other political subdivisions of states acting as creditors are not exempted from this section.

6. *Multiple advances.* Just as new disclosures need not be made for subsequent advances when treated as one transaction, no new rescission rights arise so long as the appropriate notice and disclosures are given at the outset of the transaction. For example, the creditor extends credit for home

improvements secured by the consumer's principal dwelling, with advances made as repairs progress. As permitted by § 226.17(c)(6), the creditor makes a single set of disclosures at the beginning of the construction period, rather than separate disclosures for each advance. The right of rescission does not arise with each advance. However, if the advances are treated as separate transactions, the right of rescission applies to each advance.

7. *Spreader clauses.* When the creditor holds a mortgage or deed of trust on the consumer's principal dwelling and that mortgage or deed of trust contains a "spreader clause," subsequent loans made are separate transactions and are subject to the right of rescission. Those loans are rescindable unless the creditor effectively waives its security interest under the spreader clause with respect to the subsequent transactions.

References

Statute: Secs. 113, 125, and 130.

Other sections: Sec. 226.2 and Appendix H.

Previous regulation: Sec. 226.9.

1981 changes: The right to rescind applies not only to real property used as the consumer's principal dwelling, but to personal property as well. The regulation provides no specific text or format for the notice of the right to rescind.

Section 226.24—Advertising

1. *Clear and conspicuous standard.* This section is subject to the general "clear and conspicous" standard for this subpart but prescribes no specific rules for the format of the necessary disclosures. The credit terms need not be printed in a certain type size nor need they appear in any particular place in the advertisment. For example, a merchandise tag that is an advertisement under the regulation complies with this section if the necessary credit terms are on both sides of the tag, so long as each side is accessible.

24(a) Actually available terms.

1. *General rule.* To the extent that an advertisement mentions specific credit terms, it may state only those terms that the creditor is actually prepared to offer. For example, a creditor may not advertise a very low annual percentage rate that will not in fact be available at any time. This provision is not intended to inhibit the promotion of new credit programs, but to bar the advertising of terms that are not and will not be available. For example, a creditor may advertise terms that will be offered for only a limited period, or terms that will become available at a future date.

24(b) Advertisment of rate of finance charge.

1. *Annual percentage rate.* Advertised rates must be stated in terms of an "annual percentage rate," as defined in § 226.22. Even though state or local law permits the use of add-on, discount, time-price differential, or other methods of stating rates, advertisements must state them as annual percentage rates. Unlike the transactional disclosure of the annual percentage rate under § 226.18(e), the advertised annual percentage rate need not include a descriptive explanation of the term. The advertisement must state that the rate is subject to increase after consummation if that is the case, but the advertisement need not describe the rate increase, its limits, or how it would affect the payment schedule. As under § 226.18(f), relating to disclosure of a variable rate, the rate increase disclosure requirement in this provision does not apply to any rate increase due to delinquency (including late payment), default, acceleration, assumption, or transfer of collateral.

2. *Simple or periodic rates.* The advertisement may not simultaneously state any other rate, except that a simple annual rate or periodic rate applicable to an unpaid balance may appear along with (but not more conspicuously than) the annual percentage rate. For example:

- In an advertisement for real estate, a simple interest rate may be shown in the same type size as the annual percentage rate for the advertised credit.

3. *Buydowns.* When a third party (such as a seller) or a creditor wishes to promote the availability of reduced interest rates (consumer or seller buydowns), the advertised annual percentage rate must be determined in accordance with the rules in the commentary to § 226.17(c) regarding the basis of transactional disclosures for buydowns. The seller or creditor may advertise the reduced simple interest rate, provided the advertisement shows the limited term to which the reduced rate applies and states the simple interest rate applicable to the balance of the term. The advertisement may also show the effect of the buydown agreement on the payment schedule for the buydown period without triggering the additional disclosures under § 226.24(c)(2). For example, the advertisement may state that "with this buydown arrangement, your monthly payments for the first 3 years of the mortgage term will be only $350" or "this buydown arrangement will reduce your monthly payments for the first 3 years of the mortgage term by $150."

24(c) Advertisement of terms that require additional disclosures.

1. *General rule.* Under § 226.24(c)(1), whenever certain triggering terms appear in credit advertisements, the additional credit terms enumerated in § 226.24(c)(2) must also appear. These provisions apply even if the triggering term is not stated explicitly, but may be readily determined from the advertisement. For example, an advertisement may state "80% financing available," which is in fact indicating that a 20% downpayment is required.

Paragraph 24(c)(1).

1. *Downpayment.* The dollar amount of a downpayment or a statement of the downpayment as a percentage of the price requires further information. By virtue of the definition of "downpayment" in § 226.2, this triggering term is limited to credit sale transactions. It includes such statements as:

- "Only 5% down."
- "As low as $100 down."
- "Total move-in costs of $800."

This provision applies only if a downpayment is actually required; statements such as "no downpayment" or "no trade-in required" do not trigger the additional disclosures under this paragraph.

2. *Payment period.* The number of payments required or the total period of repayment includes such statements as:

- "48-month payment terms."
- "30-year mortgage."
- "Repayment in as many as 36 monthly installments."

But it does not include such statements as "pay weekly," "monthly payment terms arranged," or "take years to repay," since these statements do not indicate a time period over which a loan may be financed.

3. *Payment amount.* The dollar amount of any payment includes statements such as:

- "Payable in installments of $103."
- "$25 weekly."
- "$1,200 balance payable in 10 equal installments."

In the last example, the amount of each payment is readily determinable, even though not explicitly stated. But statements such as "monthly payments to suit your needs" or "regular monthly payments" are not covered.

4. *Finance charge.* The dollar amount of the finance charge or any portion of it includes statements such as:

- "$500 total cost of credit."
- "$2 monthly carrying charge."

- "$50,000 mortgages, 2 points to the borrower."

In the last example, the $1,000 prepaid finance charge can be readily determined from the information given. Statements of the annual percentage rate or statements that there is no particular charge for credit (such as "no closing costs") are not triggering terms under this paragraph.

Paragraph 24(c)(2).

1. *Disclosure of downpayment.* The total downpayment as a dollar amount or percentage must be shown, but the word "downpayment" need not be used in making this disclosure. For example, "10% cash required from buyer" or "credit terms require minimum $100 trade-in" would suffice.

2. *Disclosure of repayment terms.* While the phrase "terms of repayment" generally has the same meaning as the "payment schedule" required to be disclosed under § 226.18(g), § 226.24(c)(2)(ii) provides greater flexibility to creditors in making this disclosure for advertising purposes. Repayment terms may be expressed in a variety of ways in addition to an exact repayment schedule; this is particularly true for advertisements that do not contemplate a single specific transaction. For example:

- A creditor may use a unit-cost approach in making the required disclosure, such as "48 monthly payments of $27.83 per $1,000 borrowed."
- In an advertisement for credit secured by a dwelling, when any series of payments varies because of a graduated payment feature or because of the inclusion of mortgage insurance premiums, a creditor may state the number and timing of payments, the amounts of the largest and smallest of those payments, and the fact that other payments will vary between those amounts.

3. *Annual percentage rate.* The advertisement must also state, if applicable, that the annual percentage rate is subject to increase after consummation.

4. *Use of examples.* Footnote 49 authorizes the use of illustrative credit transactions to make the necessary disclosures under § 226.24(c)(2). That is, where a range of possible combinations of credit terms is offered, the advertisement may use examples of typical transactions, so long as each example contains all of the applicable terms required by § 226.24(c). The examples must be labelled as such and must reflect representative credit terms that are made available by the creditor to present and prospective customers.

24(d) Catalogs and multiple-page advertisements.

1. *Definition.* The multiple-page advertisements to which this section refers are advertisements consisting of a series of sequentially numbered pages—for example, a supplement to a newspaper. A mailing consisting of several separate flyers or pieces of promotional material in a single envelope does not constitute a single multiple-page advertisement for purposes of § 226.24(d).

