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Friday
August 17, 1984

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Administrative Practice and Procedure
National Transportation Safety Board

Air Pollution Control
Environmental Protection Agency

Dental Health
Veterans Administration

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Food Grades and Standards
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Household Appliances
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Indian—Lands
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 926 and 944

[California Tokay Grape Regulation 21; Tokay Grape Import Regulation 3]

Tokay Grapes Grown in San Joaquin County, CA; Fruits; Import Regulations; Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This regulation sets quality requirements for shipments of fresh California Tokay grapes and Tokay grapes imported into the United States. Such grapes are required to meet the minimum grade and size requirements for U.S. No. 1 Table grade, with an additional color requirement for the berries on the lower portion of the bunch. Domestically produced grapes are subject to container marking requirements. These actions are needed to assure domestic shipment and imports of ample supplies of grapes of acceptable quality and to promote orderly marketing in the interests of producers and consumers.

DATES: Interim final rule effective August 20, 1984, through October 15, 1984. Comments which are received by September 17, 1984 will be considered prior to issuance of a final rule to become effective on October 16, 1984 through December 31, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: This interim final rule has been reviewed under USDA procedures and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of California Tokay grapes and imported Tokay grapes for the benefit of producers and consumers, and will not substantially affect costs for the persons directly regulated.

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.

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, a Tokay grape import regulation is also issued under Section 8e (7 U.S.C. 608e-1). This section requires that whenever specified commodities, including Table grapes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. The domestic and import regulations are the same as last season's regulations.

It is hereby found that this interim final rule will tend to effectuate the declared policy of the Act.

The Tokay Grape Industry Committee met on July 17, 1984, and unanimously recommended grade, size and container marking requirements for Tokay grapes grown in the San Joaquin County of California, to be effective August 20, 1984.

The regulation establishes the minimum grade and size requirements specified in the U.S. No. 1 Table grade of the U.S. Standards for Grades of Table Grapes (European or Vinifera type), except that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. The regulation also requires that each container of grapes bear a Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. 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 consistent with the quality and size composition of the available crop and 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.

Production of Tokay grapes for the 1984 season is estimated by the committee at 105,000 tons, compared with production of 93,856 tons in 1983. In recent years approximately 10 percent of the crop has been shipped fresh. Tokay grapes not shipped fresh are utilized in crushing.

It is proposed that the regulations contained in the interim final rule, be effective for the period August 20 through October 15, 1984. Interested persons are invited to comment through September 17, 1984 with regard to the interim final rule.

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 of this interim final rule 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) shipment of the 1984 crop of Tokay grapes is expected bo begin the week of August 20, 1984, and this regulation should be applicable to all such shipments; (2) the regulation was recommended by the committee at a public meeting; (3) California Tokay grape handlers have been apprised of

these requirements and the effective date; (4) the Tokay grape import requirements are mandatory under § 8e of the Act; (5) the import regulation imposes the same grade requirements as are being made applicable to the shipment of Tokay grapes grown in San Joaquin County, California under Tokay Grape Regulation 21; and (6) three days notice, the minimum prescribed by § 8e is provided with respect to this import regulation.

List of Subjects in 7 CFR Parts 926 and 944

Marketing agreements and orders, Grapes, California, Fruits, Import regulations.

Therefore, new §§ 926.322 and 944.603 are added to read as follows: §§ 926.322 and 944.603 expire October 15, 1984, and will not be published in the annual Code of Federal Regulations).

PART 926—[AMENDED]

§ 926.322 California Tokay Grape Regulation 21.

(a) During the period August 20, 1984, through October 15, 1984, 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 51.880–51.912).

PART 944—[AMENDED]

§ 944.603 Tokay Grape Import Regulation 3.

(a) *Applicability to imports.* Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, during the period August 20, 1984, through October 15, 1984, the importation into the United States of Tokay variety grapes is prohibited unless such grapes meet the grade and size specifications of U.S. No. 1 Table Grade, as set forth in the U.S. Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 51.880–51.912), 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.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Argicultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, and quality of Tokay grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of Tokay grapes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements may be reconditioned or exported. Any failed lot which is not exported shall be disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) *Minimum Quantity Exemption:* Any person may import up to 250 pounds of grapes in any one shipment exempt from the requirements of this section.

(f) It is determined that imports of Tokay grapes, during the effective time of this regulation, are in most direct competition with Tokay grapes grown in the San Joaquin County of California, under M.O. 926 (7 CFR Part 926). The grade, size and quality requirements of this section are the same as those applicable to Tokay grapes grown in the San Joaquin County of California.

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

Dated: August 14, 1984.

Thomas R. Clark,

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

[FR Doc. 84-21954 Filed 8-16-84; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 84-072]

Llamas and Alpacas from Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations in 9 CFR Part 92 to allow the importation through the Harry S Truman Animal Import Center (HSTAIC) of approximately 350 llamas and alpacas from Chile, a country in which foot-and-mouth disease exists. This action was taken: (1) Because of the unique circumstances in this case, (2) in order to efficiently use HSTAIC, and (3) because the importation of these animals into the United States can be made under conditions which would not present a significant risk of the introduction or dissemination of communicable diseases of livestock.

EFFECTIVE DATE: August 14, 1984.

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

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations), among other things, concern the importation of animals through the Harry S Truman Animal Import Center (referred to below as HSTAIC). An interim rule published in the Federal Register on June 1, 1984 (49 FR 22768–22769), amended the regulations to allow one shipment of approximately 350 llamas and alpacas from Chile to be imported through HSTAIC under certain conditions. The interim rule was effective upon publication. This document affirms the provisions of the interim rule.

This group of llamas and alpacas had been scheduled to be imported into the United States through quarantine facilities maintained by Veterinary Services in Los Angeles, California, and

Newburgh, New York. Permits had been issued for the importation of these animals and the animals were in embarkation quarantine supervised by the government of Chile when the Department was notified on March 23, 1984, that an outbreak of foot-and-mouth disease (FMD) had been diagnosed in cattle in Chile. Because of the outbreak of FMD, it was necessary in accordance with the provisions of 9 CFR 94.1 to withdraw the permits for the importation.

The importers requested that the llamas and alpacas be allowed to be imported through HSTAIC. HSTAIC, a maximum security quarantine facility located in Key West, Florida, was established for the importation of animals not otherwise eligible to be imported into the Untied States because they are from countries in which exotic diseases, such as FMD, exist. HSTAIC is currently available for the importation of the llamas and alpacas. It was determined that action should be taken to allow the importation of the llamas and alpacas through HSTAIC: (1) Because of the unique cirucumstances in this case, (2) in order to efficiently use HSTAIC, and (3) because the importation can be allowed under conditions specified in the interim rule without presenting a significant risk of the introduction or dissemination of communicable diseases of livestock.

Comments were solicited for sixty days following publication of the interim rule. Thirteen comments were received. These comments were from a U.S. Senator, a representative of a State Department of Agriculture, representatives of an international association of llama owners and breeders, and other individuals. These comments are discussed below.

From June 29, 1983, to March 26, 1984, Chile had been declared to be free of FMD. Several commenters concluded that Chile probably was not free of FMD during this period based on: (1) The assertion that there was evidence of antibodies to FMD virus in animals imported inot the United States from Chile during the time Chile was declared to be free of FMD; (2) the assertion that Chile has unpatrolled shared borders with countries where FMD exists; (3) the assertion that FMD virus can be airborne for at least several miles, and (4) the assertion that the finding of FMD in Chile in March 1984 indicates that the disease had been present in Chile for some time.

No changes are made based on these comments. During the fall of 1983, 305 llamas and alpacas were offered for importation into the United States from Chile and 299 of these animals were allowed to enter the United States. Of the animals refused importation, three were found to have antibodies for FMD. However, there was no evidence that any of these animals were in fact infected with FMD. Further, it is not unusual for livestock tested for FMD to have nonspecific titer reactions even when such animals are not actually infected with FMD. Also, the Department is aware that Chile does patrol its borders against the introduction of animals which could carry FMD. However, despite efforts to prevent smuggling, based on an epidemiological investigation performed by the Government of Chile, it was determined that the recent outbreak of FMD in Chile came from cattle smuggled into Chile from Argentina within a month prior to the diagnosis of FMD in Chile. In addition, the Department questions whether FMD virus can be transmitted by air. Even so, it should be noted that the outbreak of FMD in Chile occurred approximately 1,500 miles south of the location where the llamas and alpacas scheduled to be imported have been held under supervision of the Chilean Government. It is extremely unlikely that the virus could have spread by air to the llamas and alpacas scheduled for importation, especially since they are separated from the outbreak of FMD by extensive barren desert with vast stretches totally free of any livestock.

Several commenters objected to the importation of the llamas and alpacas through HSTAIC based on the assertion that the importation would present an unacceptable risk of causing the introduction of FMD into the United States. In support of this objection, commenters indicated that Veterinary Services in a letter dated April 20, 1984, stated that standard tests performed for cattle entering HSTAIC might not be sufficient to detect the FMD carrier state in llamas and alpacas. No changes are made based on these comments. The tests and procedures being utilized to diagnose FMD in the llamas and alpacas are: (1) The serum neutralization test, (2) the virus infection associated with antibody test (VIA antibody test), and (3) virus isolation procedures. These are the same tests and procedures used for diagnosing FMD in cattle imported through HSTAIC. Subsequent to the letter of April 20, 1984, the Department reevaluated the effectiveness of such testing for llamas and alpacas. Based on this reevaluation, it has been determined that these tests and procedures should be sufficient to detect any FMD in llamas and alpacas. Further, as with cattle imported through HSTAIC from FMD countries, tissue and fluid specimens collected from the esophegeal-pharyngeal area of each llama and alpaca will be innoculated into sentinel cattle and swine that will be kept in confinement with the llamas and alpacas. Under these conditions, if the llamas and alpacas were carriers of FMD, it is extremely likely that the disease would be transmitted to the sentinel animals. These sentinel cattle and swine will be subjected to the same tests and procedures for diagnosing FMD that would be used if these animals were imported through HSTAIC from FMD countries. Under these circumstances, the Department is confident that, if any of the llamas and alpacas were infected with FMD, the testing procedures would be adequate to detect the disease.

One commenter expressed opposition to allowing the llamas and alpacas to be imported through HSTAIC because they were not tested for FMD at the farm of origin. This issue was discussed at 49 FR 22768 and 22769 as follows:

> Part I of the Cooperative and Trust Fund Agreement in § 92.41(d) contains provisions relating to qualifying animals for entry into the USDA-approved embarkation quarantine facility. Specifically, these provisions relate to on-the-farm testing and transportation to the USDA-approved embarkation quarantine facility. Also, the regulations in § 92.41(c)(3)(iv) provide for three series of laboratory tests, from samples collected: (1) At the farm of origin, (2) at the embarkation quarantine facility, and (3) at HSTAIC. The llamas and alpacas have been in embarkation quarantine supervised by the Government of Chile since nearly two months prior to the outbreak of FMD in Chile. Because the llamas and alpacas were already off the farm and in quarantine at the time of the outbreak of FMD, it does not appear that it would be necessary to test any animals on the farm. Also, the place where the animals are currently held in in close proximity to the embarkation quarantine facility. Therefore, these provisions of Part I of the Cooperative and Trust Fund Agreement and § 92.41(c)(3)(iv) are not made applicable to the importation of llamas and alpacas.

The Department reaffirms this rationale, and, therefore, no changes are made based on this comment.

One commenter asserted that the llamas and alpacas should not be allowed to be imported through HSTAIC without a finding of a "zero risk" of introducing FMD. No changes are made based on this comment. If "zero risk" criteria were established, it would be impossible to allow the importation of any animals. Also, as noted above, it has been determined that the importation of the llamas and alpacas in accordance with the interim rule would not present a significant risk of introducing FMD into the United States.

The interim rule stated at 49 FR 22769 that there are approximately 10,000 llamas and alpacas in the United States. One commenter asserted that there are only approximately 7,000 llamas and alpacas in the United States. Another commenter asserted that:

> The population of animals in zoos, by and large, does not appear to enter into the market place, and these numbers are substantial. Therefore, the actual market comprises much smaller than 10,000 animals, perhaps half that.

No changes are made based on these comments. The Department has been advised by the International Llama Association that its members own almost 6,000 llamas. A substantial number of llamas and alpacas in the United States are not owned by members of the International Llama Association. Further, it appears that 10,000 is a reasonable estimate of the number of llamas and alpacas in the United States. Also, the Department agrees that a substantial number of the llamas and alpacas in the United States (approximately 2000) are kept in zoos. However, the Department does not agree with the assertion that zoo animals do not enter the market place since zoos regularly sell surplus offspring.

The interim rule at 49 FR 22768 stated that the importation of llamas and alpacas would constitute an efficient use of HSTAIC. One commenter disagreed with this conclusion. No changes are made based on this comment. The statement in the interim rule appears to be corrected since HSTAIC was not otherwise scheduled for use during the time the llamas and alpacas would be quarantined at HSTAIC.

Several commenters who indicated that they raise llamas and alpacas asserted that they oppose the importation of llamas and alpacas from Chile because they do not want any additional economic competition or because they believe the Chilean llamas and alpacas are genetically inferior to the llamas and alpacas already in the United States. No changes are made based on these comments. These reasons do not appear to be adequate reasons for refusing to allow the importation of the llamas and alpacas. The regulations in 9 CFR Part 92 are established pursuant to animal quarantine and related laws which generally provide authority to take action to prevent the introduction or dissemination of certain diseases. These statutory provisions do not provide authority for the establishment of regulations merely based on factors relating to economic competition or genetics. In addition, although the Department considers economic issues in accordance with Executive Order 12291 and the Regulatory Flexibility Act, these economic issues must be considered within the framework of animal quarantine and related laws. Further, many knowledgeable breeders would dispute the assertion that the Chilean llamas and alpacas are genetically inferior to the llamas and alpacas already in the United States.

Several commenters asserted that the interim rule did not contain sufficient reasons to allow the importation of the llamas and alpacas on an "emergency basis." No changes are made based on these comments. An importation of cattle from Europe is scheduled to enter HSTAIC on or about December 15, 1984. As explained in the interim rule at 49 FR 22769, it was necessary for the interim rule to become effective immediately in order to allow the importation of llamas and alpacas through HSTAIC before the scheduled importation of cattle from Europe. To delay the importation of llamas and alpacas until after the importation of cattle from Europe would cause a thirteen-month Government-supervised quarantine in Chile. Chilean veterinary officials had indicated that they are not prepared to provide quarantine services for this group for such an extended period of time. It is also necessary that the importation of the cattle occur at the scheduled time. Most European countries affected by FMD have laws requiring annual vaccination of all cattle. Cattle for export from some of these European countries (including cattle in the scheduled importation from Europe) must be exported by December of any year or be vaccinated for FMD. Vaccinated animals my react to FMD tests similarly to carrier animals. In order to have assurance that a positive FMD test is not due to antibodies in vaccinated animals, it is necessary that the animals must never have been vaccinated.

Executive Order 12291 and Regulatory Flexibility Act

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

This action allows one importation into the United States from Chile of approximately 350 llamas and alpacas through the Harry S Truman Animal Import Center. Currently, there are approximately 10,000 llamas and alpacas in the United States.

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

List of subjects in 9 CFR Part 92

Animal Diseases, Canada, Imports, Livestock and Livestock Products, Mexico, Poultry and Poultry Products, Quarantine, Transportation, and Wildlife.

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

Accordingly, the interim rule published in the Federal Register on June 1, 1984, at 49 FR 22768–22769 is adopted as a final rule.

Authority: Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat 130, 132; sec. 1, 84 Stat. 202; 21 U.S.C. 111, 134c, 134f, 135; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 14th day of August, 1984.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-22045 Filed 8-15-84; 4:30 pm]

BILLING CODE 3410-34-M

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Regulations and Policy Statements

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: This document revises the regulation prohibiting packers and dealers from owning or financing market agencies selling on commission. The regulation concerning packer ownership of dealers or market agencies buying on

commission is removed, and a new policy statement is adopted with respect to such arrangements. The policy statement with respect to purchase of livestock by packers for export is removed. These actions clarify existing regulations and reduce existing regulatory restraints.

EFFECTIVE DATE: September 17, 1984.

FOR FURTHER INFORMATION CONTACT: Harold W. Davis, Director, Livestock Marketing Division, phone (202) 447-6951, or Kenneth Stricklin, Director, Packer and Poultry Division, phone 447-7363.