2. *General.* Section 226.24(d) permits creditors to put credit information together in one place in a catalog or multiple-page advertisement. The rule applies only if the catalog or multiple-page advertisement contains one or more of the triggering terms from § 226.24(c)(1). A list of different annual percentage rates applicable to different balances, for example, does not trigger further disclosures under § 226.24(c)(2) and so is not covered by § 226.24(d).

3. *Representative examples.* The table or schedule must state all the necessary information for a representative sampling of amounts of credit. This must reflect amounts of credit the creditor actually offers, up to and including the higher-priced items. This does not mean that the chart must make the disclosures for the single most expensive item the seller offers, but only that the chart cannot be limited to information about less expensive sales when the seller commonly offers a distinct level of more expensive goods or services. The range of transactions shown in the table or schedule in a particular catalog or multiple-page advertisement need not exceed the range of transactions actually offered in that advertisement.

References

Statute: Sections 141, 142, and 144.
Other sections: §§ 226.2, 226.4, and 226.22.
Previous regulation: § 226.10 (a), (b), and (d).
1981 changes: This section retains the advertising rules in a form very similar to the previous regulation, but with certain changes to reflect the 1980 statutory amendments. For example, if triggering terms appear in any advertisement, the additional disclosures required no longer include the cash price. The special rule for FHA § 235 financing has been eliminated, as well as the rule for advertising credit payable in more than four installments with no identified finance charge. Interpretation § 226.1002, requiring disclosure of representative amounts of credit in catalogs and multiple-page advertisements, has been incorporated in simplified form in § 226.24(d).

Unlike the previous regulation, if the advertised annual percentage rate is subject to increase, that fact must now be disclosed.

Subpart D—Miscellaneous

Section 226.25—Record Retention

25(a) General rule.

1. *Evidence of required actions.* The creditor must retain evidence that it performed the required actions as well as made the required disclosures. This includes, for example, evidence that the creditor properly handled adverse credit reports in connection with amounts subject to a billing dispute under § 226.13, and properly handled the refunding of credit balances under §§ 226.11 and 226.21.

2. *Methods of retaining evidence.* Adequate evidence of compliance does not necessarily mean actual paper copies of disclosure statements or other business records. The evidence may be retained on microfilm, microfiche, or by any other method that reproduces records accurately (including computer programs). The creditor need retain only enough information to reconstruct the required disclosures or other records. Thus, for example, the creditor need not retain each open-end periodic statement, so long as the specific information on each statement can be retrieved.

References

Statute: Secs. 105 and 108.
Other sections: Appendix I.
Previous regulation: § 226.6(i).
1981 changes: Section 226.25 substitutes a uniform 2-year record-retention rule for the previous requirement that certain creditors retain records through at least one compliance examination. It also states more explicitly that the record-retention requirements apply to evidence of required actions.

Section 226.26—Use of Annual Percentage Rate in Oral Disclosures

1. *Application of rules.* The restrictions of § 226.26 apply only if the creditor chooses to respond orally to the consumer's request for credit cost information. Nothing in the regulation requires the creditor to supply rate information orally. If the creditor volunteers information (including rate information) through oral solicitations directed generally to prospective customers, as through a telephone solicitation, those communications may be advertisements subject to the rules in §§ 226.16 and 226.24.

26(a) Open-end credit.

1. *Information that may be given.* The creditor may state periodic rates in addition to the required annual percentage rate, but it need not do so. If the annual percentage rate is unknown because transaction charges, loan fees, or similar finance charges may be imposed, the creditor must give the corresponding annual percentage rate (that is, the periodic rate multiplied by the number of periods in a year, as described in §§ 226.6(a)(2) and 226.7(d)). In such cases, the creditor may, but need not, also give the consumer information about other finance charges and other charges.

26(b) Closed-end credit.

1. *Information that may be given.* The creditor may state other annual or periodic rates that are applied to an unpaid balance, along with the required annual percentage rate. This rule permits disclosure of a simple interest rate, for example, but not an add-on, discount, or similar rate. If the creditor cannot give a precise annual percentage rate in its oral response because of variables in the transaction, it must give the annual percentage rate for a comparable sample transaction; in this case, other cost information may, but need not, be given. For example, the creditor may be unable to state a precise annual percentage rate for a mortgage loan without knowing the exact amount to be financed, the amount of loan fees or mortgage insurance premiums, or similar factors. In this situation, the creditor should state an annual percentage rate for a sample transaction; it may also provide information about the consumer's specific case, such as the contract interest rate, points, other finance charges, and other charges.

References

Statute: Section 146.
Other sections: §§ 226.6(a)(2) and 226.7(d).
Previous regulation: Interpretation § 226.101.
1981 changes: This section implements amended § 146 of the act, which added a provision dealing with oral disclosures, and incorporates Interpretation § 226.101.

Section 226.27—Spanish Language Disclosures

1. *Subsequent disclosures.* If a creditor in Puerto Rico provides initial disclosures in Spanish, subsequent disclosures need not be in Spanish. For example, if the creditor gave Spanish-language initial disclosures, periodic statements and change-in-terms notices may be made in English.

2. *Permissible uses.* If a creditor other than in Puerto Rico provides translations of the required disclosures—either because it is required to do so by state, federal, or local law, or because it chooses to do so—the translations are not inconsistent per se with the disclosures under this regulation and they may be provided as additional information. In both cases, the English language disclosures required by this regulation must be clear and conspicuous, and the closed-end disclosures in English must be properly segregated in accordance with § 226.17(a)(1).

References

Statute: None.
Other sections: None.
Previous regulation: § 226.6(a).
1981 changes: No substantive change.

Section 226.28—Effect on State Laws

28(a) Inconsistent disclosure requirements

1. *General.* There are 3 sets of preemption criteria: 1 applies to the general disclosure and advertising rules of the regulation, and 2 apply to the credit billing provisions. Section 226.28 also provides for Board determinations of preemption.

2. *Rules for chapters 1, 2, and 3.* The standard for judging whether state laws that cover the types of requirements in chapters 1 (General provisions), 2 (Credit transactions), and 3 (Credit advertising) of the act are inconsistent and therefore preempted, is contradiction of the federal law. Examples of laws that would be preempted include:

- A state law that requires use of the term "finance charge," but defines the term to include fees that the federal law excludes, or to exclude fees the federal law includes.
- A state law that requires a label such as "nominal annual interest rate" to be used for what the federal law calls the "annual percentage rate."

3. *Laws not contradictory to chapters 1, 2, and 3.* Generally, state law requirements that call for the disclosure of items of information not covered by the federal law, or that require more detailed disclosures, do not contradict the federal requirements. Examples of laws that are not preempted include:

- A state law that requires disclosure of the minimum periodic payment for open-end credit, even though not required by § 226.7.
- A state law that requires contracts to contain warnings such as: "Read this contract before you sign. Do not sign if any spaces are left blank. You are entitled to a copy of this contract."

Similarly, a state law that requires itemization of the amount financed does not automatically contradict the permissive itemization under § 226.18(c). However, a state law requirement that the itemization appear with the disclosure of the amount financed in the segregated closed-end credit disclosures is inconsistent, and this location requirement would be preempted.

4. *Creditor's options.* Before the Board makes a determination about a specific state law, the creditor has certain options. Since the prohibition against giving the state disclosures does not apply until the Board makes its determination, the creditor may choose to give state disclosures until the Board formally determines that the state law is inconsistent. (The Board will provide sufficient time for creditors to revise forms and procedures as necessary to conform to its determinations.)

- Under this first approach, as in all cases, the federal disclosures must be clear and conspicuous, and the closed-end disclosures must be properly segregated in accordance with § 226.17(a)(1).
- This ability to give state disclosures relieves any uncertainty that the creditor might have prior to Board determinations of inconsistency.