SUPPLEMENTARY INFORMATION: The proposed changes in the regulations and policy statements relating to employment of packers by market agencies; packer or dealer ownership of market agencies selling on commission; packer ownership of livestock dealers or market agencies buying on commission; and the purchase of livestock by packers for export were published in the Federal Register on September 15, 1983 (48 FR 41425). Five comments were timely filed in response to the notice. One comment expressed general support of the proposals, and two other comments were generally supportive of the proposals but expressed specific concerns regarding certain proposals. The remaining two comments addressed selected proposals. The proposals relating to packer or dealer ownership of market agencies selling on commission, and packer ownership of livestock dealers or market agencies buying on commission, received the most comment. Four of the five comments received addressed one or both of these proposals.

All comments of record were carefully considered by the Administration.

Market Agencies Not To Employ Packers

Only one comment specifically addressed regulation § 201.66, which prohibits market agencies selling livestock on a commission basis from employing or permitting packers or their livestock buyers from performing any duties in connection with the services furnished by the market agency. That comment expressed the view that the new § 201.66 is grammatically incorrect and is difficult to interpret.

The proposed regulation has been revised to make clear that the prohibition applies only to market agencies which sell livestock on a commission basis. Also a comma has been inserted in the regulation for clarity. Accordingly, regulation § 201.66, with the change noted above, will be adopted as a final rule.

Packer-Dealer Ownership of Selling Agencies

It was proposed to amend regulation § 201.67 by removing all reference to dealers owning or financing a market agency selling on commission. The prohibition of packer ownership of such market agencies would be retained under the proposal.

The views expressed in the comments were divergent. Two comments supported the proposal. One comment supported the prohibition as it applies to packers but opposed the elimination of dealers from the prohibition, while another supported the elimination of dealers from the prohibition but expressed the view that the prohibition against packers should also be lifted. A fifth comment opposed retention of regulation § 201.67 and suggested that it be replaced with a policy statement similar to proposed policy statement § 203.19.

In general, the comments in opposition to proposed regulation § 201.67 expressed the view that the prohibition was too strict and that relationships between packers and market agencies selling on commission should be reviewed on a case-by-case basis. It is the opinion of the Administration, however, that the regulation is necessary to maintain separation of buying and selling segments of the marketplace. It was the absence of such separation, and the attendant abuses which resulted, that led to the passage of the Packers and Stockyards Act. The Administration believes that the maintenance of that separation is necessary to prevent both conflicts of interest which result when the buying and selling segments of the market are combined and competitive restraints within a major channel of livestock marketing.

Therefore, regulation § 201.67 is adopted as proposed.

Packer Ownership of Livestock Dealers or Buying Agencies

Four of the five responses commented specifically upon the proposal to remove regulation § 201.68 and to adopt a new policy statement § 203.19. Of the comments filed, two expressed opposition to any lessening of the strict standards imposed by the present regulation. However, conditions have changed since regulation § 201.68 was adopted, and since its adoption, the Administration has reviewed and approved certain joint ownership arrangements where no evidence of conflict existed or where the conflict was removed, and where the arrangement was not otherwise harmful to competition. The remaining three comments supported the proposal.

Policy Statement § 203.19 sets forth the manner in which the Act will be enforced with respect to packer ownership of livestock dealers or buying agencies. This change reflects current agency policy. The Administration believes that it is consistent with the statutory purpose, and will not hinder the Administration's ability to enforce the Act. Accordingly, regulation § 201.68 will be removed and policy statement § 203.19, as proposed, will be adopted.

Furnishing Information to Competitor Buyers

It was proposed that regulation § 201.69, which prohibits packers, dealers and market agencies buying on commission from exchanging buying information for the purpose of restricting competition, be retained. No comments were received concerning the proposed retention of regulation § 201.69 and it will be retained as proposed.

Competitive Relationships

No comments were received concerning the proposed retention of regulation § 201.70, which requires that competitors in the purchase of livestock conduct their operations independently and without collusion. Accordingly, regulation § 201.70 will be retained as proposed.

Sale of Livestock to a Packer on Credit

No comments were received concerning the proposal that no changes be made in regulation § 201.200. That regulation prescribes the terms and conditions under which parties to the purchase and sale of livestock for slaughter may expressly agree in writing to effect payment in a manner other than as specified in the prompt payment provisions of the Act. For the reasons set forth in the proposal, regulation § 201.200 will be retained in its current form.

Meat Packer Inducements to Government Employees

It was proposed to retain policy statement § 203.2. One comment specifically addressed this proposal. It stated that the proposal was overly broad, and would prohibit even social courtesies. The comment suggested that paragraph (c) of § 203.2 be amended by adding the phrase "with intent to influence or with the effect of influencing such employee in the discharge of his duties."

The Administration does not agree with this suggestion. It is vital that both packers and government employees

performing regulatory duties relating to such packers not only avoid improprieties which may undermine the integrity of the employee, but that they also avoid the appearance of such improprieties. The Agency believes that this consideration overrides the minimal burden this policy statement places on packers and Government employees.

The Agency has determined that policy statement § 203.2 will be retained.

Packer Purchase of Livestock for Export

No comments were received in opposition to the proposal to remove policy statement § 203.6, and it will be removed.

Packer Sales and Purchase Contracts

Of the five comments received, only one specifically addressed the Administration's proposal regarding policy statement § 203.7 That comment recommended either removal or revision of the policy statement because it "encompasses ordinary good faith commercial disputes as well as deliberately adopted courses of dealing which might constitute an unfair practice under the Act."

The Administration has received, and continues to receive, numerous unsolicited complaints involving meat disputes and the policy statement is intended to provide guidance in avoiding and resolving such disputes. It is not an attempt by the Aministration to intrude into bona fide commercial disputes.

In this regard, the policy statement has worked well. It is the policy of the Department that not every breach of contract is an unfair practice, however, and the Administration will consider formal action only in cases involving deliberate, repeated or fraudulent breaches.

The Administration has considered all comments received and has determined that policy statement § 203.7 will be retained as proposed.

Advertising and Promotional Allowances

Only one comment specifically addressed the Administration's proposed retention of policy statement § 203.14. That comment objected to the retention in only one respect. The comment stated correctly that it is the Administration's position that "advertising allowances need not be limited strictly to the actual cost of the advertising provided there is a reasonable relationship between the amount of the payment and the cost of the advertising." However, the comment proposed that the guidelines be revised by adding the words "or reasonable value" after the word "cost" wherever it appears.

The Administration disagrees with this suggestion. "Cost" and "value" are entirely unrelated measures. "Cost" provides an objective standard by which packers can easily measure compliance with the guidelines. "Reasonable value," on the other hand, is far too subjective to provide any meaningful guidance, and its adoption would permit selective, non-cost related, price reductions under the guise of advertising allowances.

The Administration has determined that policy statement § 203.14 will be retained as proposed.

Packer Trust

No comments were received on the Administration's proposal to retain policy statement § 203.15, which outlines the way in which a livestock seller can satisfy the notice requirements specified in § 206(b) of the Act regarding the statutory trust for unpaid cash sellers of livestock, and it will be retained as proposed.

Mailing Checks in Payment for Slaughter Livestock

The Administration proposed to retain policy statement § 203.16, setting forth the Administration's position concerning the effect of check mailing agreements on a livestock seller's status as a "cash seller." No comments were received regarding this proposal, and policy statement § 203.16 will be retained.

Executive Order

It has been determined that the regulations revised, amended and adopted herein relating to a market agency's employment of a packer or packer buyer and to a packer's or dealer's ownership of a selling agency, the removal of the regulation concerning a packer's ownership of a dealer or market agency buying on commission, the adoption of a policy statement with respect to a packer's engaging in the business of a dealer or buying agency, and the removal of the policy statement concerning the purchase of livestock for export, are not "major" rules as defined by section 1(b) of E.O. 12291.

The rules will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs or prices for consumers, individual industries, Government agencies, or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, regulatory impact analyses are not required.

Regulatory Flexibility Act

B.H. (Bill) Jones, Administrator, Packers and Stockyards Administration, has determined that these rules will not have a significant economic impact on a substantial number of small entities.

These rules will remove some restrictions on the business activities of packers, dealers and market agencies subject to the Act. Similarly, costs to the Agency will be reduced.

Paperwork Reduction Act of 1980

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the recordkeeping provisions that are included in these rules have been approved by the Office of Management and Budget (OMB) and have been assigned clearance number 0590-0001.

List of Subjects

9 CFR Part 201

Trade practices.

9 CFR Part 203

Recordkeeping requirements, Packers, Trade practices.

Authority: 7 U.S.C. 228, 228b, 222, 15 U.S.C. 46.

Done at Washington, D.C., this 13th day of August 1984.

B.H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

PART 201—[AMENDED]

Accordingly, Parts 201 and 203, Chapter II of Title 9 of the Code of Federal Regulations, are amended as follows:

1. Section 201.66 is revised to read as follows:

§ 201.66 Market agencies not to employ packers or persons employed to purchase livestock for a packer.

No market agency selling livestock on a commission basis shall employ or permit any packer, or any person employed by a packer to buy livestock, to perform any duty in connection with the services furnished by such market agency.

2. Section 201.67 is revised to read as follows:

§ 201.67 Packers not to own or finance selling agencies.

No packer subject to the Act shall have an ownership interest in, finance, or participate in the management or operation of a market agency selling livestock on a commission basis, nor shall such a market agency permit a

packer to have an ownership interest in, finance, or participate in the management or operation of such market agency.

§ 201.68 [Removed]

3. In Part 201, § 201.68 is removed.

PART 203—[AMENDED]

§ 203.6 [Removed]

4. In Part 203, § 203.6 is removed.

5. In Part 203, § 203.19 is added as set forth below:

§ 203.19 Statement with respect to packers engaging in the business of livestock dealers or buying agencies.

(a) In its administration of the Packers and Stockyards Act, the Packers and Stockyards Administration has sought to prevent conflicts of interest and to maintain open and fair competition in the livestock and meat packing industries. The ownership or operation of livestock dealers or buying agencies by packers, under some circumstances, may result in violations of the Packers and Stockyards Act.

(b) Traditionally, livestock dealers and buying agencies purchase livestock for resale or to fill orders for farmers, ranchers, producers, other livestock firms and packers. When a livestock dealer or buying agency is owned or operated by a packer, and when such packer is also buying livestock for its own operational requirements, there is a potential conflict of interest. Furthermore, the purchase and sale of livestock by meat packers may result in control of markets and prices which could adversely affect both livestock producers, competing packers, and consumers.

(c) Arrangements between packers and dealers or buying agencies which do not normally create a conflict of interest or result in a restraint of competition include:

(1) Operations utilizing different species or classes of livestock; (2) operations where the business activities are widely separated geographically; and (3) operations where tie-in purchases or sales are not involved. Packers contemplating engaging in the business of a livestock dealer or a buying agency are encouraged to consult with the Packers and Stockyards Administration prior to the commencement of such activities.

(d) In the event a packer/dealer or a packer/buying agency arrangement appears to give rise to a violation of the Act, an investigation will be made on a case-by-case basis and, where warranted, appropriate action will be taken.

[FR Doc. 84-21944 Filed 8-16-84; 8:45 am]
BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Business Loans; Export Revolving Line of Credit (ERLC)

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule provides for a waiver to the present regulation requiring that all export revolving line of credit (ERLC) applicants must have been in operation for a minimum of 12 months prior to filing a loan application. On a case by case basis under this rule the SBA regional office can determine that management of the applicant has sufficient export trade experience or other strengths to warrant a waiver.

EFFECTIVE DATE: August 17, 1984.

FOR FURTHER INFORMATION CONTACT: Everett Shell, Chief, Loan Processing Branch, Office of Business Loans, (202) 653-6470.

SUPPLEMENTARY INFORMATION: SBA received no written responses to the proposed rule which was published in the Federal Register on April 27, 1984 (49 FR 18120). The comment period terminated on May 29, 1984. Therefore, we are adopting the proposed rule as it was published at that time. SBA has determined that this amendment does not constitute a major rule for the purpose of Executive Order 12291. In this regard we are certain that the annual effect of this rule on the economy will be less than $100 million. In addition this rule will not result in increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies and will not have adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets. The effect of the rule should enhance U.S. export competitiveness by extending ERLC loan eligibility to a limited number of firms which are now excluded from the program. Nor will this rule have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)). SBA anticipates limited usage of this final rule.

Finally, this change does not impose recordkeeping or paperwork requirements on any party.

List of Subjects in 13 CFR Part 122

Loan programs/business, Small businesses, Export loans.

PART 122—BUSINESS LOANS

Accordingly, pursuant to the authority in section 5(b)(6) of the Small Business Act (15 U.S.C. 631 et. seq.) Part 122.401 of Chapter I, Title 13 of the Code of Federal Regulations is revised to read as follows:

§ 122.401 Eligibility.

An applicant for an ERLC loan, in addition to meeting the eligibility criteria applicable to all section 7(a) loans, must have been in operation for at least 12 full months prior to filing an application. This 12 month requirement may be waived by the appropriate SBA regional office if the management of the applicant has sufficient export trade experience or other management ability to warrant an exception to the general rule. Waivers can be made only by regional office officials who have delegated authority to approve ERLC loans.

(Catalog of Federal Domestic Assistance Program No. 59.012 Small Business Loans)

Dated: August 8, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-21931 Filed 8-16-84; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 49

[T.D. 84-176]

Customs Regulations Amendment Adding France and Belgium to List of Nations Whose Pleasure Vessels Are Entitled To Be Issued U.S. Cruising Licenses

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding France and Belgium to the list of nations whose pleasure vessels may be issued U.S. cruising licenses. Customs has been informed that yachts used and employed exclusively as pleasure vessels and belonging to any resident of the U.S. are allowed to arrive at and depart from ports of both those countries and cruise

in the waters of both countries without being subjected to formal entry and clearance procedures. Therefore, Customs is extending reciprocal privileges to pleasure vessels belonging to any resident of France of Belgium.

EFFECTIVE DATES: These privileges became effective for France on June 22, 1984, and for Belgium on June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Paul Hegland, Carriers, Drawback and Bonds Division (202-566-5706), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Section 4.94(a), Customs Regulations (19 CFR 4.94(a)), provides that U.S. vessels documented as yachts, used exclusively for pleasure, not engaged in any trade, and not violating the Customs or navigation laws of the U.S. may proceed from port to port in the U.S. or to foreign ports without entering and clearing, as long as they have not visited hovering vessels.

Generally, foreign-flag yachts entering the U.S. are required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the U.S. However, as provided in § 4.94(b), Customs Regulations (19 CFR 4.94(b)), pleasure vessels from certain countries may be issued cruising licenses which exempt them from formal entry and clearance procedures (e.g., filing manifests, obtaining permits to proceed and paying entry and clearance fees) at all but the first port of entry in the U.S. Yachts or pleasure vessels not carrying passengers or merchandise in trade are exempt from paying tonnage tax and light money in any case pursuant to § 4.21(b)(5), Customs Regulations (19 CFR 4.21(b)(5). Cruising licenses are available to pleasure vessels of countries which extend reciprocal privileges to U.S. pleasure vessels. A list of these countries is set forth in § 4.94(b).

By letter dated June 21, 1984, the Embassy of France, in Washington, D.C., informed Customs that the Government of France permits yachts used and employed exclusively as pleasure vessels and belonging to any resident of the U.S. to arrive at and depart from ports of France and cruise in the waters of France without entering and clearing French Customs, and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes or charges for cruising licenses. The Carriers, Drawback and Bonds Division at Customs Headquarters is of the opinion that satisfactory evidence has been furnished to establish the reciprocity required in § 4.94(b). Therefore, on June 29, 1984, the Director of that division determined that, effective retroactively to June 22, 1984, France should be added to the list of countries set forth in § 4.94(b).

By letter dated June 5, 1984, the Embassy of Belgium, in Washington, D.C., informed the Department of State, which in turn informed Customs Headquarters by a letter dated June 26, 1984, that the Government of Belgium permits yachts used and employed exclusively as pleasure vessels and belonging to any resident of the U.S., to arrive at and depart from ports of Belgium and cruise the waters of Belgium without entering and clearing Belgian Customs, and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes or charges for cruising licenses. The State Department and the Carriers, Drawback and Bonds Division of Customs are of the opinion that satisfactory evidence has been furnished to establish the reciprocity required in § 4.94(b). Therefore, on July 3, 1984, the Director of that division determined that, effective retroactively to June 28, 1984, Belgium should be added to the list of countries set forth in § 4.94(b).

By virtue of the authority vested in the President by § 5 of the Act of May 28, 1908, 35 Stat. 425, as amended (46 U.S.C. 104), the President has delegated the authority to issue these cruising licenses to the Secretary of the Treasury by E.O. 10289, September 17, 1951. By Treasury Department Order 165-25, the Secretary of the Treasury delegated authority to the Commissioner of Customs to prescribe regulations relating to § 4.94(b) and other sections of the Customs Regulations relating to lists of nations entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the U.S. Subsequently, by Customs Delegation Order No. 66 (T.D. 82-201), dated October 13, 1982, the Commissioner delegated authority to issue these cruising licenses and to amend this section to the Assistant Commissioner (Commercial Operations), who redelegated this authority to the Director, Office of Regulations and Rulings, who then redelegated it to the Director, Regulations Control and Disclosure Law Division.

Finding

On the basis of the information received from the Embassies of France and Belgium and the Department of State, as described above, it has been determined that the U.S. is in possession of satisfactory evidence regarding the passage of U.S. pleasure vessels through the ports and waters of France and Belgium without their being subjected to formal entry and clearance procedures. Therefore, France and Belgium are added to the list of countries whose pleasure vessels may be issued U.S. cruising licenses.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement and involves a matter in which the majority of the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

Inapplicability of the Regulatory Flexibility Act

This document is not subject to the provisions of §§ 603 and 604 of Title 5, United States Code, as added by § 3 of Pub. L. 96-354, the "Regulatory Flexibility Act" That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in § 1(b) of E.O. 12291. Accordingly, a major impact analysis is not required.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs inspection and duties, Imports, Vessels, Yachts.

Regulations Amendment

To reflect these changes, § 4.94(b), Customs Regulations (19 CFR 4.94(b)), is amended by inserting, in alphabetical order between "Bahama Islands" and "Bermuda", the word "Belgium", and between "Canada" and "Germany, Federal Republic of", the word "France", to the list of countries whose yachts or pleasure vessels may be issued U.S. cruising licenses.

(R.S. 251, as amended, section 3, 23 Stat. 119, as amended, section 5, 35 Stat. 425, as

amended, (5 U.S.C. 301, 19 U.S.C. 66, 624, 46 U.S.C. 3, 104))

Dated: August 10, 1984.

B.J. Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 84-21919 Filed 8-16-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3280

[Docket No. R-84-1068; FR 1637]

Manufactured Home Construction and Safety Standards

Correction

In FR Doc. 84-21076 beginning on page 31996 in the issue of Thursday, August 9, 1984, the effective date in the left column of that page should have read February 11, 1985.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 167

[CGD 84-055]

Temporary Precautionary Area in Galveston Approach; Traffic Separation Scheme

AGENCY: Coast Guard, DOT.

ACTION: Notice of Adjustment; Traffic Separation Scheme.

SUMMARY: The Traffic Separation Scheme (TSS) in the approach to Galveston, Texas was temporarily adjusted to establish a precautionary area in the outbound lane during the period May 17, 1984 through July 31, 1984. The temporary precautionary area was established to facilitate salvage operations to recover a sunken vessel and to survey the area for other hazards. On August 1, 1984, the precautionary area was removed and the outbound lane of the TSS was reestablished.

DATE: Effective August 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, U.S. Coast Guard Headquarters, Office of Navigation (G-NSR-3), Washington, D.C., 20593, Telephone (202) 245-0108.

SUPPLEMENTARY INFORMATION: Vessels entering and departing the Port of Galveston, Texas generally utilize the TSS for the approach area. The Galveston TSS was established under the Ports and Waterways Safety Act (Pub. L. 95-474, 33 U.S.C. 1223) and is recognized by the International Maritime Organization (IMO). The Coast Guard has promulgated regulations applicable to the TSS at 33 CFR Part 167 (48 FR 36456). These regulations parallel the IMO guidelines and provide for temporary adjustments to a TSS in an emergency or to accommodate operations which would create an undue hazard for vessels using the scheme or which would contravene Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 (33 CFR 167.15(b)). Adjustments may include a temporary traffic lane shift, temporary suspension of a section of the TSS and/or the establishment of a temporary precautionary area. As provided in 33 CFR 167.15(b), the Coast Guard publishes a notice of any adjustment of the TSS in the approach to Galveston for the public's information in the Federal Register.

On May 17, 1984 the Coast Guard established a precautionary area in the outbound lane of the Galveston TSS to facilitate salvage operations on a sunken vessel and to allow for a survey of the area. The precautionary area encompassed a section of the outbound lane of the TSS and was bounded by a line joining the following coordinates:

Latitude	Longitude
29°12.9' N.	94°32.0' W.
29°13.3' N.	94°31.4' W.
29°12.0' N.	94°29.8' W.
29°11.5' N.	94°30.3' W.

Within this area, the TSS was suspended for purposes of compliance with Rule 10 of the COLREGS which mandates that vessels within the lane proceed in the direction of the lane. Notice of this adjustment was communicated to mariners continually through this period by local notices to mariners.

Salvage and survey operations in the area have been completed. Therefore, effective August 1, 1984, the temporary precautionary area has been cancelled and both lanes of the TSS have been reestablished as described in section 167.100 of Title 33, Code of Federal Regulations.

List of Subjects in 33 CFR Part 167

Marine safety, Navigation (water).

Dated: August 13, 1984.

T.J. Wojnar,

Chief, Office of Navigation.

[FR Doc. 84-21834 Filed 8-16-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 64

Institute of Museum Services

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends Title 34 of the Code of Federal Regulations (CFR) by removing Part 64—Institute of Museum Services. The Institute of Museum Services (IMS) has been transferred from the Department of Education to the National Foundation on the Arts and the Humanities. New regulations replacing Part 64 have been published by IMS as 45 CFR Part 1180. The Secretary takes this action to eliminate regulations of an agency which is no longer part of the Department of Education.

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

FOR FURTHER INFORMATION CONTACT: A. Neal Shedd, Director, Division of Regulations Management, 400 Maryland Avenue, SW., (Room 2199, FOB-6), Washington, D.C. 20202. Telephone: (202) 245-7091.

SUPPLEMENTARY INFORMATION: As a result of Pub. L. 97-100, enacted December 23, 1981, and Pub. L. 97-334, enacted December 30, 1982, the IMS was transferred from the Department of Education and established as an entity within the National Foundation on the Arts and the Humanities.

On June 17, 1983 at 48 FR 27727, IMS published regulations establishing 45 CFR Part 1180. Codification of the IMS regulations in Part 1180 was completed on January 26, 1984 at 49 FR 3182.

This document removes Part 64 from Title 34 of the CFR. Title 34 includes only regulations of the Department of Education.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A))

and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of this document as a proposed rule for public comment is unnecessary under 5 U.S.C. 553(b)(B) because it is without substantive effect and concerns only the removal of obsolete regulations from the CFR.

List of Subjects in 34 CFR Part 64

Grant program—education, Museums, National boards.

(Catalog of Federal Domestic Assistance Number, 45.301, Institute of Museum Services)

Dated: August 13, 1984.

T.H. Bell,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations as follows:

PART 64—INSTITUTE OF MUSEUM SERVICES [REMOVED]

Part 64 is removed.

(Pub. L. 97-100, 95 Stat. 1414, (20 U.S.C. 962))

[FR Doc. 84-21806 Filed 8-16-84; 8:45 am]

BILLING CODE 4000-01-M

VETERANS ADMINISTRATION

38 CFR Parts 1 and 14

Information Collection Requirements

AGENCY: Veterans Administration.

ACTION: Technical amendments.

SUMMARY: This document amends Veterans Administration regulations to include OMB control numbers at the place in the regulations where current information collection requirements are described.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: Patricia S. Liebenow, Office of General Counsel (026C), Veterans Administration, 810 Vermont Avenue N.W., Washington, DC 20420, (202) 389-5184.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and assigned the control numbers contained in the listing.

Text of the Amendments

Following the text of each section of Title 38, cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column.

CFR citation	OMB Control No.
1.519	2900-0438
14.616	2900-0437
14.628	2900-0439

Dated: August 13, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

[FR Doc. 84-21900 Filed 8-16-84; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2654-7]

Standards of Performance for New Stationary Sources; Flexible Vinyl and Urethane Coating and Printing; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects the final standards of performance for new stationary sources: flexible vinyl and urethane coating and printing that appeared at page 26884 in the Federal Register of Friday, June 29, 1984, (49 FR 26884). This action is necessary to correct the title of the proposal background information document cited in the preamble and to correct two typographical errors in the regulation.

FOR FURTHER INFORMATION CONTACT: Doug Bell, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5624.

Dated: August 9, 1984.

Sheldon Meyers,

Office of Air and Radiation, Acting Assistant Administrator.

The following corrections are made in the Federal Register document 84-17227 appearing at page 26884 in the issue of June 29, 1984:

1. On page 26886 in the third paragraph of column one, the title of the background information document "Rotogravure Printing and Coating of Flexible Vinyl and Urethane-Background Information for Proposed Standards" is corrected to read "Flexible Vinyl Coating and Printing Operations-Background Information for Proposed Standards."

2. In 40 CFR Part 60, Subpart FFF, § 60.581, page 26893, the final definition in column two "Q_{abl}" is corrected to read "Q_{bl}"

3. In 40 CFR Part 60, Subpart FFF, § 60.583(a)(6), page 26894, column one, "(6) Method for stack gas moisture." is corrected to read "(6) Method 4 for stack gas moisture."

[FR Doc. 84-21907 Filed 8-16-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Nurse Practitioner Traineeship Programs

Correction

In FR Doc. 84-20293 beginning on page 30702 in the issue of Wednesday, August 1, 1984, make the following correction:

§ 57.2602 [Corrected]

On page 30705, third column, ninth line from the bottom, "43 CFR" should have read "42 CFR".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities

listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457; Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
California: Los Angeles.	Aqoura Hills, city of	065072	July 5, 1984, Emerg	
Pennsylvania:				
Westmoreland	Fairfield, township of	422189B	do	Sept. 6, 1974, May 21, 1976, and Apr. 4, 1980.
Fulton	Brush Creek, township of	421660A	July 11, 1984, Emerg	Mar. 23, 1975 and July 11, 1980.
Michigan: Kent	Sparta, township of	260741	July 13, 1984, Emerg	
Pennsylvania: Bedford.	Southampton, township of	421351A	do	Feb. 7, 1975 and Feb. 1, 1980.
Nebraska: Jefferson	Unincorporated areas	310447A	July 17, 1984, Emerg	June 21, 1977.
Louisiana: Vernon Parish.	Unincorporated areas	220228A	July 20, 1984, Emerg	July 26, 1977.
Texas: Fort Bend	Fort Bend County Municipal Utility District No. 25.	481519-New	do	
Oklahoma: Sequoyah	Unincorporated areas	400503A	do	Apr. 21, 1981.
Iowa: Washington	Ainsworth, city of	190525	July 23, 1984, Emerg	Sept. 19, 1975.
Kansas: Brown	Unincorporated areas	200026A	do	May 17, 1977.
Nebraska: Dawson	Lexington, city of	310063A	Mar. 23, 1977, Emerg; May 15, 1984, Reg; May 15, 1984, Susp; July 18, 1984, Rein.	Aug. 13, 1976.
Missouri: Jasper	Carterville, city of	290180B	Jan. 17, 1977, Emerg; July 16, 1984, Reg; July 16, 1984, Susp; July 26, 1984, Rein.	Dec. 28, 1973 and Feb. 6, 1976.
Nevada: Mineral	Unincorporated areas	320017A	Aug. 16, 1978, Emerg; May 1, 1984, Reg; May 1, 1984, Susp; July 19, 1984, Rein.	May 1, 1984.
Missouri: Howard	do	290162	July 25, 1984, Emerg	Nov. 2, 1983.
Utah: Washington	Toquerville, town of	490180	July 20, 1984, Emerg	June 25, 1978.
Nebraska: Cass	South Bend, village of	310034B	July 20, 1984, Emerg; July 20, 1984, Reg	July 10, 1979.
Kentucky: Owsley	Booneville, city of	210187A	July 24, 1984, Emerg	Feb. 1, 1974 and Feb. 20, 1976.
Nebraska: Gage	Unincorporated areas	310088A	July 27, 1984, Emerg	Aug. 9, 1977.
Region I				
Connecticut: New Haven.	Madison, town of	090079B	July 5, 1984, Suspension withdrawn	May 31, 1974 and Sept. 15, 1978.
Maine: York	Old Orchard Beach, town of	230153B	do	Aug. 23, 1974 and Nov. 19, 1976.
Massachusetts:				
Middlesex	Burlington, town of	250185B	do	Aug. 9, 1977.
Worcester	Milford, town of	250317B	do	July 26, 1974 and Dec. 17, 1976.
Region II				
New Jersey: Monmouth.	Atlantic Highlands, borough of.	340286C	do	Dec. 21, 1975, Feb. 20, 1976 and Aug. 3, 1981.
New York:				
Dutchess	Clinton, town of	361334C	do	Dec. 20, 1974, Aug. 20, 1976 and July 1, 1977.
Ulster	Esopus, town of	360855B	do	May 31, 1974 and Jan. 9, 1976.
Region III				
Pennsylvania: Bucks	West Rockhill, township of	421123B	do	Sept. 13, 1974.
West Virginia: Kanawha.	Handley, town of	540279A	do	Jan. 17, 1975.
Region V				
Wisconsin: Dodge	Beaver Dam, city of	550095D	do	Dec. 17, 1973, Oct. 10, 1975, Sept. 24, 1976 and Jan. 27, 1978.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Region VI				
Louisiana:				
Jefferson Parish	Harahan, city of	225200C	do	June 15, 1973, July 1, 1974 and July 11, 1975.
Calcasieu Parish	Lake Charles, city of	220040C	do	Nov. 1, 1974, Feb. 18, 1977 and Oct. 16, 1979.
Region IX				
California:				
San Mateo	Unincorporated areas	060311B	do	Nov. 1, 1974 and Apr. 15, 1977.
Contra Costa	Concord, city of	065022B	do	June 28, 1974 and Apr. 9, 1976.
Solano	Fairfield, city of	060370B	do	Oct. 18, 1974 and Nov. 28, 1975.
Region X				
Washington: King	Snoqualmie, town of	530090A	do	Dec. 21, 1976.
Region				
Massachusetts:				
Worcester	Phillipston, town of	250328B	July 16, 1984, Suspension Withdrawn.	Aug. 9, 1971 and Oct. 22, 1974.
Do	Rutland, town of	250331B	do	Dec. 6, 1974 and July 30, 1976.
Hampden	Southwick, town of	250149B	do	Nov. 8, 1974 and Dec. 17, 1976.
Vermont:				
Rutland	Castleton, town of	500091B	do	May 13, 1977.
Washington	Marshfield, town of	500323B	do	Sept. 20, 1974 and Dec. 10, 1976.
Do	Marshfield, village of	500113B	do	Sept. 20, 1974 and Sept. 13, 1977.
Region II				
New York:				
Montgomery	Amsterdam, city of	360440C	do	July 1, 1974, July 2, 1976 and Jan. 7, 1977.
Westchester	Larchmont, village of	360915B	do	June 14, 1973, Nov. 23, 1973 and Sept. 1, 1977.
Warren	Queensbury, town of	360879B	do	Sept. 20, 1974 and Oct. 15, 1976.
Region III				
Virginia: (Independent city).	Hampton, city of	515527C	do	Mar. 24, 1970, May 28, 1971, July 1, 1974 and June 11, 1976.
West Virginia: Kanawha.	Clendenin, town of	540075B	do	June 28, 1974 and June 11, 1976.
Region V				
Illinois: Lawrence	Sumner, city of	170412B	do	Mar. 1, 1974 and July 23, 1976.
Ohio: Miami	Troy, city of	390402B	do	
Region X				
Oregon: Umatilla	Athena, city of	410206C	do	Nov. 2, 1973, Apr. 16, 1976 and July 28, 1981.

Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

(44 CFR 64.6)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

Issued:

[FR Doc. 84-21686 Filed 8-16-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

Amateur Radio Service Rules; Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the rules to include the latest international regulations. This action is necessary to make the amateur rules current with international regulations. The effect of this action is to provide users with a current copy of the amateur rules.

EFFECTIVE DATE: September 17, 1984.

FOR FURTHER INFORMATION CONTACT: John T. Small, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Order

In the matter of editorial amendment of 47 CFR Part 97, Amateur Radio Service.

Adopted: August 3, 1984.

Released: August 10, 1984.

1. Part 97, Amateur Radio Service Rules, appears in the Code of Federal Regulations at 47 CFR Part 97 This Order corrects the Appendix contained in the October, 1983, edition of 47 CFR Part 97 by replacing extracts from radio regulations annexed to the International Telecommunications Convention (Geneva, 1959), and revised by the World Administrative Radio Conference for Space Telecommunications Geneva, 1971 with extracts from radio regulations annexed to the International Telecommunications Convention (Malaga-Torremolinos, 1973), as revised by the World Administrative Radio Conference, Geneva, 1979.