As a second option, the creditor may apply the preemption standards to a state law, conclude that it is inconsistent, and choose not to give the state-required disclosures. However, nothing in § 226.28(a) provides the creditor with immunity for violations of state law if the creditor chooses *not* to make state disclosures and the Board later determines that the state law is not preempted.

5. *Rules for correction of billing errors and regulation of credit reports.* The preemption criteria for the fair credit billing provisions set forth in § 226.28 have 2 parts. With respect to the rules on correction of billing errors and regulation of credit reports (which are in § 226.13), § 226.28(a)(2)(i) provides that a state law is inconsistent and preempted if its requirements are different from the federal law. An exception is made, however, for state laws that allow the consumer to inquire about an account and require the creditor to respond to such inquiries beyond the time limits in the federal law. Such a state law is not preempted with respect to the extra time period. For example, § 226.13 requires the consumer to submit a written notice of billing error within 60 days after

transmittal of the periodic statement showing the alleged error. If a state law allows the consumer 90 days to submit a notice, the state law remains in effect to provide the extra 30 days. Any state law disclosures concerning this extended state time limit must reflect the qualifications and conform to the format specified in § 226.28(a)(2)(i). Examples of laws that would be preempted include:

- A state law that has a narrower or broader definition of "billing error."
- A state law that requires the creditor to take different steps to resolve errors.
- A state law that provides different timing rules for error resolution (subject to the exception discussed above).

6. *Rules for other fair credit billing provisions.* The second part of the criteria for fair credit billing relates to the other rules implementing chapter 4 of the act (addressed in §§ 226.4(c)(8), 226.5(b)(2)(ii), 226.6(d), 226.7(k), 226.9(a), 226.10, 226.11, 226.12 (c) through (f), 226.13, and 226.21). Section 226.28(a)(2)(ii) provides that the test of inconsistency is whether the creditor can comply with state law without violating federal law. For example:

- A state law that allows the card issuer to offset the consumer's credit-card indebtedness against funds held by the card issuer would be preempted, since § 226.12(d) prohibits such action.
- A state law that requires periodic statements to be sent *more* than 14 days before the end of a free-ride period would not be preempted.
- A state law that permits consumers to assert claims and defenses against the card issuer without regard to the $50 and 100-mile limitation of § 226.12(c)(3)(ii) would not be preempted.

In the last 2 cases, compliance with state law would involve no violation of the federal law.

7. *Who may receive a chapter 4 determination.* Only states (through their authorized officials) may request and receive determinations on inconsistency with respect to the fair credit billing provisions.

28(b) Equivalent disclosure requirements.

1. *General.* A state disclosure may be substituted for a federal disclosure only *after* the Board has made a finding of substantial similarity. Thus, the creditor may not unilaterally choose to make a state disclosure in place of a federal disclosure, even if it believes that the state disclosure is substantially similar. Since the rule stated in § 226.28(b) does not extend to any requirement relating to the finance charge or annual percentage rate, no state provision on computation, description, or disclosure of these terms may be substituted for the federal provision.

References

Statute: Secs. 111 and 171 (a) and (c).
Other sections: Appendix A.
Previous regulation: § 226.6 (b) and (c), and Interpretation § 226.604.
1981 changes: Section 226.28 implements amended § 111 of the act. The test for preemption of state laws relating to disclosure and advertising is now whether the state law "contradicts" the federal, rather than whether state requirements are "different."

The revised regulation contains no counterpart to § 226.6(c) of the previous regulation concerning placement of inconsistent disclosures. It also reflects the statutory amendment providing that once the Board determines that a state-required disclosure is inconsistent with federal law, the creditor may not make the state disclosure.

Section 226.29—State Exemptions

29(a) General rule.

1. *Classes eligible.* The state determines the classes of transactions for which it will request an exemption, and makes its application for those classes. Classes might be, for example, all open-end credit transactions, all open-end and closed-end transactions, or all transactions in which the creditor is a bank.

2. *Substantial similarity.* The "substantially similar" standard requires that state statutory or regulatory provisions and state interpretations of those provisions be generally the same as the federal act and Regulation Z. This includes the requirement that state provisions for reimbursement to consumers for overcharges be at least equivalent to those required in § 108 of the act. A state will be eligible for an exemption even if its law covers classes of transactions not covered by the federal law. For example, if a state's law covers agricultural credit, this will not prevent the Board from granting an exemption for consumer credit, even though agricultural credit is not covered by the federal law.

3. *Adequate enforcement.* The standard requiring adequate provision for enforcement generally means that appropriate state officials must be authorized to enforce the state law through procedures and sanctions comparable to those available to federal enforcement agencies. Furthermore, state law must make adequate provision for enforcement of the reimbursement rules.

29(b) Civil liability.

1. *Not eligible for exemption.* The provision that an exemption may not extend to §§ 130 and 131 of the act assures that consumers retain access to both federal and state courts in seeking damages or civil penalties for violations, while creditors retain the defenses specified in those sections.

References

Statute: Secs. 108, 123, and 171(b).
Other sections: Appendix B.
Previous regulation: § 226.12.
1981 changes: The procedures that states must follow to seek exemptions are now located in an appendix. Exemptions under the previous regulation will be automatically revoked on April 1, 1982, when compliance with the new regulation is mandatory.

Appendix A—Effect on State Laws

1. *Who may make requests.* Appendix A sets forth the procedures for preemption determinations. As discussed in § 226.28, which contains the standards for preemption, a request for a determination of whether a state law is inconsistent with the requirements of chapters 1, 2, or 3 may be made by creditors, states, or any interested party. However, only states may request and receive determinations in connection with the fair credit billing provisions of chapter 4.

References

Statute: Secs. 111 and 171(a).
Other sections: § 226.28.
Previous regulation: §§ 226.6(b) and 226.70 [Supplement V, Section II].
1981 changes: The procedures in Appendix A were largely adapted from Supplement V, Section II of the previous regulation (§ 226.70), with changes made to streamline the procedures.

Appendix B—State Exemptions

1. *General.* Appendix B sets forth the procedures for exemption applications. The exemption standards are found in § 226.29 and are discussed in the commentary to that section.

References

Statute: Secs. 123 and 171(b).
Other sections: § 226.29.
Previous regulation: §§ 226.12, 226.50 (Supplement II), 226.60 (Supplement IV), and 226.70 (Supplement V, Section I).
1981 changes: The procedures in Appendix B represent a combination and streamlining of the procedures set forth in the supplements to the previous regulation.

Appendix C—Issuance of Staff Interpretations

1. *General.* This commentary is the vehicle for providing official staff interpretations. Individual interpretations generally will not be issued separately from the commentary.

References

Statute: Secs. 105 and 130(f).
Other sections: None.
Previous regulation: § 226.1(d).
1981 changes: Appendix C reflects the Board's intention that this commentary serve as the vehicle for interpreting the regulation, rather than individual interpretive letters.

Appendix D—Multiple-Advance Construction Loans

1. *General rule.* Appendix D provides a special procedure that creditors may use, at their option, to estimate and disclose the terms of multiple advance construction loans when the amounts and timing of advances are unknown at consummation of the transaction. This appendix reflects the approach taken in § 226.17(c)(6)(ii), which permits creditors to provide separate or combined disclosures for the construction period and for the permanent financing, if any; i.e., the construction phase and the permanent phase may be treated as one transaction or more than one transaction.

References

Statute: None.
Other sections: §§ 226.17 and 226.22.
Previous regulation: Interpretation § 226.813.
1981 changes: The use of Appendix D is limited to multiple-advance loans for construction purposes.

Appendix E—Rules for Card Issuers That Bill on a Transaction-by-Transaction Basis

Statute: None.
Previous regulation: Interpretation § 226.709.
Other sections: §§ 226.6 through 226.13, and 226.15.
1981 changes: The rules in this appendix have been streanlined and clarified to indicate how certain card issuers that bill on a transaction basis may comply with the requirements of Subpart B.