2. Since these amendments are editorial in nature, the notice and comment provisions of section 553(b) of the Administrative Procedure Act are not applicable.

3. Authority for this action is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's Rules.

4. Accordingly, it is ordered, that 47 CFR Part 97 is amended as set forth in the attached Appendix.

5. The effective date of these rule amendments is September 17, 1984.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Title 47 of the Code of Federal Regulations, Part 97, Amateur Radio Service, 47 CFR Part 97, is amended, as follows:

1. APPENDIX 2 is revised to read:

APPENDIX 2—EXTRACTS FROM THE INTERNATIONAL TELECOMMUNICATIONS CONVENTION (MALAGA–TORREMOLINOS, 1973), AS REVISED BY THE WORLD ADMINISTRATIVE RADIO CONFERENCE, GENEVA, 1979

ARTICLE 1

Terms and Definitions

Section III. Radio Services

Section 3.34 *Amateur Service:*

A *radiocommunications service* for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.

Sec. 3.35 *Amateur-Satellite Service:*

A *radiocommunications service* using *space stations* on earth *satellites* for the same purposes as those of the *amateur service.*

ARTICLE 32

Amateur Service and Amateur-Satellite Service

Section I. Amateur Service

Sec. 1. Radiocommunications between amateur stations of different countries shall be forbidden if the administration of one of the countries concerned has notified that it objects to such radiocommunications.

Sec. 2. (1) When transmissions between amateur stations of different countries are permitted, they shall be made in plain language and shall be limited to messages of a technical nature relating to tests and to remarks of a personal character for which, by reason of their unimportance, recourse to the public telecommunications service is not justified.

(2) It is absolutely forbidden for amateur stations to be used for transmitting international communications on behalf of third parties.

(3) The preceding provisions may be modified by special arrangements between the administrations of the countries concerned.

Sec. 3. (1) Any person seeking a license to operate the apparatus of an amateur station shall prove that he is able to send correctly by hand and to receive correctly by ear texts in Morse code signals. The administrations concerned may, however, waive this requirement in the case of stations making use exclusively of frequencies above 30 MHz.

(2) Administrations shall take such measures as they judge necessary to verify the operational and technical qualifications of any person wishing to operate the apparatus of an amateur station.

Sec. 4. The maximum power of amateur stations shall be fixed by the administrations concerned, having regard to the technical qualifications of the operators and to the conditions under which these stations are to operate.

Sec. 5. (1) All the general rules of the Convention and of these Regulations shall apply to amateur stations. In particular, the emitted frequency shall be as stable and as free from spurious emissions as the state of technical development for such stations permits.

(2) During the course of their transmissions, amateur stations shall transmit their call sign at short intervals.

Section II. Amateur-Satellite Service

Sec. 6. The provisions of Section I of this Article shall apply equally, as appropriate, to the Amateur-Satellite Service.

Sec. 7. Space stations in the Amateur-Satellite Service operating in bands shared with other services shall be fitted with appropriate devices for controlling emissions in the event that harmful interference is reported in accordance with the procedure laid down in Article 22. Administrations authorizing such space stations shall inform the IFRB and shall ensure that sufficient earth command stations are established before launch to guarantee that any harmful interference which might be reported can be terminated by the authorizing administration.

2. APPENDIX 6 is added to read:

APPENDIX 6—EXTRACTS FROM THE INTERNATIONAL TELECOMMUNICATIONS CONVENTION (MALAGA-TORREMOLINOS, 1973), AS REVISED BY THE WORLD ADMINISTRATIVE RADIO CONFERENCE, GENEVA, 1979

Resolution No. 640

Relating to the International Use of Radiocommunications, in the Event of Natural Disasters, in Frequency Bands Allocated to the Amateur Service.

Considering

(a) That in the event of natural disaster normal communication systems are frequently overloaded, damaged, or completely disrupted.

(b) That rapid establishment of communications is essential to facilitate worldwide relief actions.

(c) That the amateur bands are not bound by international plans or notification procedures, and are therefore well adapted for short-term use in emergency cases.

(d) That international disaster communications would be facilitated by temporary use of certain frequency bands allocated to the amateur service.

(e) That under those circumstances the stations of the amateur service because of their widespread distribution and their demonstrated capacity in such cases, can assist in meeting essential communication needs.

(f) That existence of national and regional amateur emergency networks using frequencies throughout the bands allocated to the amateur service.

(g) That in the event of a natural disaster, direct communications between amateur stations and other stations might enable vital communications to be carried out until normal communications are restored.

Recognizing

That the rights and responsibilities for communications in the event of a natural disaster rest with the administrations involved.

Resolves

1. That the bands allocated to the amateur service which are specified in No. 510 may be used by administrations to meet the needs of international disaster communications.

2. That such use of these bands shall be only for communications in relation to relief operations in connection with natural disasters.

3. That the use of specified bands allocated to the amateur service by non-amateur stations for disaster communications shall be limited to the duration of the emergency and to the specific geographical areas as defined by the responsible authority of the affected country.

4. That disaster communications shall take place within the disaster area and between the disaster area and the permanent headquarters of the organization providing relief.

5. That such communications shall be carried out only with the consent of the administration of the country in which the disaster has occurred.

6. That relief communications provided from outside the country in which the disaster has occurred shall not replace existing national or international amateur emergency networks.

7. That close cooperation is desirable between amateur stations and the stations of other radio services which may find it necessary to use amateur frequencies in disaster communications.

8. That such international relief communications shall avoid, as far as practicable, interference to the amateur service networks.

Invites Administrations

1. To provide for the needs of international disaster communications.

2. To provide for the needs of emergency communications within their national regulations.

3. A new APPENDIX 7 is added to read:

APPENDIX 7—EXTRACTS FROM THE INTERNATIONAL TELECOMMUNICATIONS CONVENTION (MALAGA-TORREMOLINOS, 1973), AS REVISED BY THE WORLD ADMINISTRATIVE RADIO CONFERENCE, GENEVA, 1979

Resolution No. 641

Relating to the Use of the Frequency Band 7 000–7 100 kHz

Considering

(a) That the sharing of frequency bands by amateur and broadcasting services is undesirable and should be avoided.

(b) That it is desirable to have worldwide exclusive allocations for these services in Band 7.

(c) That the band 7 000–7 100 kHz is allocated on a worldwide basis exclusively to the amateur service.

Resolves

That the broadcasting service shall be prohibited from the band 7 000–7 100 kHz and that the broadcasting stations operating on frequencies in this band shall cease such operation.

4. A new APPENDIX 8 is added to read:

APPENDIX 8—EXTRACTS FROM THE INTERNATIONAL TELECOMMUNICATIONS CONVENTION (MALAGA-TORREMOLINOS, 1973), AS REVISED BY THE WORLD ADMINISTRATIVE RADIO CONFERENCE, GENEVA, 1979

Resolution No. 642

Relating to the Bringing into Use of Earth Stations in the Amateur-Satellite Service.

Recognizing

That the procedures of Articles 11 and 13 are applicable to the Amateur-Satellite Service.

Recognizing Further

(a) That the characteristics of each station in the Amateur-Satellite Service vary widely.

(b) That space stations in the Amateur-Satellite Service are intended for multiple access by amateur earth stations in all countries.

(c) That coordination among stations in the amateur and Amateur-Satellite Services is accomplished without the need for formal procedures.

(d) That the burden of terminating any harmful interference is placed upon the administration authorizing a space station in the Amateur-Satellite Service pursuant to the provisions of No. 2741 of the Radio Regulations.

Notes

That certain information specified in Appendices 3 and 4 cannot reasonably be provided for earth stations in the Amateur-Satellite Service.

Resolves

1. That when an administration (or one acting on behalf of a group of named administrations) intends to establish a satellite system in the Amateur-Satellite Service and wishes to publish information with respect to earth stations in the system it may:

1.1 Communicate to the IFRB all or part of the information listed in Appendix 3; the IFRB shall publish such information in a special section of its weekly circular requesting comments to be communicated within a period of four months after the date of publication.

1.2 Notify under Nos. 1488 to 1491 all or part of the information listed in Appendix 3; the IFRB shall record it in a special list.

2. That this information shall include at least the characteristics of a typical amateur earth station in the Amateur-Satellite Service having the facility to transmit signals to the space station to initiate, modify, or terminate the functions of the space station.

(47 U.S.C. 154, 303)

[FR Doc. 84-21673 Filed 8-16-84; 8:45 am]
BILLING CODE 6712-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Parts 831 and 845

Aircraft Accident/Incident Investigation Procedures; Rules of Practice in Transportation; Accident/Incident Hearings and Reports; Amendments

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: These amendments amend Parts 831 and 845 to reflect the current organizational structure of the Safety Board and to permit employees in any bureau or office of the Safety Board to serve on a board of inquiry for accident/incident hearings.

EFFECTIVE DATE: August 17, 1984.

FOR FURTHER INFORMATION CONTACT: John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594; Telephone (202) 382-6540.

SUPPLEMENTARY INFORMATION: These amendments update Parts 831 and 845 to reflect the current organizational structure of the Safety Board by adding references to the Bureau of Field Operations, a recently established organizational component. These references will extend to the Director, Bureau of Field Operations authority parallel to that presently possessed by the Director, Bureau of Accident Investigation to order and conduct aircraft accident/incident investigations, to designate parties to such investigations and to designate members of the Board's technical staff to participate in transportation accident/incident hearings.

Section 845.11 also is being amended to permit the chairman of the board of inquiry to designate any employee of the Safety Board to serve on the board of inquiry. At the present time, the membership of a board of inquiry is specified as including a chairman, a hearing officer, the Director, Bureau of Accident Investigation, or his designee. This amendment would allow designation of employees from any bureau or office to serve on the board of inquiry.

Since these are amendments to the Board's rules of practice and procedure, notice of proposed rulemaking is not required, and the amendments may become effective less than 30 days from the date of publication in the Federal Register.

Regulatory Flexibility

These amendments are not subject to the Regulatory Flexibility Act because the notice and public comment procedures of 5 U.S.C. 553 do not apply to them.

List of Subjects in 49 CFR Parts 831 and 845

Administrative practice and procedures, Aviation safety, Hazardous materials, Highway safety, Marine safety, Pipeline safety, Railroad safety.

Accordingly, Parts 831 and 845 of Title 49 of the Code of Federal Regulations are amended as follows:

PART 831—[AMENDED]

1. The authority citation for Part 831 reads as follows:

Authority: Title VII, Federal Aviation Act of 1958, as amended, 72 Stat. 781, as amended by 76 Stat. 921 (49 U.S.C. 1441 et seq.); and the Independent Safety Board Act of 1974, Pub. L. 93-633,) 88 Stat. 2166 et seq. (49 U.S.C. 1901 et seq.).

2. By revising § 831.3 to read as follows:

§ 831.3 Authority of Directors.

The Director, Bureau of Accident Investigation, or the Director, Bureau of Field Operations, subject to the provisions of § 831.2, may order an investigation into any accident or incident involving a civil aircraft.

3. By revising § 831.9(a) to read as follows:

§ 831.9 Parties to the field investigation.

(a) The investigator-in-charge may, on behalf of the Director, Bureau of Accident Investigation, or the Director, Bureau of Field Operations, designate

parties to participate in the field investigation. Parties to the field investigation shall be limited to those persons, government agencies, companies, and associations whose employees, functions, activities, or products were involved in the accident or incident and who can provide suitable qualified technical personnel to actively assist in the field investigation.

* * * * *

4. By revising § 831.10(a) to read as follows:

§ 831.10 Access to and release of aircraft wreckage, records, mail, and cargo.

(a) Only the Board's accident investigation personnel and persons authorized by the investigator-in-charge, the Director, Bureau of Accident Investigation, or the Director, Bureau of Field Operations to participate in any particular investigation, examination or testing shall be permitted access to aircraft wreckage, records, mail, or cargo which is in the Board's custody.

* * * * *

PART 845—[AMENDED]

1. The authority citation for Part 845 reads as follows:

Authority: Sec. 304(b), Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2169 (49 U.S.C. 1903(b)).

2. By revising § 845.11 to read as follows:

§ 845.11 Board of inquiry.

The board of inquiry shall consist of a Member of the Board who shall be chairman of the board of inquiry, and such other employees as may be designated by the chairman of the board of inquiry. Assignment of a Member to serve as the chairman of each board of inquiry shall be determined by the Board. The board of inquiry shall examine witnesses and secure, in the form of a public record, all known facts pertaining to the accident or incident and surrounding circumstances and conditions from which cause or probable cause may be determined and recommendations for corrective action may be formulated.

3. By revising § 845.22 to read as follows:

§ 845.22 Technical panel.

The Director, Bureau of Accident Investigation, or the Director, Bureau of Field Operations, shall designate members of the Board's technical staff to participate in the hearing and initially develop the testimony of witnesses.

Signed in Washington, D.C. on August 8, 1984.

Jim Burnett,

Chairman.

[FR Doc. 84-21687 Filed 8-10-84; 8:45 am]

BILLING CODE 7533-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

[Docket No. 40679-4079]

High Seas Salmon Fishery Off Alaska

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

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice closing for 10 days the fishery conservation zone (FCZ) off southeastern Alaska to commercial fishing for all salmon species. This action is necessary to allow coho salmon to escape the ocean fishery so they can move into the bays and inlets where the harvests can be managed more closely on a stock-by-stock basis. The intent of this action is to achieve better control over the numbers of each stock that are (a) harvested and (b) reach the spawning grounds. This action complements similar actions taken by the State of Alaska for the commercial salmon fisheries in its waters.

DATES: This notice is effective at midnight (2400 hours) Alaska Daylight Time (ADT), August 14, 1984, and will expire at midnight ADT August 25, 1984. Public comments on this notice are invited until September 14, 1984.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 30-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m. ADT weekdays) at the NMFS Alaska Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen, (Fishery Management Biologist, NMFS) 907-586-7229.

SUPPLEMENTARY INFORMATION: Salmon fishing in the FCZ off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP). This FMP was developed and amended by the North Pacific Fishery Management Council (Council) and is implemented by NOAA through regulations appearing at 50 CFR Part 674.

The Alaska Board of Fisheries requires that the commercial salmon troll fisheries in Alaskan waters be closed "for approximately 10 days" during the season unless "the coho salmon run is larger than the last 10-year average and acceptable numbers of coho salmon are moving into the inshore salmon fishing areas."

As of August 4, 1984, the estimated coho harvest by commerical salmon trollers was 525,000 coho (approximately twice the 1971-1980 average catch to the same date) whereas the harvest by the gillnet fisheries, which operate mostly in the internal waters of Alaska, is about 13 percent below average. The sport catches are also below average. About 95 percent of the troll catch has been made in the outer coastal areas of Alaskan waters and in the FCZ.

There is no evidence that the abundance of coho is greater than the average of the last 10 years. Further, the high coho harvests being made by the troll fleet in the ocean have prevented an acceptable number of coho from moving into the inshore salmon fishing areas. Thus, on August 8, 1984, the Alaska Department of Fish and Game (ADF & G) announced that it was closing the salmon troll fishery in Alaskan waters for 10 days, effective midnight, August 14, 1984.

Regulations implementing the FMP, at § 674.23(a), provide that the Secretary may modify the time and area limitations governing the fishery whenever he determines that the condition of any salmon species in any part of the management area is substantially different from the condition anticipated in the FMP. In making such a determination, he may consider the following factors:

(a) The effect of overall fishing effort within any part of the management area;

(b) Catch per unit of effort and rate of harvest;

(c) Relative abundance of salmon stocks within the management area;

(d) Condition of salmon stocks throughout their ranges; and

(e) Any other factors relevant to the conservation of salmon.

Having reviewed evidence of the high offshore harvest, the Secretary has determined that the effect of overall fishing effort in the FCZ, the high catch per unit of effort and rate of harvest there, and the apparent high relative abundance of coho stocks within the FCZ portion of the management area indicate that the condition of coho

stocks is substantially different from the condition anticipated in the FMP He has also found that this difference reasonably requires a modification of time or area limitations if coho stocks are to be adequately conserved and managed. Therefore, he is implementing the 10-day closure prescribed by this action.

The closure will become effective after this notice has been filed for public inspection with the Office of the Federal Register and has been published for 48 hours through procedures of the ADF & G and required by § 674.23(b)(2).

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that the coho salmon stocks harvested in southeastern Alaska will be subject to harm unless this notice takes effect promptly. He finds, therefore, that it would be impracticable and contrary to the public interest to provide advance notice and a prior opportunity for public comment or to delay for 30 days the effective date of this action under the provisions of 5 U.S.C. 553 (b) and (c).

This action is taken under the authority specified at 50 CFR 674.23 and complies with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information request as defined in the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 674

Fisheries.

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

Dated: August 14, 1984.

Joseph W. Angelovic,

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

[FR Doc. 84-21935 Filed 8-14-84; 4:35 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 477]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 226,604 cartons during the period August 19–25, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 19, 1984.

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

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

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

This action is consistent with the marketing policy currently in effect. The committee met publicly on August 14, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is steady.

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

List of subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.777 is added as follows:

§ 910.777 Lemon Regulation 477.

The quantity of lemons grown in California and Arizona which may be handled during the period August 19, 1984, through August 25, 1984, is established at 226,604 cartons.

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

Dated: August 16, 1984.

Thomas R. Clark,

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

[FR Doc. 84-22115 Filed 8-16-84; 11:53 am]

BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 49, No. 161
Friday, August 17, 1984

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned Sweetpotatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary United States Standards for Grades of Canned Sweetpotatoes. The proposed rule was developed by the U.S. Department of Agriculture (USDA) at the request of the canned sweetpotato industry. The proposed rule would change the criterion for determining uniformity of size by basing this factor on the 95 percent most uniform units, disregarding five (5) percent or one (1) unit, whichever is greater, instead of the 90 percent most uniform units (as required in the current U.S. grade standards). The effect of this proposed rule would be to improve the standards and promote orderly and efficient marketing.

DATE: Comments must be received on or before September 17, 1984.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447-6247

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The voluntary U.S. grade standards for canned sweetpotatoes were amended on October 17, 1983, to provide that uniformity of size would be based on the 90 percent most uniform units. The USDA position was that such a change was equitable because uniformity of size would be determined without bias for different container sizes (uniformity of size would be determined on the same basis for a No. 303 can size as for a No. 10 can size). However, segments of the industry subsequently objected to this change.

Sweetpotato canners from California, Louisiana, North Carolina and Virginia; members of the Louisiana Sweet Potato Commission and the North Carolina Yam Commission; and the National Food Processors Association have met with USDA officials to discuss the current U.S. grade standards' effect on marketing, with attention focusing on the requirement for basing uniformity of size on the 90 percent most uniform units. However, no concensus has developed on alternative means of evaluating uniformity.

More recently, the USDA has received two petitions from sweetpotato interests—one requested that the uniformity of size of canned sweetpotatoes be based on 97 percent of the most uniform units and the other requested that the uniformity of size be based on the 93 percent most uniform units.

From a review of this situation, it appears that a change is desirable to base the uniformity of size criteria at a point between the current U.S. grade standards and those previously in effect. The USDA believes that basing the uniformity of size on the 95 percent most uniform units would be a fair and equitable solution that would adequately serve all segments of the industry.

List of Subjects in 7 CFR Part 52

Fruits, Vegetables, Food grades and standards.

PART 52—[AMENDED]

Accordingly, the Subpart—United States Standards for Grades of Canned Sweetpotatoes (7 CFR 52.2041—52.2060) would be revised as follows:

In § 52.2045, paragraphs (s) (1) and (2) are revised to read as follows:

§ 52.2045 Definitions of terms.

* * * * *

(s) *Uniformity of size.*—(1) *Practically uniform in size* means, of the 95 percent (by count) most uniform units (disregarding five (5) percent or one (1) unit, whichever is greater), the largest unit does not exceed the weight of the smallest unit by more than a ratio of 3 to 1.

(2) *Reasonably uniform in size* means, of the 95 percent (by count) most uniform units (disregarding five (5) percent or one (1) unit, whichever is greater), the largest unit does not exceed the weight of smallest unit by more than a ratio of 4 to 1.

* * * * *

(Agricultural Marketing Act of 1946, Sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C. on: August 13, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-21946 Filed 8-16-84; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 981

Handling of Almonds Grown in California; Proposed Salable, Reserve, and Export Percentages for the 1984–85 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given of a proposal to establish salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, for marketable California almonds delivered to handlers during the 1984–85 crop year, which began July 1, 1984. This action is taken under the marketing order for almonds grown in California and is designed to promote orderly marketing conditions in view of an estimated record large 1984 almond crop.

DATE: Comments must be received by September 4, 1984.

ADDRESSES: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, DC 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20520, (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed by USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Frank M. Grasberger has determined that this proposal should be published with less than a 30-day comment period because the current crop year to which the proposed percentages would be applicable began on July 1, 1984. A delay in establishing final salable and reserve percentages could cause market weakness and price instability. Late summer and early fall usually are active times for almond sales. However, handler and buyer uncertainty with regard to what volume regulation will be put into effect could dampen those sales. This would be particularly undesirable in view of the projected large crop.

The authority to establish salable and reserve percentages is pursuant to § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR Part 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a unanimous recommendation of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommendation for salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the 1984–85 crop year. The Board's marketable supply estimate of 494 million kernel weight pounds is based on its 1984 crop estimate of 520 million pounds, minus an estimated weight loss of 26 million pounds resulting from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 380 million pounds—150 million pounds for domestic needs and 230 million pounds for export needs. An inventory adjustment is made to account for supplies of almonds carried in from the 1983–84 marketing year and for supplies deemed desirable to be carried out on June 30, 1985, for early season shipment during the 1985–86 crop year until the 1985 crop is available for market. After adjusting for inventory, the salable supply is calculated at 370.5 million pounds, the quantity of almonds from the 1984 estimated marketable production necessary for trade demand needs. The proposed salable percentage of 75 percent would meet those needs.

The remaining 25 percent (123.5 million pounds) of the 1983 marketable supply would be withheld by handlers to meet their reserve obligations. The Board plans to allocate a small portion of these almonds for use chiefly in the almond butter and school lunch projects begun during the 1982–83 crop year. These long-term projects are a means for the industry to develop new markets for almonds in view of larger crops. Allocated reserve almonds could also be disposed of in other noncompetitive outlets as specified in the order or approved by the Board.

The remaining portion of the reserve would be held as a contingency for allocation at a later date. All or part of these almonds could be released to salable to augment 1984–85 or 1985–86 salable supplies if: (1) 1984 crop production is less than the estimated 520 million pounds, (2) 1984–85 combined domestic and export trade demand is greater than the estimated 380 million pounds, or (3) it appears that 1985 crop production will be insufficient to meet 1985–86 trade demand needs. The Board is required to make any recommendation to the Secretary to increase the salable percentage prior to May 15, 1985. Alternatively, the Board could use contingency reserve almonds to augment supplies for almond butter, school lunch, or other market development projects or dispose of these almonds in other noncompetitive outlets specified in § 981.66(c) of the order or as approved by the Board.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1984–85 crop year, estimated exports are included in trade demand thereby making export a salable outlet rather than a reserve outlet. Because of this action, no portion of the reserve would be eligible for export to normal outlets. Thus, an export percentage of 0 is proposed.

A complete tabulation of the estimates and calculations used by the Board in arriving at its recommendation is as follows:

MARKETING POLICY ESTIMATES—1984 CROP

[Kernel weight basis]

	Million pounds	Percent
Estimated production:		
1. 1984 crop	520.0	
2. Loss and exempt—5 pct	26.0	
3. Marketable supply	494.0	
Estimated trade shipments:		
4. Domestic	150.0	
5. Export	230.0	
6. Total	380.0	
Inventory adjustment:		
7. Carryin July 1, 1984	91.8	
8. Estimated carryover June 30, 1985	82.3	
9. Adjustment	(9.5)	
Salable/reserve:		
10. Salable supply (6+9)	370.5	
11. Reserve supply (3−10)	123.5	
12. Salable percent (10 ÷ 3×100)		75.0
13. Reserve percent (100%−12)		25.0

The objective of the order's volume regulation provisions is to establish and maintain orderly marketing conditions for all California almonds. This proposed action would help to stabilize supplies and prices as the industry faces its largest crop in history—a crop estimated to be 27.8 percent greater than the 1981 record crop of 407 million pounds and 114.9 percent greater than

the small 1983 crop of 242 million pounds. World production also is expected to set a record, and sales of California almonds in export will be difficult due to unfavorable exchange rates. However, this proposed action would still provide an estimated 462.3 million pounds of California almonds for unrestricted sales (1984 crop salable supply plus carryin from the 1983 crop) to meet increasing domestic and world almond consumption. This amount exceeds the actual 1981–82 record for delivered sales of California almonds by 42.9 percent. Further, this proposed action could provide market stability during the 1985–86 crop year in the event that 1985 production is down. Given the cyclical tendency of almond production, this is a likely possibility.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

The proposal is as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

Subpart—Salable, Reserve, and Export Percentages

§ 981.233 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1984.

The salable, reserve, and export percentages during the crop year beginning July 1, 1984, shall be 75 percent, 25 percent, and 0 percent, respectively.

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

Dated: August 13, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84-21945 Filed 8-16-84; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL TRADE COMMISSION

16 CFR Part 454

Advertising and Labeling of Protein Supplements; Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Scheduling of oral presentation before Commission.

SUMMARY: Pursuant to 1.13(i) of its rules of practice, the Federal Trade Commission is reviewing the rulemaking record of the proposed Trade Regulation Rule on Advertising and Labeling of Protein Supplements to determine what form of rule, if any, if should promulgate 44 FR 43489, July 25, 1979. As part of this review process, the Commission has invited five prior participants to make oral presentations at an open meeting of the Commission. Other prior participants are invited to request an opportunity to address the Commission. These presentations will be confined to information already in the rulemaking record.

DATE: Oral presentations will begin at 10 a.m. on Tuesday, September 18, 1984.

ADDRESS: Requests to make oral presentations should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

The presentations will take place at an open Commission meeting in Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580

FOR FURTHER INFORMATION CONTACT: Harrison J. Sheppard, Attorney, 450 Golden Gate Avenue, San Francisco, California 94102. (415) 556–8043.

SUPPLEMENTARY INFORMATION: Invitations to participate in this oral presentation have been extended to the following participants in this rulemaking who previously have filed requests to participate in oral presentations: Shaklee Corporation and Council for Responsible Nutrition; National Nutritional Foods Association; National Association of Pharmaceutical Manufacturers; the Save the United States Movement; and the American Dry Milk Institute, Inc. The Commission is offering these parties the opportunity to make oral presentations as to various issues in the rulemaking because it believes that, based on their previous participation and the variety of their interests, they may assist the Commission in its deliberations. Each of the invitees has been notified of the issues to be addressed, the time (forty minutes) being allowed for the presentation, and that the Commission may limit or expand this time as needed and utilize any or all of this time for questioning. Each of them has also been provided with a copy of the staff's memorandum to the Commission setting forth the Staff Recommendations for Modifications of the Proposed Trade Regulation Rule on Advertising and Labeling of Protein Supplements. This document has been placed on the rulemaking record. Copies are available on request from the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

The Commission has also decided to further extend an opportunity for prior participants to request to participate in the open meeting for oral presentations. Any party who has participated in this proceeding may submit to the Secretary, no later than September 4, 1984, a request to appear before the Commission and make an oral presentation. The Commission reserves the right to limit the number of persons who may participate, as well as the amount of time allotted for comments, should such a need develop.

By direction of the Commission.

Dated: August 7, 1984.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-21770 Filed 8-16-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-231; (Texas—14 Addition)]

High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982), 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 risk or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Wolfcamp Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on September 28, 1984.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on August 29, 1984.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter Lawson, (202) 357-8556.

I. Background

On July 3, 1984, the Railroad Commision of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that an additional area of the Wolfcamp Formation in Sutton County, Texas, be designated as a tight formation. The Commission previously adopted a recommendation that the Wolfcamp Formation in Loving and Pecos Counties, Texas, be designated as a tight formation [Order No. 213, issued February 22, 1982, in Docket No. RM79-76-064 (Texas—14)]. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Wolfcamp formation be designated as a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Wolfcamp Formation in Sutton County, Railroad Commission District 7C, be designated as a tight formation. The recommended area consists of sections 50, 51, 55, 56, 57 and 77, Block B, H. E. & W. T. RR Survey, with the north side being approximately one-half mile east of the city limits of Sonora, Texas.

The Wolfcamp Formation occurs as a formational unit of shale interbedded with shaley limestones of smaller dimensions. The Wolfcamp Formation in the recommended area is at a subsea depth of approximately 2,400 feet.

Only two wells, the William Perlman Fields 50 No. 1 well and the William Perlman Fields 56 No. 1 well, produce natural gas from the recommended portion of the Wolfcamp Formation. The Wolfcamp Formation in the recommended area is defined as that interval found between the log depths of 3,530 feet to 4,800 feet in the William Perlman Fields 50 No. 1 well.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on April 11, 1984, convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum lawful allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977-1981] FERC Stats. and Regs. ¶30,180 (1980), notice is hereby given of the proposal submitted by Texas that the Wolfcamp Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation under § 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 September 28, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-231 (Texas—14 Addition), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be availabe for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NW., Washington, D.C., during business hours.

Any persons wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than August 29, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts Texas' recommendation.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

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

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(70) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

* * * * *

(70) *Wolfcamp Formation in Texas.* RM79-76 (Texas—14).

(i) *Wolfcamp Formation in the Gomez, N.W (Wolfcamp) Fields.*

(A) *Delineation of formation.* The specific areas of the Wolfcamp formation are found in (1) the Gomez, N.W. (Wolfcamp) Field, in northern Pecos County northwest of Fort Stockton, Texas, underlying approximately 24,457 acres, and in (2) the Wolf (Wolfcamp) Field, in the extreme southwestern portion of Loving County, between the town of Mentone, Texas, and the Pecos River in Sections 78-82, Block 33, H&TC RR Company Survey.

(B) *Depth.* The top and base of the Wolfcamp Formation are encountered at the approximate depths of 11,384 feet and 11,720 feet, respectively, in the Gomez, N.W. (Wolfcamp) Field, and at the approximate depths of 10,118 feet and 10,696 feet, respectively, in the Wolf (Wolfcamp) Field.

(ii) *Wolfcamp Formation in Sutton County.*

(A) *Delineation of formation.* The Wolfcamp Formation is found in Sutton County, Texas, Railroad Commission District 7C. The designated area consists

of Sections 50, 51, 55, 56, 57, and 77, Block B, H. E. & W. T. RR Survey.

(B) *Depth.* The Wolfcamp Formation in the designated area lies at a subsea depth of approximately 2,400 feet, with an approximate thickness of 1,270 feet. The Wolfcamp Formation in the designated area is defined as that interval found between the log depths of 3,530 feet to 4,800 feet in the William Perlman Fields 50 No. 1 well.

[FR Doc. 84-21927 Filed 8-16-84; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

Land Acquisitions

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to make revisions to regulations dealing with the removal of trust restrictions and land sales by individual Indians and Indian tribes. These revisions are mainly the result of new legislation and incorporate certain provisions which enable Indian tribes to more readily consolidate land holdings within their reservations.

DATE: Comments must be received on or before October 16, 1984.

ADDRESSES: Submit written comments to the Director, Office of Trust Responsibilities, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: William Bucholz, Acting Chief, Division of Real Estate Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245, telephone number (202)343-2398 or (FTS) 8-343-2398.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The following proposed amendments or revisions have resulted from the work of a task force appointed for the purpose of incorporating relevant portions of Pub. L. 97-459 within the regulations.

The authority statement of this rule is hereby amended to include Pub. L. 97-459, and 25 U.S.C. 2 and 9.

Section 151.2 is amended by revising paragraph (h) and adding a new paragraph, (i) as follows:

(h) The definition of "tribal consolidation area" has been changed to incorporate the sense of a consolidation area in a tribe's land consolidation plan as intended in Title II, section 204 of Pub. L. 97-459.

(i) A new definition for "Land Consolidation plan" is added to incorporate and define within these regulations, a tribe's land consolidation plan as intended under Title II, section 4 of Pub. L. 97-459.

Section 151.5 is revised to select the particular reference to trust acquisitions in Oklahoma under Section 5 of the I.R.A. and has been reworded to show its applicability to all tribes under the conditions as prescribed by Title II, Section 203 of Pub. L. 97-459.

Section 151.7 is revised by adding new paragraphs which outline the conditions under which a tribe may purchase trust or restricted interests of land within a tribe's reservation or otherwise under its jurisdiction, in accordance with Section 205 of Title II of Pub. L. 97-459.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the office identified in the ADDRESSES section of the Preamble.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the finding that the changes in this rule are procedural rather than economic and that they will cause little, if any, change in economic activity. The Department has also determined that this rule does not contain any information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 350(h) *et seq.*

The primary author of this document is Lee Maytubby, Realty Specialist, Bureau of Indian Affairs, Division of Real Estate Services, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

List of Subjects in 25 CFR Part 151

Indian—Lands.