Appendix F—Annual Percentage Rate Computations for Certain Open-End Credit

Statute: Section 107.
Previous regulation: § 226.5(a)(3)(ii), footnote 5(a).
Other sections: § 226.14.
1981 changes: This appendix incorporates a sixth example in which the transaction amount exceeds the amount of the balance subject to the periodic rate.

Appendices G and H—Open-End and Closed-End Model Forms and Clauses

1. *Permissible changes.* Although use of the model forms and clauses is not required, creditors using them properly will be deemed to be in compliance with the regulation with regard to those disclosures. Creditors may make certain changes in the format or content of the forms and clauses and may delete any disclosures that are inapplicable to a transaction or a plan without losing the act's protection from liability. The rearrangement of the model forms and clauses may not be so extensive as to affect the substance, clarity, or meaningful sequence of the forms and clauses. Creditors making revisions with that effect will lose their protection from civil liability. Acceptable changes include, for example:

- Using the first person, instead of the second person, in referring ot the borrower.
- Using "borrower" and "creditor" instead of pronouns.
- Rearranging the sequence of the disclosures.
- Not using bold type for headings.
- Incorporating certain state "plain English" requirements.
- Deleting inapplicable disclosures by whiting out, blocking out, filling in "N/A" (not applicable) or "0", crossing out, leaving blanks, checking a box for applicable items, or circling applicable items. (This should permit use of multipurpose standard forms.)
- Substituting appropriate references, such as "bank," "we," or a specific name, for "creditor" in the initial open-end disclosures.
- Using a vertical, rather than a horizontal, format for the boxes in the closed-end disclosures.

Appendix G—Open—End Model Forms and Clauses

1. *Model G–1.* The model disclosures in G–1 (different balance computation methods) may be used in both the initial disclosures under § 226.6 and the periodic disclosures under § 226.7. As is clear from the models given, "short-hand" descriptions of the balance computation methods are not sufficient. The phrase "a portion of" the finance charge should be included if the total finance charge includes other amounts, such as transaction charges, that are not due to the application of a periodic rate. In addition, if unpaid finance charges are subtracted in calculating the balance, that fact must be stated so that the disclosure of the computation method is accurate. Only Model G–1(b) contains of final sentence appearing in brackets which reflects the total dollar amount of payments and credits received during the billing cycle. The other models do not contain this language because they reflect plans in which payments and credits received during the billing cycle are subtracted. If this is not the case, however, the language relating to payments and credits should be changed, and the creditor should add either the disclosure of the dollar amount as in Model G–1(b) or an indication of which credits (disclosed elsewhere on the periodic statement) will not be deducted in determining the balance. (Such an indication may also substitute for the bracketed sentence in Model G–1(b)). See the commentary to § 226.7(e).

2. *Model G–2.* This model contains the notice of liability for unauthorized use of a credit card.

3. *Models G–3 and G–4.* These set out models for the long form billing error rights statement (for use with the initial disclosures and as annual disclosure or, at the creditor's option, with each periodic statement) and the alternative billing error rights statement (for use with each periodic statement), respectively. Creditors must provide the billing error rights statements in a form substantially similar to the models in order to comply with the regulation. The model billing rights statements may be modified in any of the ways set forth in the first paragraph to the commentary on Appendices G and H. The models may, furthermore, be modified by deleting inapplicable information, Such as:

- The paragraph concerning stopping a debit in relation to a disputed amount, if the creditor does not have the ability to debit automatically the consumer's saving or checking account for payment.
- The rights stated in the special rule for credit card purchases and any limitations on those rights.

The model billing rights statements also contain optional language that creditors may use. For example, the creditor may:

- Include a statement to the effect that notice of a billing error must be submitted on something other than the payment ticket or other material accompanying the periodic disclosures.
- Insert its address or refer to the address that appears elsewhere on

the bill.

Additional information may be included on the statements as long as it does not detract from the required disclosures. For instance, information concerning the reporting of errors in connection with a checking account may be included on a combined statement as long as the disclosures required by the regulation remain clear and conspicuous.

4. *Models G–5 through G–9.* These models set out notices of the right to rescind that would be used at different times in an open-end plan. The last paragraph of each of the rescission model forms contains a blank for the date by which the consumer's notice of cancellation must be sent or delivered. A parenthetical is included to address the situation in which the consumer's right to rescind the transaction exists beyond 3 business days following the date of the transaction, for example, when the notice or material disclosures are delivered late or when the date of the transaction in paragraph 1 of the notice is an estimate. The language of the parenthetical is not optional.

Appendix H—Closed-End Model Forms and Clauses

1. *Models H–1 and H–2.* Creditors may make several types of changes to closed-end model forms H–1 (credit sale) and H–2 (loan) and still be deemed to be in compliance with the regulation, provided that the required disclosures are made clearly and conspicuously. Permissible changes include the addition of the information permitted by footnote 37 to § 226.17 and "directly related" information as set forth in the commentary to § 226.17(a).

The creditor may also delete or, on multi-purpose forms, indicate inapplicable disclosures, such as:

- The itemization of the amount financed option. (See Samples H–12 through H–15.)
- The credit life and disability insurance disclosures. (See Samples H–11 and H–12.)
- The property insurance disclosures. (See Samples H–10 through H–12, and H–14.)
- The "filing fees" and "non-filing insurance" disclosures. (See Samples H–11 and H–12.)
- The prepayment penalty or rebate disclosures. (See Samples H–12 through H–14.)
- The total sale price. (See Samples H–11 and H–15.)

Other permissible changes include:

- Adding the creditor's address or telephone number. (See the commentary to § 226.18(a).)
- Combining required terms where several numerical disclosures are the same, for instance, if the "total of payments" equals the "total sale price." (See the commentary to § 226.18.)
- Rearranging the sequence or location of the disclosures—for instance, by placing the descriptive phrases outside the boxes containing the corresponding disclosures, or by grouping the descriptors together as a glossary of terms in a separate section of the segregated disclosures; by placing the payment schedule at the top of the form; or by changing the order of the disclosures in the boxes, including the annual percentage rate and finance charge boxes.
- Using brackets, instead of checkboxes, to indicate inapplicable disclosures.
- Using a line for the consumer to initial, rather than a checkbox, to indicate an election to receive an itemization of the amount financed.
- Deleting captions for disclosures.
- Using a symbol, such as an asterisk, for estimated disclosures, instead of an "e."
- Adding a signature line to the insurance disclosures to reflect joint policies.
- Separately itemizing the filing fees.
- Revising the late charge disclosure in accordance with the commentary to § 226.18(l).

2. *Model H–3.* Creditors have considerable flexibility in filling out Model H–3 (itemization of the amount financed). Appropriate revisions, such as those set out in the commentary to § 226.18(c), may be made to this form without loss of protection from civil liability for proper use of the model forms.

3. *Models H–4 through H–7.* The model clauses are not included in the model forms although they are mandatory for certain transactions. Creditors using the model clauses when applicable to a transaction are deemed to be in compliance with the regulation with regard to that disclosure.

4. *Model H–4.* This model contains the variable rate model clauses and is intended to give creditors considerable flexibility in structuring variable rate disclosures to fit individual plans. The information about circumstances, limitations, and effects of an increase may be given in terms of the contract interest rate or the annual percentage rate. Clauses are shown for hypothetical examples based on the specific amount of the transaction and based on a representative amount. Creditors may preprint the variable rate disclosures based on a representative amount for similar types of transactions, instead of constructing an individualized example for each transaction. In both representative examples and transaction-specific examples, creditors may refer either to the incremental change in rate, payment amount, or number of payments, or to the resulting rate, payment amount, or number of payments. For example, creditors may state that the rate will increase by 2%, with a corresponding $150 increase in the payment, or creditors may state that the rate will increase to 16%, with a corresponding payment of $850.

5. *Model H–5.* This contains the demand feature clause.

6. *Model H–6.* This contains the assumption clause.

7. *Model H–7.* This contains the required deposit clause.

8. *Models H–8 and H–9.* These models contain the rescission notices for a typical closed-end transaction and a refinancing, respectively. The last paragraph of each model form contains a blank for the date by which the consumer's notice of cancellation must be sent or delivered. A parenthetical is included to address the situation in which the consumer's right to rescind the transaction exists beyond 3 business days following the date of the transaction, for example, where the notice or material disclosures are delivered late or where the date of the transaction in paragraph 1 of the notice is an estimate. The language of the parenthetical is not optional.

9. *Sample forms.* The sample forms (H–10 through H–15) serve a different purpose than the model forms. The samples illustrate various ways of adapting the model forms to the individual transactions described in the commentary to Appendix H. The deletions and rearrangments shown relate only to the specific transactions described. As a result, the samples do not provide the general protection from civil liability provided by the model forms and clauses.

10. *Sample H–10.* This sample illustrates an automobile credit sale. The cash price is $7,500 with a downpayment of $1,500. There is an 8% add-on interest rate and a term of 3 years, with 36 equal monthly payments. The credit life insurance premium and the filing fees are financed by the creditor. There is a $25 credit report fee paid by the consumer before consummation, which is a prepaid finance charge.

11. *Sample H–11.* This sample illustrates an installment loan. The amount of the loan is $5,000. There is a 12% simple interest rate and a term of 2

years. The date of the transaction is expected to be April 15, 1981, with the first payment due on June 1, 1981. The first payment amount is labelled as an estimate since the transaction date is uncertain. The odd days' interest

12. *Sample H–12.* This sample illustrates a refinancing and consolidation loan. The amount of the loan is $5,000. There is a 15% simple interest rate and a term of 3 years. The date of the transaction is April 1, 1981, with the first payment due on May 1, 1981. The first 35 monthly payments are equal, with an odd final payment. The credit disability insurance premium is financed. In calculating the annual percentage rate, the U.S. Rule has been used. Since an itemization of the amount financed is included with the disclosures, the statement regarding the consumer's option to receive an itemization is deleted.

13. *Samples H–13 through H–15.* These samples illustrate various mortgage transactions. They assume that the mortgages are subject to the Real Estate Settlement Procedures Act (RESPA). As a result, no option regarding the itemization of the amount financed has been included in the samples, because providing the good faith estimates of settlement costs required by RESPA satisfies Truth in Lending's amount financed itemization requirement. (See footnote 39 to § 226.18(c).)

14. *Sample H–13.* This sample illustrates a mortgage with a demand feature. The loan amount is $44,900, payable in 360 monthly installments at a simple interest rate of 14.75%. The 15 days of interim interest ($294.34) is collected as a prepaid finance charge at the time of consummation of the loan (April 15, 1981). In calculating the disclosure amounts, the minor irregularities provision in § 226.17(c)(4) has been used. The property insurance premiums are not included in the payment schedule. This disclosure statement could be used for notes with the 7-year call option required by the Federal National Mortgage Association (FNMA) in states where due-on-sale clauses are prohibited.

15. *Sample H–14.* This sample illustrates a variable rate mortgage. The loan amount is $44,900, payable in 360 monthly installments at an initial interest rate of 14.75%. All payment periods are regular. Two points ($898) have been imposed and included in the prepaid finance charge. The note provides that the interest rate may vary with the lender's prime rate, with a maximum permissible increase of 5% over the term of the mortgage. The interest rate may not vary more frequently than once a year, and may not increase by more than 1% annually. Rate fluctuations will be reflected in the monthly payment amount.

16. *Sample H–15.* This sample illustrates a graduated payment mortgage with a 5-year graduation period and a 7½ percent yearly increase in payments. The loan amount is $44,900, payable in 360 monthly installments at a simple interest rate of 14.75%. Two points ($898), as well as an initial mortgage guarantee insurance premium of $225.00, are included in the prepaid finance charge. The mortgage guarantee insurance premiums are calculated on the basis of ¼ of 1% of the outstanding principal balance under an annual reduction plan. The abbreviated disclosure permitted under § 226.18(g)(2) is used for the payment schedule for years 6 through 30. The prepayment disclosure refers to both penalties and rebates because information about penalties is required for the simple interest portion of the obligation and information about rebates is required for the mortgage insurance portion of the obligation.

References

Statute: Secs. 105 and 130.

Other sections: §§ 226.6, 226.7, 226.9, 226.12, 226.15, 226.18, and 226.23.

Previous regulation: None.

1981 changes: The model forms and clauses have no counterpart in the previous regulation.

Appendix I—Federal Enforcement Agencies

Statute: Section 108.

Other sections: None.

Previous regulation: § 226.1(b).

1981 changes: None.

Appendix J—Annual Percentage Rate Computations for Closed-End Credit Transactions

1. *Use of Appendix J.* Appendix J sets forth the actuarial equations and instructions for calculating the annual percentage rate in closed-end credit transactions. While the formulas contained in this appendix may be directly applied to calculate the annual percentage rate for an individual transaction, they may also be utilized to program calculators and computers to perform the calculations.

2. *Relation to Board tables.* The Board's Annual Percentage Rate Tables also provide creditors with a calculation tool that applies the technical information in Appendix J. An annual percentage rate computed in accordance with the instructions in the tables is deemed to comply with the regulation. Volume I of the tables may be used for credit transactions involving equal payment amounts and periods, as well as for transactions involving any of the following irregularities: odd first period, odd first payment and odd last payment. Volume II of the tables may be used for transactions that involve any type of irregularities. These tables may be obtained from any Federal Reserve Bank or from the Board in Washington, D.C. 20551, upon request.

References

Statute: Section 107.

Other sections: § 226.22.

Previous regulation: § 226.40 (Supplement I).

1981 changes: Paragraph (b)(2) has been revised to clarify that the term of the transaction never begins earlier than consummation of the transaction. Paragraph (b)(5)(vi) has been revised to permit creditors in all cases where the transaction term equals a whole number of months, to use either the 12-month method or the 365-day method to compute the number of unit-periods per year.

Board of Governors of the Federal Reserve System, October 5, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-29374 Filed 10-8-81; 8:45 am]

BILLING CODE 6210-01-M

Friday
October 9, 1981

Part V

Department of Labor

Wage and Hour Division, Employment Standards Administration

Employment of Homeworkers in Certain Industries

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 530

Employment of Homeworkers in Certain Industries

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Register Notice of December 5, 1980 (45 FR 80555), hearings were held in Burlington, Vermont and Washington, D.C. in January and February 1981 to obtain information concerning the employment of homeworkers. On May 5, 1981 (46 FR 25108) it was proposed that Regulations 29 CFR Part 530 restricting homework in seven industries be removed. Interested persons were invited to submit comments relevant to the proposal on or before June 4, 1981. Subsequently, this date was extended to July 4, 1981.

After careful consideration of the more than 10,000 written comments received as a result of the proposal, it has been decided to remove the restrictions on the employment of homeworkers in the knitted outerwear industry and to retain such restrictions in the remaining six industries.

EFFECTIVE DATE: November 9, 1981.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-8305. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

Classification

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulation, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

Furthermore; the Department believes that repeal of 29 CFR 530.1(f) will have no "significant economic impact * * * upon a substantial number of * * * small [business] entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 91 Stat. 1164 (to be codified at 5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect.

This conclusion is based upon all information presently available to the Department, including the evidence submitted during four days of hearings held by the Department to obtain current information concerning the employment of homeworkers and the more than 10,000 written comments received in response to the proposal. Accordingly, no regulatory flexibility analysis is required.