PART 151—LAND ACQUISITIONS

For the reasons outlined in the preamble it is proposed to amend 25 CFR Part 151 of the Code of Federal Regulations as follows:

1. The Authority section of this regulation is revised to read as follows:

Authority: R.S. 161; 5 U.S.C. 301. Interpret or apply 70 Stat. 290, as amended; 70 stat. 626; 77 Stat. 349; 78 Stat 389; 78 Stat. 747; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 2203; 25 U.S.C. 409a, 450h, 451, 464, 465, 467, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d-10, 1466, and 1495, and other authorizing acts Pub. L. 97-459, and 25 U.S.C. 2 and 9.

2. By revising paragraph (h) and adding a new paragraph, (i) to § 151.2, *Definitions,* to read as follows:

§ 151.2 Definitions.

* * * * *

(h) "Tribal consolidation area" means the area or areas described in the tribe's land consolidation plan.

(i) "Land consolidation plan" means a detailed plan devised by a tribe and approved by the Secretary which contemplates the acquisition of land in a specified area or areas within the exterior boundaries of the tribe's reservation within which tribal land ownership will be concentrated. If the reservation does not encompass an area sufficient to permit a meaningful consolidation area or if a tribe does not have a reservation, the plan may contemplate the acquisition of land in a specified area adjacent to the tribe's reservation or in a specified area suitably located to serve as a reservation for the tribe.

3. By revising § 151.5, *Trust acquisitions in Oklahoma under section 5 of the I.R.A.,* to read as follows:

§ 151.5 Trust acquisitions under section 5 of the I.R.A.

The provisions of section 5 of the Act of June 18, 1934 (48 Stat. 985), now apply to all tribes, notwithstanding the provisions of section 18 of such Act. However, nothing in this section is intended to supersede any other provision of Federal law which authorizes, prohibits, or restricts the acquisition of land for Indians with respect to any specific tribe, reservation, or state(s).

4. By revising § 151.7, *Acquisition of fractional interests,* to read as follows:

§ 151.7 Acquisition of Land.

(a) Acquisition of a fractional land interests by an individual Indian or a tribe in trust status can be approved by the Secretary only if:

(1) The buyer already owns a fractional interest in the same parcel of land; or

(2) The interest being acquired by the buyer is in fee status; or

(3) The buyer offers to purchase the remaining undivided trust or restricted interests in the parcel at not less than their fair market value; or

(4) There is a specific law which grants to the particular buyer the right to purchase an undivided interest or interests in trust or restricted land without offering to purchase all of such interests; or

(5) The owner of a majority of the remaining trust or restricted interests in the parcel consents in writing to the acquisition by the buyer.

(b) Any Indian tribe may purchase at not less than fair market value all of the trust or restricted interests in any tract of trust or restricted land within the tribe's reservation or otherwise subjected to the tribe's jurisdiction with the consent of over 50 per centum of the owners of such trust or restricted land or with the consent of the owner of over 50 per centum of the trust or restricted interests in such tract provided that:

(1) No such tract shall be acquired by an Indian or Indian tribe over the objection of three or less owners owning 50 per centum or more of the total interests in such tract;

(2) Any Indian owning any undivided interest in, and in actual use and possession of such tract, may purchase such tract by matching the tribal offer;

(3) This section shall not apply to any tract of land owned by less than fifteen persons; and

(4) All purchases and sales initiated under this section shall be approved by the Secretary or his/her designated representative.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-21915 Filed 8-16-84; 8:45 am]

BILLING CODE 4310-02-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Surface Mining and Reclamation Operations Under a Federal Program for Tennessee

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

ACTION: Request for additional comments.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior reopens the comment period on the proposed Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in the State of Tennessee. The proposed program includes the surface effects of underground coal mining. This program is necessary in order to regulate surface coal mining activities because of the State's repeal of the Tennessee Coal Surface Mining Act and regulations effective October 1, 1984.

OSM proposed and solicited comments on the Federal program for Tennessee on June 29, 1984 (49 FR 26898). OSM is reopening the comment period to solicit additional comments and clarification of those already submitted.

DATE: Written comments will be accepted until 5:00 p.m. on September 5, 1984 at the administrative record address indicated below. A public hearing will be held on August 31, 1984 as indicated below under **"SUPPLEMENTARY INFORMATION."**

ADDRESSES: Written comments must be mailed to: Administrative Record Room (R&I-21), Office of Surface Mining, 530 Gay Street SW, Knoxville, TN 37902.

The public hearing will be held at the Hyatt House, 500 Hill Avenue SE, Knoxville, Tennessee 37901.

FOR FURTHER INFORMATION CONTACT: James A. Curry, Field Office Director, OSM, 530 Gay St. SW, Knoxville, TN 37902 (Telephone (615) 673-4504); or James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Rm. 222, 1951 Constitution Avenue NW, Washington, DC 20240 (Telephone (202) 343-5361).

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed Tennessee Federal regulatory program are available for inspection and may be copied at the OSM office listed above under **"ADDRESSES"** and at the Tennessee Division of Surface Mining, Room 160, Customs House, 701 Broadway, Nashville, Tennessee 37203.

Public Comment Period

The comment period on this proposed program will extend until September 5, 1984. All comments must be received at the location listed above under **"ADDRESSES"** by the close of business on that date. All written comments received, summaries of public meetings held at the request of any person or organization to receive advice and recommendations concerning the program with representatives of OSM, and other documents comprising the adminsitrative record on the Tennessee Federal program will be made available for public review during regular business hours at the OSM location listed above under **"ADDRESSES."**

Comments should be as specific as possible, focus on the issues of this rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues in this rulemaking. Nor can OSM ensure consideration of comments received after the comment period ends or those delivered to an address other than that specified.

Public Hearing

A public hearing is scheduled for August 31, 1984 at the Hyatt House, 500 Hill Avenue SE, Knoxville, Tennessee 37901. The hearing will begin at 10:00 a.m. and will continue until all persons then in attendance wishing to present testimony have had an opportunity to do so.

The hearing will be legislative in nature. Persons wishing to present testimony should contact the Field Office Director at least five (5) days before the hearing date. A written statement submitted with oral presentation would be helpful to the presiding OSM officials.

Background

The State has enacted legislation effective October 1, 1984, repealing most of the Tennessee Coal Surface Mining Law of 1980, Tennessee Code Annotated 59-8-301—59-8-339. The legislation also will repeal the implementing regulations for the regulatory program effective the same date. Because of Tennessee's action, Secretarial withdrawal of state regulatory program approval would be a formality. Under section 503(a)(1) of the Surface Mining Control and Reclamation Act of 1977 ("SMCRA" or the "Act"), 30 U.S.C. 1253(a)(1), to achieve and retain primacy a coal-producing state must have a law which provides for the regulation of surface coal mining and reclamation operations in accordance with the Act. The State's failure to have a surface mining law cannot be cured by substitution of Federal enforcement. Pursuant to 30 CFR 733.12(g), the Secretary is to withdraw approval if the failure of the state to administer or enforce its program cannot be remedied by substitution of Federal enforcement of the program.

Therefore, OSM proposed on June 29, 1984 (49 FR 26898), to withdraw approval of the Tennessee permanent regulatory program in full, and to promulgate and implement in its place a Federal program for Tennessee, effective October 1, 1984. On and after that date, OSM would be the regulatory authority in Tennessee. The June 29, 1984, notice announced public hearings on August 3, 1984, and a public comment period extending until August 8, 1984.

Comments elicited by that notice present a number of issues and suggestions. Therefore, OSM is today

announcing additional public hearings and reopening the comment period to give the public the opportunity to clarify any comments already submitted, respond to any issues or comments already in the administrative record for this rulemaking and submit additional comments.

Dated: August 14, 1984.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 84-22028 Filed 8-15-84; 3:33 pm]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 103

Casinos Regulations

AGENCY: Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Treasury is considering an amendment of 31 CFR Part 103 that would add gambling casinos to the definition of financial institutions. The proposed rule, if issued as a final rule, would subject casinos, which were not otherwise exempted under § 103.45(c), to the reporting and recordkeeping requirements of Titles I and II of Pub. L. 91-508 (84 Stat. 1114 (Oct. 26, 1970)), Title I, codified at 12 U.S.C. 1829b and 12 U.S.C. 1951-1959 (1982), and Title II, permanently codified at 31 U.S.C. 5311-5322. The reporting and recordkeeping requirements of 31 CFR Part 103 have been determined by the Secretary of the Treasury, pursuant to congressional mandate, to have a high degree of usefulness in criminal, tax, and regulatory matters. Public Law 91-508 is commonly referred to as the Bank Secrecy Act. Because regulation of the gambling industry has historically been the responsibility of the various states, Treasury will consider granting exemptions to the final rule if a comprehensive system of state regulation that substantially meets the objectives of the proposed rule is implemented.

DATE: Written comments must be received by December 17, 1984.

ADDRESS: Comments should be addressed to Robert J. Stankey, Office of the Assistant Secretary (Enforcement and Operations), Department of the Treasury, Room 1458, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Robert J Stankey, Office of the Assistant Secretary (Enforcement and Operations), Department of the Treasury, Room 1458, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, D.C. 20220. (202/566-8022).

SUPPLEMENTARY INFORMATION:

Background

The reporting and recordkeeping requirements of 31 CFR Part 103 have been determined by the Secretary of the Treasury, pursuant to Congressional mandate, to have a high degree of usefulness in criminal, tax and regulatory matters. Pursuant to the Bank Secrecy Act a variety of financial institutions, including banks, savings and loans, credit unions, currency exchanges and brokers and dealers in securities are required to file reports of large currency transactions. Frequently, these large currency transactions have been found to be closely related to activities that violate a number of civil, tax, and criminal laws. Financial institutions are also required to maintain certain records necessary to trace financial transactions through the nation's financial system.

Historically, gambling casinos have not been classified as financial institutions under 31 CFR 103.11. As a result, gambling casinos have generally not been subject to the reporting and recordkeeping requirements of the Bank Secrecy Act. However, in recent years Treasury has found that an increasing number of persons are using gambling casinos to exchange large sums of cash for other means of payment. Treasury believes that in a number of instances narcotics traffickers are using gambling casinos as substitutes for other financial institutions in order to avoid the reporting and recordkeeping requirements of the Bank Secrecy Act.

Over the past several months Treasury has been in contact with members of Congress and representatives of the gambling industry concerning the need for steps to prevent the use of gambling casinos as means of avoiding the reporting and recordkeeping requirements of the Bank Secrecy Act. In order to prevent the use of casinos in this fashion, Treasury proposes to amend the regulations in 31 CFR Part 103 to require gambling casinos to file the same types of reports that it requires from financial institutions currently covered by the Bank Secrecy Act. In addition, Treasury proposes to amend the regulations in 31 CFR Part 103 to require gambling casinos to maintain certain records relating to financial transactions by and with the gambling casino.

While Treasury is of the opinion that steps must be taken to close this loophole (*i.e.* the use of casinos to avoid the requirements of the Bank Secrecy Act), Treasury acknowledges that such steps may properly fall within the historical responsibilities of the states to regulate the gambling industries within their jurisdictions. Therefore, Treasury will carefully consider granting exemptions under proposed § 103.45(c) to casinos in any state which implements requirements that are designed to close this loophole.

In deciding whether to grant exemptions, Treasury will consider whether the state's regulatory system substantially meets the reporting and recordkeeping requirements of 31 CFR Part 103, including its provisions for access to records and civil penalties. In addition, before an exemption will be granted, the state, in connection with such regulatory system, must have agreed to at least the following:

(1) To allow the Treasury Department to evaluate the effectiveness of the state's regulatory system by periodic oversight review of that system,

(2) To submit the reports required under the state's regulatory system to the Treasury Department within 15 days of receipt by the state,

(3) To make available to the Treasury Department, within 30 days of request, any records required to be maintained by the casinos and to which the state has access under its regulatory system,

(4) To provide the Treasury Department with periodic status reports on its compliance efforts and findings,

(5) To report all but minor violations of its requirements to Treasury within 15 days of discovery, and

(6) To initiate compliance examinations of specific institutions at the request of Treasury and to provide reports of these examinations to Treasury within 15 days of completion.

While Treasury may grant exemptions prior to June 30, 1985, any such exemptions will terminate on June 30, 1985 unless the state has enacted criminal penalties at least equivalent to those set forth in 31 CFR 103.49. After June 30, 1985, an exemption will not be granted unless the state has enacted such criminal penalties.

If exemptions are granted, Treasury will continue to evaluate the effectiveness of the state's regulatory system. If, for any reason, the state's regulatory system fails to operate as effectively as the Federal rule, the Secretary may in his sole discretion deny further exemption.

Public Participation

Treasury requests comments from all interested persons concerning the proposed amendments. Treasury specifically requests comments from the gambling casinos that would be affected by the proposed amendments. Treasury is particularly interested in the comments of the gambling casinos on the following matters: (1) the impact the proposed amendments would have on their overall operations, on particular types of gambling operations and on commercial, financial and recordkeeping operations: (2) what, if any, additional records gambling casinos would have to maintain as a result of the proposed amendments; (3) the compatability of the proposed amendments with the procedures gambling casinos currently follow to account for the use of credit by their players; and (4) the impact the proposed amendments would have on gambling casinos' relationships with their patrons.

In addition, Treasury specifically requests comments from state authorities on any state requirements that would prevent the use of casinos as means of evading the requirements of the Bank Secrecy Act. Treasury is particularly interested in the types of information that would be available to federal authorities under the state requirements and the manner in which that information would be made available.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action.

Treasury will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in comments. The name of any person submitting comments is not exempt from disclosure.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603 and 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, would not have a significant economic impact on a substantial number of small entities.

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

Compliance With Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual affect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment activity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act Notice

The collection of information requirements contained in this rule have been forwarded to the Office of Management and Budget pursuant to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Comments on the collection of information requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C., 20503, attention Desk Officer for the Department of the Treasury (Office of the Secretary), with a copy to Robert J. Stankey, Office of the Assistant Secretary (Enforcement and Operations), Department of the Treasury, Room 1458, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

List of Subjects in 31 CFR Part 103

Casinos, Financial institutions, Reporting and recordkeeping requirements, Currency transactions.

Authority and Issuance

Accordingly, under the authority of 31 U.S.C. 5311–5322 and Title I of Pub. L. 91–508, 84 Stat. 1114 (Oct. 26, 1970), codified at 12 U.S.C. 1829b and 12 U.S.C. 1951–1959, the Secretary of the Treasury proposes that 31 CFR Part 103 be amended as follows:

1. The table of contents in 31 CFR Part 103 would be amended by adding a new § 103.36 and renumbering existing §§ 103.36 and 103.37 as §§ 103.37 and 103.38. As amended, the table of sections would read as follows:

* * * * *

Subpart C—Records Required To Be Maintained

* * * * *

103.36 Additional Records to be made and retained by casinos

103.37 Nature of records and retention period

103.38 Person outside the United States

* * * * *

§ 103.11 [Amended]

2. In Subpart A, § 103.11 would be amended by adding at the end of the definition of "Financial Institution" the following paragraph (b)(6):

* * * * *

(b) * * *

(6)(i) A casino or gambling casino licensed as a casino or gambling casino by a State or local government and having gross annual gaming revenue in excess of $1,000,000.

(ii) A casino or gambling casino includes the principal headquarters or any branch or place of business of the casino or gambling casino.

* * * * *

3. In Subpart B, § 103.22(a) would be revised to read as follows:

§ 103.22 Reports of currency transactions.

(a)(1) Each financial institution other than a casino shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution, which involves a transaction in currency of more than $10,000. Such reports shall be made on forms prescribed by the Secretary under 31 CFR 103.25(a)(1) and all information called for in the forms shall be furnished in accordance with 31 CFR 103.25(a)(1).

(2) Each casino shall file a report of each deposit, withdrawal, exchange of currency, gambling tokens or chips, or other payment or transfer, by, through, or to such casino, which involves a transaction in currency of more than $10,000. Such reports shall be made on forms prescribed by the Secretary under 31 CFR 103.25(a)(2) and all information called for in the forms shall be furnished in accordance with § 103.25(a)(2).

* * * * *

4. In Subpart B, § 103.25(a) would be revised to read as follows:

§ 103.25 Filing of reports.

(a)(1) A report required to be filed by paragraph (a)(1) of § 103.22 shall be filed within 15 days following the day on which the transaction occurred. The reports shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by the Secretary. All information called for in such forms shall be furnished. A copy of each report shall be retained by the financial institution for a period of five years from the date of the report.