Background

Section 11(d) of the Fair Labor Standards Act provides that the Secretary of Labor is "authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act." Pursuant to this authority, the Secretary has issued regulations, published as Part 530 of Title 29 of the Code of Federal Regulations. Part 530 restricts the employment of industrial homeworkers in seven industries: women's apparel; jewelry manufacturing; knitted outerwear; gloves and mittens; button and buckle manufacturing; handkerchief manufacturing; and embroideries. These industries are defined in paragraphs (d) through (j) of § 530.1. The restrictions provide that the production of goods in these industries cannot be carried on in or about a home, apartment, tenement, or room in a residential establishment except by a certificated homeworker. An employer may obtain a certificate for workers who are unable to adjust to factory work because of age or physical or mental disability or who are unable to leave home because their presence is required to care for an invalid there. In addition, the workers must have engaged in industrial homework in the particular industry prior to a specified date, unless this requirement results in unusual hardship to an individual homeworker, in which case the requirement of previous employment in the industry may be waived. Individuals may also be employed as industrial homeworkers in the restricted industries under the supervision of a State vocational rehabilitation agency or a sheltered workshop without obtaining a certificate under Part 530.

These restrictions were promulgated following a series of public hearings extending from 1941 through 1943 held with regard to seven industries (those currently restricted) in which homework was most prevalent and in which violations of the Fair Labor Standards Act had been a significant problem. The data developed at those hearings indicated that approximately 8 percent of all workers employed in these seven industries were homeworkers; however the proportion of homeworkers in knitted outerwear was in excess of 20 percent of all workers employed in that industry.

In light of the fact that the homeworker restrictions had been in effect for almost 40 years, the Department decided to review the current status of industrial homework. Accordingly, in the Federal Register of December 5, 1980 (45 FR 80555), the Department published a notice of hearings to obtain information concerning the employment of homeworkers. The hearings were held on January 13 and 14, 1981 in Burlington, Vermont and on February 17 and 18, 1981 in Washington, D.C. Written comments were submitted through March 23, 1981.

The hearings were held to obtain information on the current situation with respect to industrial homework and the extent to which the regulations are necessary to safeguard the minimum wage.

In the oral and written testimony, commenters who favored retaining the restrictions or making them more comprehensive contended, among other things, that the minimum wage and overtime requirements cannot be properly enforced in homework, and that unrestricted homework would result in unfair competition to firms not employing homeworkers, lower wages for factory workers and a decline in factory employment in the restricted industries. Also, individual cases were cited to establish that homeworkers were being employed at subminimum wages.

Commenters opposing the restrictions cited the lack of adequate transportation, the need to remain at home to care for children and other family matters, as well as the lack of factory employment in most rural areas, as justification for removing the restrictions. These commenters further contended that homeworkers were earning more than the minimum wage.

In the Federal Register of May 5, 1981 (46 FR 25108), the Department proposed to remove Regulations 29 CFR Part 530—Employment of Homeworkers in Certain Industries—and interested persons were invited to submit written comments

relevant to the proposal on or before June 4, 1981. The Department invited comments on the proposal particularly with respect to the following:

1. The impact of the proposal on the minimum wage provisions of the Act.

2. The impact of the proposal on the seven currently restricted industries.

3. The impact of the proposal on small businesses.

The period for comment was subsequently extended to July 4, 1981 (46 FR 29485).

Comments were received from more than 10,000 individuals, organizations, and agencies. The vast majority of comments did not specifically address the three areas set forth above, and expressed general support for or opposition to the proposal. While many comments reflected concern among individuals and organizations that removal of the restrictions would result in significant harm to factory employees and employers in these industries, these comments did not present adequate substantiating evidence.

On the other hand, in the knitted outerware industry evidence was presented which showed that a continuation of the restrictions would have an adverse effect on employment opportunities, particularly in rural areas. Testimony and comments identified approximately 100 individual homeworkers in the knitted outerware industry, while the commissioner of Labor and Industry of Vermont estimated that a total of 200 to 400 persons were similarly employed in Vermont. Ths testimony was supported by a knitted outerware employer who also estimated that several times that number of knitted outerware homeworkers were employed nationwide. Much of this employment, the testimony and comments indicated, is in areas where public transportation is not available and few or no other gainful employment opportunities exist.

Specific support for removal of the restrictions in knitted outerware was presented in more than 1,500 comments received. While some 6,000 comments were received opposing the proposal to remove the restrictions on industrial homework in general, very few specifically addressed knitted outerwear.

While the Fair Labor Standards Act sets forth the need to safeguard the minimum wage where it is threatened by the existence of industrial homework, it also sets forth the need to eliminate "* * * labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers * * * *without substantially curtailing employment or earning power.*" (Sec. 2; emphasis added.) The available evidence demonstrates that substantial curtailment of employment opportunities and earning power will result from a continuation of the restrictions on industrial homework in the knitted outerwear industry. No such demonstration was made with regard to industrial homework in the other six industries listed in 29 CFR 530.1. In view of the above, it appears reasonable to remove the restrictions in the knitted outerwear industry only.

In conjunction with the removal of the restrictions on homework in the knitted outerwear industry, the Department will undertake a concerted compliance effort in this industry. Since it appears that homeworkers will comprise only a small percentage of the approximately 63,000 production employees in this industry, an effective enforcement program is feasible. When the restrictions were established in knitted outerwear, almost 40 years ago, effective oversight of homework in this industry was not possible as it was estimated that homeworkers constituted more than 20 percent of the workforce, the enforcement program of the Department was newly established, and acceptance of the principle of a minimum wage among covered employers was much less prevalent than at present. Should it be found that significant minimum wage or other violations of the Act are widespread among homeworkers in this industry, consideration will be given to reimposing the restrictions. Conversely, should the Department receive specific evidence supporting the removal of restrictions in the other six industries, the Department will reexamine the issue of whether those restrictions should be lifted as well.

This document was prepared under the direction and control of Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, U.S. Department of Labor.

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

For the reasons set out in the preamble, 29 CFR Part 530 is amended as follows:

§ 530.1 [Amended]

1. Section 530.1 is amended as follows:

Paragraph (f) is removed and paragraphs (g) through (j) are redesignated (f) through (i) respectively.

2. Section 530.2 is revised to reflect the revision of § 530.1 to read as follows:

§ 530.2 Restriction of homework.

No work in the industries defined in paragraphs (d) through (i) of § 530.1 shall be done in or about a home, apartment, tenement, or room in a residential establishment unless a special homework certificate issued and in effect pursuant to this part has been obtained for each homeworker or unless the homeworker is so engaged under the supervision of a Sheltered Workshop, as defined in § 525.2 of this chapter.

§ 530.4 [Amended]

3. Section 530.4 is amended to reflect the revision of § 530.1 as follows:

Paragraph (f) of § 530.4(a)(2)(i) is removed. Paragraph (g) is redesignated as (f).

(Sec. 11, 52 Stat. 1066; (29 U.S.C. 211) unless otherwise noted; Secretary's Order No. 16-75, 40 FR 55913, December 2, 1975; and Employment Standards Order No. 78-1, 43 FR 51469, November 3, 1978)

Signed at Washington, D.C. this 7th day of October 1981.

William M. Otter,

Administrator.

Robert B. Collyer,

Deputy Under Secretary.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the repeal of 29 CFR 530.1(f), which restricts homework in the knitted outerwear industry will have no "significant economic impact upon a substantial number of small [business] entities." This conclusion is based upon all information available to the Department, including the evidence submitted during four days of hearings concerning the employment of homeworkers and the more than 10,000 written comments received in response to the Department's proposal to remove 29 CFR 530 in its entirety.

Dated: October 7, 1981.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81-29036 Filed 10-8-81; 8:45 am]

BILLING CODE 4510-27-M

Federal Register

Friday
October 9, 1981

Part VI

Department of Labor

Office of the Secretary

Equal Access to Justice

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 16

Equal Access to Justice Act; Adoption of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule; request for comment.