(2) A report required to be filed by paragraph (a)(2) of § 103.22 shall be filed

within 15 days following the day on which the transaction occurred. The reports shall be filed with the Secretary of the Treasury on a form to be prescribed by the Secretary for use by casinos. All information called for in such forms shall be furnished. A copy of each report shall be retained by the casino for a period of five years from the date of the report.

* * * * *

§§ 103.36 and 103.37 [Redesignated as §§ 103.37 and 103.38]

5. In Subpart C, §§ 103.36 and 103.37 would be redesignated as §§ 103.37 and 103.38, and a new § 103.36 would be added to read as follows:

§ 103.36 Additional records to be made and retained by casinos

(a) With respect to each deposit of funds, account opened or line of credit extended after (60 days after the effective date of these regulations), a casino shall, at the time the funds are deposited, the account is opened or credit is extended, secure and maintain a record of the social security number of the person involved. Where the deposit, account or credit is in the names of two or more persons, the casino shall secure the social security number of each person having a financial interest in the deposit, account or line of credit. In the event that a casino has been unable to secure the required social security number, it shall not be deemed to be in violation of this section if (1) it has made a reasonable effort to secure such number and (2) it maintains a list containing the names, and permanent addresses of those pesons from whom it has been unable to obtain social security numbers and makes the names and addresses of those persons available to the Secretary upon request.

(b) Each casino shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) A record of each receipt (including but not limited to funds for safekeeping of front money) of funds by the casino for the account (credit or deposit) of any person. The record shall include the name, permanent address and social security number of the person from whom the funds were received, as well as the date and amount of the funds received. If the person for whom the funds were received is a non-resident alien, the person's passport number or a description of some other government document used to verify the person's identity shall be obtained and recorded;

(2) Each statement, ledger card or other record of each deposit account or credit account with the casino, showing each transaction (including deposits, receipts, withdrawals, disbursements or transfers) in, or with respect to, a customer's deposit account or credit account with the casino;

(3) Each item comprising a debit or credit to a customer's deposit account or credit account with the casino;

(4) A record of each extension of credit in excess of $500, the terms and conditions of such extension of credit, and repayments. The record shall include the customer's name, permanent address, social security number, and the date and amount of the transaction (including repayments). If the customer or person for whom the credit extended is a non-resident alien, his passport number or description of some other government document used to verify his identity shall be obtained and recorded;

(5) A record of each advice, request or instruction received or given by the casino for itself or another person with respect to a transaction involving a person, account or place outside the United States (including but not limited to communications by wire, letter, or telephone). If the transfer outside the United States is on behalf of a third party, the record shall include the third party's name, permanent address, social security number, signature, and the date and amount of the transaction. If the transfer is received from outside the United States on behalf of a third party, the record shall include the third party's name, permanent address, social security number, signature, and the date and amount of the transaction. If the person for whom the transaction is being made is a non-resident alien the record shall also include the peson's name, his passport number or a description of some other government document used to verify his identity;

(6) Records prepared or received by the casino in the ordinary course of business, which would be needed to reconstruct a person's deposit account or credit account with the casino, or to trace a check deposited with the casino through the casino's records to the bank of deposit.

(7) All records, documents or manuals required to be maintained by a casino under state and local laws or regulations.

6. In Subpart D, § 103.45 would be amended by adding a new paragraph (c) to read as follows:

§ 103.45 Exceptions, exemptions, and reports.

* * * * *

(c) The Secretary may as an alternative to the reporting and recordkeeping requirements for casinos in §§ 103.22(a)(2), 103.25(a)(2) and 103.36, grant exemptions to the casinos in any state whose regulatory system substantially meets the reporting and recordkeeping requirements of this part. Revocation of any exemption under this paragraph shall be in the sole discretion of the Secretary.

§ 103.46 [Amended]

7 In Subpart D, § 103.46 would be amended by redesignating existing § 103.46(a)(8) as § 103.46(a)(9) and by adding a new paragraph (a)(8) to read as follows:

* * * * *

(a) * * *

(8) to the Deputy Assistant Secretary (Enforcement) with respect to §§ 103.22(a)(2), 103.25(a)(2) and 103.36.

* * * * *

8. In Subpart D, § 103.51 would be revised to read as follows:

§ 103.51 Access to records.

Except as provided in §§ 103.34(a)(1), 103.35(a)(1) and 103.36(a), and except for the purpose of assuring compliance with the recordkeeping and reporting requirements of this part, this part does not authorize the Secretary or any other person to inspect or review the records required to be maintained by Subpart C of this part. Other inspection, review or access to such records is governed by other applicable law.

Dated: July 20, 1984.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 84-21903 Filed 8-16-84; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

38 CFR Part 3

Dependency of Parents—Compensation

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendments.

SUMMARY: The Veterans Administration (VA) is proposing to amend its adjudication regulations to increase the levels of monthly income below which conclusive dependency of a parent is established. These amendments are necessary because the monthly income levels currently in effect have not been adjusted for inflation (as measured by the Consumer Price Index) since 1975. The effect of these amendments will be the elimination of unnecessary development to establish dependency resulting in a more rapid adjudication of claims.

DATES: Comments must be received on or before September 17, 1984. The

proposed effective date of these changes is May 1, 1984.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding these changes to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until September 31, 1984.

FOR FURTHER INFORMATION CONTACT: Robert M. White 202-389-3005.

SUPPLEMENTARY INFORMATION: In order for a deceased veteran's parent to establish continued entitlement to death compensation or for a veteran to receive additional compensation because of a dependent parent, the VA must make a determination that the parent is financially dependent. Under 38 CFR 3.250 conclusive dependency exists, without a need to review monthly expenses, if a parent's monthly income is below certain levels.

The last adjustment in the income levels for conlcusive dependency was made in 1975 using the Consumer Price Index (CPI) for February of that year. Based on the CPI for April 1984 there has been a 93.4 percent increase in the cost of living since the last adjustment. We are, therefore, proposing to increase the specified income levels by approximately the same percentage with appropriate rounding of the resulting dollar figures for ease of administration.

The Administrator hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Exec. Order 12291, Federal Regulation, we have determined that these regulatory amendments are non-major for the following reasons:

(1) They will not have an effect on the economy of $100 million or

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance program number is 64.109)

Approved: July 16, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—[AMENDED]

In 38 CFR Part 3, ADJUDICATION, § 3.250(a) is revised to read as follows:

§ 3.250 Dependency of parents—compensation.

(a) *Income.* (1) *Conclusive dependency.* Dependency of a parent (other than one who is residing in a foreign country) will be held to exist where the monthly income does not exceed:

(i) $400 for a mother or father not living together;

(ii) $660 for a mother and father, or remarried parent and spouse, living together;

(iii) $285 for each additional "member of the family," as defined in paragraph (b)(2). (38 U.S.C. 102(a)).

* * * * *

[FR Doc. 84-21614 Filed 8-16-84; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 17

Emergency Dental Treatment

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The Veterans Administration is proposing to amend a medical regulation regarding emergency dental care to clearly state when and to what extent treatment will be provided, and that individuals who are ineligible for such treatment will be billed. This action is required to clarify the wording in this regulation to allow for consistent interpretation in the provision of outpatient dental care. This amendment will assure system-wide application of the provision of outpatient dental care which has been administered sporadically and inconsistently in the past.

DATE: Comments must be received before September 17, 1984.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections to: Administrator of Veterans Affairs (217A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection only at the Veterans Administration Central Office, Veterans Services Unit, room 132, at the above address, between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until September 31, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph F Fleckenstein, (202) 389-2851.

SUPPLEMENTARY INFORMATION: The Administrator has determined that this amendment to VA regulations is nonmajor under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect of $100 million or more on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse economic effects.

The Administrator certifies that this proposed amendment will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this proposed amendment is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This rule governs the conduct of VA employees, not that of the private sector. It will only be applicable in the case of certain individuals who receive emergency dental treatment at VA health care facilities.

The Catalog of Federal Domestic Assistance Numbers are 64.009 and 64.011.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug Abuse, Foreign relations, Government contracts, Grants programs, Health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: July 27, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

In 38 Part 17, MEDICAL, § 17.124 is revised to read as follows:

§ 17.124 Emergency dental treatment.

When emergency dental treatment is authorized before eligibility has been established and after admission to a VA hospital, nursing home care unit, or

domiciliary on the basis of a tentative eligibility determination, or when outpatient emergency dental care is provided, as a humanitarian service, to individuals who have no established eligibility for outpatient dental care, the treatment will be restricted to the alleviation of pain or extreme discomfort, or the remediation of a dental condition which is determined to be endangering life or health. The provision of emergency treatment to persons found ineligible for dental care will not entitle the applicant to further dental treatment. Individuals provided emergency dental care who are found to be ineligible for such care will be billed. (38 U.S.C. 210(c))

[FR Doc. 84-21899 Filed 8-16-84; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2654-8]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: USEPA is proposing to approve a revision to the Wisconsin State Implementation Plan (SIP) for sulfur dioxide (SO_2). The revision consists of changes to section NR 154.12(6), Milwaukee Sulfur Limitations, of the Wisconsin Administrative Code (WAC). The revision sets SO_2 emission limits for sources in the City of Milwaukee, and provides a compliance schedule for meeting these limits. USEPA's action is based upon a revision request that was submitted by the Wisconsin Department of Natural Resources on January 23, 1984.

The intent of today's rulemaking is to present a discussion of the material submitted by the State and to provide an opportunity for public comment on the regulations and on USEPA's proposed action.

DATE: Comments on this revision and on USEPA's proposed action must be received by September 17, 1984.

ADDRESSES: Copies of the SIP revision and background data are available at the following addresses for review: (It is recommended that you telephone Colleen W. Comerford, at (312) 886-6034, before visiting the Region V office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707

Comments on this proposed rule should be addressed to (please submit in original and five copies, if possible):

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 1980, (49 FR 67348), the U.S. Environmental Protection Agency (USEPA) designated a portion of the City of Milwaukee as primary nonattainment for sulfur dioxide (SO_2) under section 107 of the Clean Air Act. Monitoring data showed that Milwaukee was in violation of the primary, or health-related National Ambient Air Quality Standards (NAAQS) for SO_2. Subsequent modeling analyses performed by the Wisconsin Department of Natural Resources (WDNR) also indicated violations of the 24-hour primary NAAQS, due primarily to the Wisconsin Electric Power Company's (WEPCo) Valley Generating Station. Under the Clean Air Act, Wisconsin is obligated to revise its State Implementation Plan (SIP) so that the City of Milwaukee will attain and maintain the SO_2 NAAQS.

On January 23, 1984, the WDNR submitted changes to section NR 154.12 of the Wisconsin Administrative Code (WAC) to USEPA as a SIP revision. This revision sets restrictions on the amount of SO_2 that may be emitted from electric utility plants in the City of Milwaukee, and also sets a compliance schedule for meeting these emission limits. The WDNR's SIP revision request, the associated Board Order, and the results of USEPA's review of these documents, are available for public inspection at the Region V office listed above.

Proposed Revision for Sulfur Dioxide Control

The SIP revision submitted by the State to USEPA on January 23, 1984, modifies the SO_2 emission limits applicable in the City of Milwaukee, Milwaukee County, Wisconsin. The revision is currently contained in Section NR 154.12(6) of the WAC. The emission limits and compliance schedule contained in NR 154.12(6)(a) and NR 154.12(6)(b), respectively, were enacted in Wisconsin by means of Natural Resources Board Order Number A-11-83, and became effective on December 1, 1983. A public hearing on the revision was held in Waukesha, Wisconsin, on June 7, 1983.

If approved, section NR 154.12(6)(a) will modify the SIP to limit the 24-hour averaged SO_2 emissions of all large (greater than 250 million Btu heat input per hour) electric utility plants in the City of Milwaukee, on which construction or modification was begun prior to December 1, 1983. At present, there is only one source that meets these criteria, WEPCo's Valley Generating Station. The proposed emission limits are for solid fossil fuel, residual fuel oil, and "all other fuels", as well as for any combination thereof.

The proposed emission limit for solid fossil fuel, or coal, is 3.28 lbs. of SO_2 per million BTU. The State's attainment demonstration for this limit consisted of running the USEPA reference model for this situation (RAM) with 5 years of Milwaukee meteorological data. Since WDNR identified WEPCo's Valley Station as the largest contributing source to measured SO_2 violations, this was the only source used in the full-year runs. The results from these full-year runs were used to identify a set of critical days. The critical days were remodeled using the emission of inventory of all point and area sources in the Milwaukee area. Based on this analysis, the State calculated the emission limit necessary to achieve the SO_2 NAAQS (i.e., 3.23 lbs/MMBTU).

USEPA has reviewed the State's technical support document, including the modeling analysis, which was submitted to EPA with the SIP revision request. USEPA has determined that limiting the SO_2 emissions from the WEPCo Valley Station will ensure attainment of the NAAQS in the Milwaukee nonattainment area. Other SO_2 sources in the country will be governed by other SIP provisions such as the generic SO_2 SIP, if and when it is approved, and applicable New Source Review requirements.*

* The proposed SIP revision was submitted pursuant to Part D of the Clean Air Act. Part D requires development of a plan which will ensure attainment and maintenance *in the nonattainment area*. Thus, for the purposes of the Part D Plan, EPA is concerned with regulating and controlling sources which are located within or which substantially impact a nonattainment area. As noted previously, the WEPCo plant is the dominant SO_2 source in this nonattainment area, in terms of both emissions and impact.

The proposed emission limit for residual fuel oil, which is primarily fuel oil #6, is 1.6 lbs. of SO_2 per million BTU. The proposed emission limit for "all other fuels" which refers to distillate fuel oil #2 and natural gas, is 0.5 lbs. of SO_2 per million BTU. When different fuels are burned in combination, the proposed emission limit is a weighted mean of the percentages of the total heat input to any stack derived from the types of fuel used. The weighting factor for each percentage heat input is that fuel's corresponding emission limit. At present, the only source to which these limits apply is the Valley Station, which burns coal. USEPA has determined that these limits will also ensure attainment and maintenance of the NAAQS.

Section NR 154.12(6)(b) of Wisconsin's proposed SIP revision sets a compliance timetable by which compliance with the proposed emission limits must be achieved. The schedule begins on December 1, 1983, and ends on November 9, 1985, with interim milestones for compliance plan submittal, contracting, and construction. If compliance is achieved through fuel switching, however, then effective compliance is required by August 9, 1985. USEPA proposes to approve this timetable because it is consistent with USEPA policy and the Clean Air Act.

Conclusion

USEPA proposes to approve section NR 154.12(6)(a) and NR 154.12(6)(b) as revisions to Wisconsin's SO_2 SIP The WDNR is proposing an emission limit of 3.28 lbs. of SO_2 per million BTU, or less, for electric utility plants greater than 250 MMBTU/hr of SO_2 located within the City of Milwaukee. This emission limit applies to only one source, WEPCo's Valley Generating Station. Control of emissions from this one source will attain and maintain the SO_2 NAAQS. Therefore, USEPA is proposing to approve this revision. In addition, the compliance schedule set forth in Section NR 154.12(6)(b) is consistent with Clean Air Act requirements, so USEPA also proposes to approve this revision to the Wisconsin SO_2 SIP

Interested persons are invited to submit comments on each of these actions. USEPA will consider all comments received by September 17, 1984.

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

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sections 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a)))

Dated: June 29, 1984.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 84-21908 Filed 8-16-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL-2655-1]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing rulemaking on several revisions to the Wisconsin State Implementation Plan (SIP) for ozone. These revisions incorporate volatile organic compound (VOC) emission limits for large petroleum dry cleaners into the ozone SIP The revisions consist of changes to section NR 154.01, Definitions, and section NR 154.13s, Control of Organic Compound Emissions, of the Wisconsin Administrative Code (WAC). These Sections are being amended to require control of VOC emissions from petroleum dry cleaners, which are covered by the third group of USEPA Control Technique Guidelines (CTG's). Control of VOC emissions is part of Wisconsin's strategy to attain and maintain the National Ambient Air Quality Standards (NAAQS) for ozone.

The intent of today's rulemaking is to present a discussion of the material submitted by the State to support the regulations, and to provide an opportunity for public comment on the regulations and on USEPA's proposed action.

DATE: Comments on this revision and on USEPA's proposed action must be received by September 17, 1984.

ADDRESSES: Copies of the SIP revision are available for review at the following addresses. (It is recommended that you telephone Colleen W. Comerford, at (312) 886-6034, before visiting the Region V office.)