SUMMARY: The Department of Labor hereby publishes its rules for implementing the Equal Access to Justice Act which becomes effective on October 1, 1981. This Act authorizes the establishment of uniform rules by each agency to provide for the payment of fees and expenses to eligible parties who prevail in an adversarial proceeding against any agency of the Government.

DATES: These rules are effective on October 9, 1981. Comments must be received by December 8, 1981.

ADDRESS: Send comments to Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-2464, Washington, D.C. 20210; Telephone (202) 523-6807.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210; Telephone (202) 523-6807.

SUPPLEMENTARY INFORMATION: The Equal Access to Justice Act (hereinafter the Act), Pub. L. 96-481, 94 Stat. 2327, (5 U.S.C. 504) which is effective October 1, 1981, amends section 504 of the Administrative Procedure Act, to provide for the payment of fees and expenses to eligible parties who prevail in an adversarial proceeding against an agency of the Government. The Act authorizes the establishment of uniform rules by each agency. The Department of Labor hereby publishes its rules for implementing the Act. These rules set forth the type of hearings which are covered by the Act, the procedures for making awards, the procedures for applying for awards and other relevent matters.

The Act applies to covered proceedings pending before an administrative officer on October 1, 1981 through September 30, 1984, the termination date of the Act. The Department of Labor considers all covered cases pending on October 1, 1981 to be subject to the Act irrespective of when the case was initiated, except for those cases which have been decided but final judgment has not been entered by reason of an abatement. An abatement may occur in a case in which a decision on the merits has been rendered but a party has been granted a period of time within which to comply before entry of the final order.

Section 16.104(a) of these rules sets forth the categories of administrative hearings covered by the Act. The Act applies to hearings under section 554 of the Administrative Procedure Act, that is: adjudications required by statute to be determined on the record after opportunity for an agency hearing. The legislative history of the Act limits such hearings to those which are adversarial and in which the position of the agency is represented. The hearings which the Department of Labor considers to be covered by the Act are those required by statute and in which the Department appears as an adversarial party. In general, the categories of hearings include such matters as civil money penalties, hearings before the Occupational Safety and Health Review Commission, and the Mine Safety and Health Review Commission, license and certification suspension, revocation or modification, and certain debarment cases.

The Act excludes administrative proceedings for rulemaking, ratemaking, license applications and renewals, and hearings under statutes which presently provide for the payment of fees and expenses. The Department has determined the following proceedings are not covered by the Act for the reasons stated. Hearings on state plans and variances for national defense, which are required by sections 16(b) and 14(b), respectively, of the Occupational Safety and Health Act, are exempt as rulemaking. Wage determinations under the Service Contract Act are exempt as ratemaking. The payment of fees and expenses are already provided for under the Longshoremen's and Harbor Workers' Act, 33 U.S.C. 901, and the Black Lung Benefits Act, 30 U.S.C. 901, and accordingly proceedings under these acts are exempt. Hearings for license applications and renewals are specifically exempted under the Equal Access to Justice Act. The Department also excludes from coverage those proceedings which are established by regulation but are not required by the governing statute.

The Department conducts hearings under several programs implementing statutes which do not require hearings under section 554 of the Administrative Procedure Act. The statutes include the Rehabilitation Act of 1973, the Vietnam-Era Veterans' Act, standards and conduct provisions of the Civil Service Reform Act, WIN, the Redwood National Park Expansion Act of 1978, the Service Contract Act and the Davis-Bacon Act. The legislative history of the Equal Access to Justice Act clearly excludes from coverage those hearings which are not required by an underlying statute. In addition, current case law indicates that there are no constitutional requirements for a due process hearing under grant and benefit programs or matters arising in contract.

Finally, the Department finds that cases before the Board of Contract Appeals are not covered by this Act because these proceedings are governed by the procurement rules and regulations under the Contract Disputes Act, 41 U.S.C. 601.

Section 16.202(b) of these regulations provides that the net worth exhibit of an applicant seeking an award shall be considered a part of the public record. This rule differs from the model rule suggested by the Administrative Conference which incorporates the Freedom of Information Act. The Department believes that the issue of disclosability under the Freedom of Information Act and the availability of exhibits in a formal proceeding are two different matters. The Department believes that the imposition of procedures and regulations under the Freedom of Information Act will only interfere with the orderly conduct of the hearing.

Publication as a Final Rule; Request for Comments

The Department has determined that these rules are procedural in character. Accordingly, pursuant to 5 U.S.C. 553(b)(3)(A), notice and public comment are unnecessary. However, interested members of the public are invited to submit comments on this regulation within 60 days to Sofia P. Petters at the above address. If necessary, the rule will be modified after receipt of the comments.

Effective Date

Because this rule is procedural in character, it shall become effective October 9, 1981 instead of thirty days thereafter. This determination is made pursuant to 5 U.S.C. 553(d).

Drafting Information

This document was prepared under the direction and control of T. Timothy Ryan, Jr., Solicitor of Labor, U.S. Department of Labor, Room S-2002, 200 Constitution Avenue, NW, Washington, D.C. 20210; telephone (202) 523-7675.

Classification—Executive Order 12291

The revision is procedural in character. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that the rule will have no "significant economic impact * * * upon a substantial number of * * * small [business] entities" within the meaning of 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Acting Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the amendment is procedural in character. This rule only regulates the conduct of Labor Department employees, not the public, thus no economic impact is expected with respect to small entities, nor with respect to other entities as well. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the rule contained in 29 CFR Part 16 described in this document, will not have a significant economic impact on a substantial number of small entities. This conclusion is reached because the regulation is procedural in character. The rule provides for the payment of fees and expenses to eligible parties who prevail in adversarial proceedings against an agency of the Government. Thus, only a favorable economic impact is expected with respect to small entities.

Signed at Washington, D.C. this 7th day of October 1981

Raymond J. Donovan,

Secretary of Labor.

Therefore, pursuant to section (c)(1) of the Equal Access to Justice Act, 5 U.S.C. 504(c)(1), Title 29 of the Code of Federal Regulations is amended by adding a new part, Part 16, to read as follows:

PART 16—EQUAL ACCESS TO JUSTICE ACT

Subpart A—General Provisions

Sec.

16.101 Purpose of these rules.
16.102 Definitions.
16.103 When the act applies.
16.104 Proceedings covered.
16.105 Eligibility of applicants.
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16.301 Filing and service of documents.
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16.305 Decision.
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16.307 Judicial review.

Authority: Pub. L. 96-481, 94 Stat. 2327 (5 U.S.C. 504).

Subpart A—General Provisions

§ 16.101 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 as amended by section 203(a)(1) of the Equal Access to Justice Act, (The Act) provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings before the Department of Labor. An eligible party may receive an award when it prevails over an agency, unless the agency's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards, the proceedings that are covered, how to apply for awards, and the standards under which awards will be granted.

§ 16.102 Definitions.

As used in this Part:

(a) "The Act" means section 504 of title 5, United States Code, as amended by section 203(a)(1) of the Equal Access to Justice Act, Pub. L. 96-481.

(b) "Adversary adjudication" means an adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license.

(c) "Adjudicative officer" means the official, who presides at the adversary adjudication, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise.

(d) "Department" refers to the cognizant departmental component which is conducting the adversary adjudication, (e.g., Occupational Safety and Health Administration, Mine Safety and Health Administration, and Employment Standards Administration).

(e) "Proceeding" means an adversary adjudication as defined in § 16.102(b) above.

§ 16.103 When the act applies.

The Act applies to any adversary adjudication pending before the Department at any time between October 1, 1981 and September 30, 1984. This includes proceedings begun before October 1, 1981 if final agency action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final agency action occurs, except that it shall not apply in any case pending on October 1, 1981 in which a decision has been made, but final agency action has not been taken by reason of an abatement.

§ 16.104 Proceedings covered.

(a) The Act applies in adversary adjudications required by statute conducted by the Department under 5 U.S.C. 554 in which the position of the Department or another agency of the United States is presented by an attorney or other representative who enters an appearance and participates in the proceeding in an adversarial capacity. Any proceeding which prescribes a lawful present or future rate or is primarily rule-making or fact-finding is not covered. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend or revoke licenses are covered if they are otherwise adversary adjudications. The types of proceedings covered in this agency are:

(1) Hearings conducted by the Occupational Safety and Health Commission under the authority of 29 U.S.C. 661 of the Occupational Safety and Health Act; and hearings conducted by the Mine Safety and Health Commission under the authority of 30 U.S.C. 823 of the Mine Safety and Health Act.

(2) Wage and Hour Division, Employment Standards Administration:

(i) Civil money penalties under the child labor provisions of the Fair Labor Standards Act at 29 U.S.C. 216(e) and 29 CFR, Part 579.

(ii) Violations and debarment in federal contracts under the Walsh-

Healey Act at 41 U.S.C. 39 and 41 CFR 50–203.1.

(iii) Revocation, modification and suspension of licenses under the Farm Labor Contractor Registration Act at 7 U.S.C. 2045(b) and 29 CFR 40.101.

(iv) Civil money penalties under the Farm Labor Contractor Registration Act at 7 U.S.C. 2048(b)(2) and 29 CFR 40.101.

(3) Office of Federal Contract Compliance, Employment Standards Administration cancellation, termination or suspension of a federal contractor under Title VII of the Civil Rights Act at 41 U.S.C. 2000(e)–17 and 41 CFR, Part 60–30.

(4) Office of Civil Rights:

(i) Fund termination under Title VI of the Civil Rights Act at 42 U.S.C. 2000d(2) and 29 U.S.C., Part 31.

(ii) Fund termination under the Age Discrimination in Federally Assisted Programs Act of 1975 at 42 U.S.C. 6104(a) and 29 U.S.C., Part 31.

(iii) Fund termination or refusal to grant because of discrimination under 20 U.S.C. 1682 and 29 U.S.C., Part 31.

(5) Employment and Training Administration:

(i) Decertification of a prime sponsor under the Comprehensive Employment and Training Act at 29 CFR 818(b) and 29 CFR 98.46.

(ii) Conformity and compliance under the Federal Unemployment Tax Act at 26 U.S.C. 3303(b) and 3304(c).

(6) Mine Safety and Health Administration:

(i) Petitions for modification of a mandatory safety standard under the Mine Safety and Health Act at 30 U.S.C. 811(c) and 30 CFR 44.20.

(7) Pension and Welfare Benefit Programs:

(i) Granting of an exemption to title 29, sections 1106 and 1107 of the Employees Retirement Act at 29 U.S.C. 1108(c).

(ii) Occupational Safety and Health Administration exemptions, tolerances and variances under the Occupational Safety and Health Act at 29 U.S.C. 655 and 29 CFR 1905.3.

(b) The failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act.

(c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to the covered issues.

§ 16.105 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party, as that term is defined in 5 U.S.C. 551(3), to an adversary adjudication for which it seeks an award; the applicant must prevail; and must meet all the conditions of eligibility set out in this subpart and subpart B.

(b) To be eligible for an award, the applicant must be:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business which has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a) with not more than 500 employees;

(5) Any other partnership, corporation, association or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For purposes of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 16.106 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified or if special circumstances make the award sought unjust. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding.

§ 16.107 Allowable fees and expenses.

(a) The following fees and other expenses are allowable under the Act:

(1) Reasonable expenses of expert witnesses;

(2) Reasonable cost of any study, analysis, engineering report, test, or project which the adjudicating officer finds necessary for the preparation of the party's case;

(3) Reasonable attorney or agent fees;

(b) Awards will be based on the prevailing market rates for the kind and quality of services furnished not to exceed the rates set forth in paragraph (b) of this section.

(c) No award under these rules for the fee of an attorney or agent may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Department pays expert witnessess, which is $24.09 per hour.

(d) In determining the reasonableness of the fee sought, the adjudicative officer shall consider the following:

(1) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(2) The time actually spent in the representation of the applicant;

(3) The difficulty or complexity of the issues in the proceeding;

(4) Any necessary and reasonable expenses incurred by expert witnesses;

(5) Such other factors as may bear on the value of the services performed.

§ 16.108 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the Department of Labor and takes a position that is not substantially justified, the award or an appropriate portion of the award shall be made against that agency by the adjudicating officer for the Department of Labor.

Subpart B—Information Required From Applicants

§ 16.201 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of an agency or agencies in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant at the time the proceeding was instituted and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) If the applicant is a partnership, corporation, association, or organization, or a sole owner of an unincorporated business, the application shall state that it did not have more than 500 employees at the time the proceedings were initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

(d) The application shall state the amount of fees and expenses for which an award is sought.

(e) The application may also include any other matters that the applicant wishes this agency to consider in determining whether and in what amount an award should be made.

(f) The application shall be signed by the applicant with respect to the eligibility of the applicant and by the attorney of the applicant with respect to fees and expenses sought. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 16.202 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 16.105 (f) of this part) as of the date when the proceeding was initiated, i.e. the date the compliant was filed. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) The net worth exhibit shall be included in the public record of the proceeding in which an award is sought.

§ 16.203 Documentation of fees and expenses.

(a) The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought.

(b) The document shall include an affidavit from each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided.

(1) The affidavit shall itemize in detail the services performed by the date, number of hours per date and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

(2) If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide affidavits from two attorneys or agents with similar experience, who perform similar work, stating the hourly rate which they bill and are paid by the majority of their clients during a comparable time period.

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

(d) The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 16.204 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the agency's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the later of (1) the date on which an initial decision or other recommended disposition of the merits of the proceeding by an adjudicative officer or intermediate review board becomes administratively final; (2) issuance of an order disposing of any petitions for reconsideration of this agency's final order in the proceeding; (3) if no petition for reconsideration is filed, the last date on which such a petition could have been filed; or (4) issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

Subpart C—Procedures for Considering Applications

§ 16.301 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding.

§ 16.302 Answer to application.

(a) Within 30 days after service of an application, counsel representing the

agency against which an award is sought may file an answer to the application. Unless agency counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30 day period may be treated as a consent to the award requested.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the adjudicative officer upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 16.304.

§ 16.303 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded, in accordance with the agency's standard settlement procedure. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 16.304 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought on the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 16.305 Decision.

The adjudicative officer shall issue a recommended decision on the application which shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 16.306 Agency review.

Either the applicant or agency counsel may seek review of the initial decision on the fee application, or the agency may decide to review the decision on its own initiative, in accordance with the agency's regular review procedures. If neither the applicant nor agency counsel seeks review and the agency does not take review on its own initiative, the initial decision on the application shall become a final decision of the agency 30 days after it is issued. If review is taken, the agency will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

§ 16.307 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 16.310 Payment of award.

An applicant seeking payment of an award shall submit to the Comptroller for the Department of Labor a copy of the agency's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The request for payment shall be addressed to: Comptroller, U.S. Department of Labor, Frances S. Perkins Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of October, 1981.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81-29610 Filed 10-8-81; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	MSPB/OPM		DOT/FHWA	MSPB/OPM
DOT/FRA	LABOR		DOT/FRA	LABOR
DOT/MA	HHS/FDA		DOT/MA	HHS/FDA
DOT/NHTSA			DOT/NHTSA	
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

List of Public Laws

Last Listing October 8, 198

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 618 / Pub. L. 97–55 To convey certain interests in public lands to the city of Angels, California. (Oct. 6, 1981; 95 Stat. 973) Price: $1.50.

H.R. 2218 / Pub. L. 97–56 To direct the Secretary of Agriculture to convey certain National Forest System lands in the State of Nevada, and for other purposes. (Oct. 6, 1981; 95 Stat. 976) Price: $1.50.