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604,

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707

Comments on this proposed rule should be addressed to (please submit an original and five copies, if possible):

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Background

An adequate State Implementation Plan (SIP) for ozone provides for sufficient control of VOC from stationary and mobile sources so that the standard is attained and maintained. For stationary sources, the plan must include legally enforceable requirements reflecting the application of reasonably available control technology (RACT) to sources of VOC emission for which the USEPA has published a Control Technique Guideline (CTG). The USEPA publishes CTGs in order to assist the States in determining RACT. The CTGs provide information on available air pollution control techniques and provide recommendations on what the USEPA calls the "presumptive norm" for RACT.

As part of Wisconsin's control strategy for attainment of the NAAQS for ozone, the State has revised its SIP to require controls representing the application of RACT for stationary sources of VOCs. Wisconsin was required to develop VOC emission controls for those six southeastern counties that are nonattainment for ozone (Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha) in order to receive an extension for achieving the ozone NAAQS. Section 172 of the Clean Air Act allows USEPA to grant extensions to those States that could not demonstrate attainment of the ozone standard by December 31, 1982, if certain conditions were met by the State in revising its air pollution control program. The revised programs must include RACT emission limits for various types of VOC sources located in the areas needing the extension.

Wisconsin could not demonstrate attainment by December 31, 1982, so the State requested, and received, an extension to December 31, 1987, for achieving the ozone NAAQS. This extension granted on May 6, 1981 (46 FR 25244) obligated the State to develop

RACT regulations for those sources that are addressed by Group III CTGs (RACT III), and RACT regulations for major sources that are not addressed by a CTG (major non-CTG RACT), for VOC sources in the six-county area of Southeastern Wisconsin. Final rulemaking action on the 1982 Wisconsin ozone and carbon monoxide (CO) SIP was published on March 9, 1984 (48 FR 8920). In that action, USEPA approved the State's commitment and schedule for adopting future VOC emission controls for the six-county nonattainment area.

On October 6, 1982, USEPA released a CTG (47 FR 44155) for large dry cleaning facilities that use petroleum solvents, entitled "Control of Organic Compound Emissions from Large Petroleum Dry Cleaners". The submission of RACT III VOC regulations for this source category to USEPA by the State of Wisconsin was required by January 1, 1984. These regulations, identified as section NR 154.13(6)(c) of the Wisconsin Administrative Code (WAC), were enacted in Wisconsin by means of Natural Resources Board Order Number A-12-83, and became effective on December 1, 1983. They were submitted to USEPA as SIP revisions on January 23, 1984.

Discussion of Rules

The revisions that Wisconsin submitted to USEPA consisted of changes to Section NR 154.01, Definitions, and section NR 154.13, Control of Organic Compound Emissions, of the WAC. The revisions amended these rules to require control of VOC emissions from the source categories covered by Group III CTGs. The revisions to NR 154.01 created two new definitions and clarified one existing definition. The revisions to NR 154.13 established organic compound emission representing RACT for those large, existing petroleum liquid solvent dry cleaning facilities that are located in a six-county area of Southeastern Wisconsin. All of the revisions are discussed in detail below.

Proposed Revisions to NR 154.01

There are three revisions to NR 154.01, Definitions. The first revision adds a definition for "cartridge filter" to NR 154.01 (38m). The second revision adds a definition for "solvent recovery dryer" to NR 154.01 (178m). The third revision amends an existing definition for "dry cleaning facility", identified at NR 154.01(63), by clarifying that this definition applies to facilities that clean leather as well as fabrics. All three of these definitions are consistent with the CTG, and, therefore, USEPA is proposing approval of these revisions.

Proposed Revisions to NR 154.13

The proposed revisions, to NR 154.13, Control of Organic Compound Emissions, can be broken into three categories: (1) Applicability and requirements (NR 154.13(6)(c)); (2) compliance schedules (NR 154.13(12)); and, (3) testing and monitoring. Each of these categories is discussed below.

Wisconsin's VOC RACT III regulations are applicable to dry cleaning facilities that emit more than 100 tons per year of VOC, and that are located within the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington, or Waukesha (NR 154.13(6)(c)1.) The requirements of the regulations limit VOC emissions from various components of petroleum liquid dry cleaning facilities. The requirements also provide a timetable for repairing solvent vapor and liquid leaks. Both the applicability of the regulations and their requirements are consistent with the guidelines provided in the CTG. Therefore, USEPA is proposing to approve these revisions.

The dry cleaning facilities covered under section NR 154.13(6)(c)1. are subject to the compliance schedules outlined at NR 154.13(12) of the WAC. Section NR 154.13(12)(b) requires that any VOC emission source proposing to install and operate VOC emission control equipment, or replacement process equipment, has to comply with the stated emission limits within twenty-six months of the baseline date of January 1, 1984. This would mean a final compliance date of March 1, 1986. USEPA is proposing to approve this schedule.

Wisconsin's VOC RACT III regulations do not include any testing and monitoring requirements, because the State places these methods in an Operations Handbook instead of in the regulations. USEPA has previously approved this concept with respect to Wisconsin's RACT I and II regulations, as stated in the June 21, 1982, notice of final rulemaking on RACT II (47 FR 26622). Furthermore, on May 25, 1984, Wisconsin submitted a letter to EPA confirming that the State will follow the suggestions of CTG document EPA-450/3-82-009 in the development of VOC test procedures for petroleum dry cleaners. After they are included in the Operations Handbook, the petroleum dry cleaners test procedures will be submitted to USEPA as part of the Wisconsin Ozone SIP. USEPA is proposing to approve Wisconsin's VOC RACT III regulations provided that the WDNR: (1) Includes the test method specified in the CTG in USEPA's Operations Handbook; and (2) submits this test method to USEPA as a SIP revision prior to final rulemaking.

Conclusion

USEPA has reviewed these revisions to sections NR 154.01 and 154.13 of the Wisconsin VOC SIP, and is proposing to approve these revisions because they are consistent with the guidance provided in the CTG. The complete text of these revisions can be found in the Wisconsin Administrative Code.

Interested persons are invited to submit comments on each of these actions. USEPA will consider all comments received by September 17, 1984.

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

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sections 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 29, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-21309 Filed 8-16-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 60

[AD-FRL 2655-4]

Standards of Performance for New Stationary Sources; Polymeric Coating of Supporting Substrates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rule.

SUMMARY: This advance notice is to inform the public that background information is being complied on emissions of and control techniques for volatile organic compounds (VOC) from plants that apply polymeric coatings to supporting substrates. This notice also invites interested parties to submit comments on the development of the proposed rule. Although the

Administrator believes the data gathered thus far are representative, it is recognized that polymeric coaters represent diverse coating operations. This notice, therefore, is being published to ensure that all potentially affected industries are afforded the opportunity of early participation in the development of a new source performance standard (NSPS) authorized by Section 111 of the Clean Air Act.

DATE: *Comment.* Comments must be received on or before October 1, 1984. However, comments submitted after this date will be considered.

ADDRESS: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention Docket Number A-83-42, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Source Category Survey Repot. A copy of the source category survey report containing the data and information upon which the decision to proceed with standards development was based may be obtained from Mr. James C. Berry, Chemicals and Petroleum Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5605.

FOR FURTHER INFORMATION CONTACT: Mr. Berry at the above address and telephone nember.

SUPPLEMENTARY INFORMATION: The general category of industrial surface coating of fabrics was ranked No. 10 on a list of 59 major categories of air pollution sources that would be considered for NSPS development (44 FR 49222, August 21, 1979).

The standards under development would limit VOC emissions from new, modified, and reconstructed plants performing polymeric coating of supporting substrates. "Polymeric coating of supporting substrates" is defined to include the application of an elastomer or other polymeric material onto a supporting substrate. Typical substrates include: Woven, knit, and nonwoven textiles; paper; fiberglass; leather; yarn; and cord. The polymeric coating alters both the physical characteristics and visible appearance of the substrate in such a way that the substrate takes on the properties of the polymer. Examples of polymeric coatings include coatings compounded with natural and synthetic rubber, urethane, polyvinyl chloride, acrylic, epoxy, silicone, phenolic, and nitrocellulose.

Coating operations using polyvinyl choride coatings for rotogravure printing are covered by separate standards. In addition, some paper and film coating sources (i.e., pressure sensitive tapes and labels and magnetic tapes) are also covered separately. Therefore, these coating operations are not included in the standards under development. Furthermore, the EPA expects that coatings requiring little or no solvent, such as plastisol, calendered, or extruded coatings, will comply with the standards being developed. For processes using solvet-based coatings, however, the EPA may require that the VOC emissions from the oven and coating application/flashoff area be totally captured and directed to a VOC emission control device. The EPA is also considering the control of VOC emissions from the coating preparation equipment and solvent storage tanks.

Detailed process and emission control data are currently being obtained from several companies. From this information, EPA will assess techniques to reduce VOC emissions, such as low-solvent coating technologies and VOC emission control devices. The best level of emission control that has been demonstrated for polymeric coaters will also be determined. The economic, environmental, and energy impact associated with both the use of low-solvent coating and the installation and operation of VOC emission control devices used in the industry will be estimated.

Interested person are invited to participate in the development of the proposed rule by submitting relevant data, views, or arguments. All of the information received will be considered by the Administrator in developing proposed standards for the polymeric coating of supporting substrates.

Comments are specifically requested in the following areas: (1) Product and process information, such as coating application and drying methods, solvent consumption and storage, design and operation of coating preparation equipment, and type of end products produced; (2) cost information, including: purchased, installed, and operating costs of the coating preparation equipment, solvent storage tanks, coating line, emission control devices, and cost information on low-solvent coatings; (3) economic information, such as estimates of industry growth; (4) engineering information on low-solvent coating technologies and VOC emission control devices; (5) environmental impact information, such as VOC reduction achievable with the use of low-solvent coatings and VOC emission control devices, emission test results, and water quality or solid waste impacts; and (6) information on current monitoring, recordkeeping, and reporting procedures.

The EPA has contracted with Midwest Research Institute (Contract Number 68-02-3817) to obtain pertinent information from the industries that perform polymeric coating of supporting substrates and to analyze the engineering and economic aspects of alternative control options.

Miscellaneous. The Regulatory Flexibility Act of 1980 requires that all adverse effects of Federal regulations upon small businesses be identified. Therefore, any regulation that is subsequently proposed will include a determination as to whether there will be a significant economic impact on a substantial number of small business entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plant, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation reference, Can surface coating, Industrial organic chemicals, Organic solvent clearners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

Dated: August 9, 1984.

Sheldon Meyers,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-21911 Filed 8-16-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL-2655-3]

Ohio State Implementation Plan; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of extension of comment period.

SUMMARY: The USEPA is giving notice that the comment period for the notice of proposed rulemaking on volatile organic compounds (VOC) emissions limitations for Standard Oil Company's alternative emission control program (bubble) published June 19, 1984 (49 FR 25008), has been extended to August 24, 1984. The USEPA is taking this action because an extension was requested by

the Natural Resources Defense Council, Incorporated.

ADDRESS: USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

DATE: Comments are now due on or before August 24, 1984.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Regulatory Specialist (5AR-26), Air and Radiation Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-0396.

Dated: August 10, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-21910 Filed 8-16-84; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 83-483; FCC 84-387]

Allowing the Public Direct Remote Access to Commission Computer Data Bases

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; termination of proceeding.

SUMMARY: As a result of a petition received by the Commission to allow the public direct remote access to its electronically filed computer data bases and a subsequent issuance of a Notice of Inquiry seeking additional information from the public, the Commission approved the issuance of this Report and Order which authorizes the development of a competitive solicitation document with National Technical Information Service participation to select a third party contractor. The contractor would provide the public with remote direct access to authorized Commission computer data bases.

FOR FURTHER INFORMATION CONTACT: A. D. Enty, Information Resources Planning Division, Office of the Managing Director, (202) 632-7581.

Report and Order

In the matter of allowing the public direct remote access to Commission computer data bases; Gen. Docket No. 83-483.

Adopted: August 8, 1984.

Released: August 13, 1984.

By the Commission: Commissioner Rivera absent.

I. Introduction

1. We initiated this proceeding for the purpose of inviting comments on a petition from the Association of Federal Communications Consulting Engineers (AFCCE) to amend § 0.455 of the Commission's Rules to permit the public remote access to the Commission's electronically filed data.[1] The petition noted that present methods of providing data are very time consuming and are not in accord with the state-of-the-art in data processing. The petition further noted that data obtained in the above manner is often outdated when received. The AFCCE, therefore, requested direct remote access to several of the Commission's electronic data bases. To gain a broader perspective of the implications of the AFCCE proposal, we initiated a Notice of Inquiry (NOI) seeking additional information from the public.[2]

2. Section 0.465 of the Rules details the procedures for obtaining copies of materials available for public inspection. 47 CFR 0.465. Most Commission paper records are available through the Commission's records duplication contractor. Computer data bases developed by the Commission for its own use are available through the National Technical Information Service (NTIS), Department of Commerce, in the form of magnetic tape or microfiche. Source programs, models, etc., developed by and for the Commission are available through the Computer Applications Division.

II. Background

3. On May 12, 1983, the Commission adopted a Notice of Inquiry ("NOI") in GEN Docket No. 83-483, which was released on May 20, 1983. The NOI sought information in the areas of service access, data file, timeliness/currency, expected usage, security, and other considerations including cost of the service.

4. The Commission received 29 comments and nine reply comments in response to the NOI. A list of those commenters is included in the Appendix.

III. Analysis of Comments

5. Service Access Considerations: It should be noted that several respondents indicated no preference, or were willing to consider more than one method of access. Eighteen respondents preferred direct access to Commission data bases. Fourteen respondents preferred access through a third party contractor facility. Ten respondents preferred access using a public value-added[3] network.

Several respondents to the NOI expressed, or implied, the viewpoint that the Commission is not a "service bureau," i.e., it was not established for the purpose of providing data products and services to the public.

Because the public value-added network applies equally well to both direct and third party contractor access, it was not considered as an exclusive option.

6. Data File Considerations:

The files most requested by the commenters and the petitioner are as follows:

FCC Master Frequency File—17 respondents

AM, FM and TV Engineering Files—11 respondents

NARBA List—11 respondents

Auxiliary Broadcast Services—9 respondents

WARC Inventory List—7 respondents

Broadcast Applications Processing System—4 respondents

Analysis of the above files indicates that all relevant data appear on the FCC Master Frequency File after the authorization is granted. Therefore, access to the other requested files is considered to be unnecessary if access to the FCC Master File is provided.

7. Timeliness and Currency Considerations: The majority of those responding (13) expressed a desire to obtain data conforming to the same standards of currency, accuracy, completeness and timeliness as that which the Commission's staff uses. Most commenters indicated that weekly updates would suffice in most circumstances. The Commission's Master Frequency File is a large, very complex data file. It contains data on 79 radio services which are updated by 18 different licensing systems of which 13 are automated. Data are updated directly on-line, daily by batch processes, semi-weekly by complete replacement, and monthly by complete replacement depending upon which licensing system is involved. Some services which license individuals such as Amateur Radio are not contained on the file by individual licensee record. Instead, the service group name and frequency ranges are noted on the file by a "marker." There are no plans to

[1] Section 0.455 of the Rules states that certain records may be inspected "in the offices of the Bureau or Office which exercises responsibility over matters to which those records pertain * * *" 47 CFR 0.455.

[2] Gen Docket No. 83-483, Notice of Inquiry, 48 FR 23667 (May 26, 1983).

[3] A value-added network provides communications protocols for a variety of computer terminals and permits local telephone call access points nation-wide; thus, providing flexibility and equitable telecommunication costs to the public.

include complete records for these files at this time.

8. Expected Usage of Service Considerations: Responses to this area were so diverse as to provide little useful data. For example, the number of expected queries per respondent varied from one to 100 per day, connect time to the Commission's computer ranged from ten minutes to 180 minutes per day, and access period ranged from eight to 24 hours daily.

9. Security, Fraud and Abuse Considerations: Eleven respondents indicated that passwords and user I.D.'s (identification codes) should provide sufficient security. We disagree. Passwords and user I.D.'s may be considered acceptable for internal staff security; however, they are not considered to be adequate for public access. Six respondents thought that access through a contractor would be best; we agree with this position from a security viewpoint.

10. Cost and Other Considerations: Twelve respondents were willing to pay for access. Nine were concerned about high cost if asked to pay for access. Five thought that access should be free. It was noted that those willing to pay were predominantly law firms or commercial enterprises which could pass the fees on to their clients. Non-profit Frequency Advisory Committees generally favored free access.

IV Options

11. Recognizing that all possible alternative combinations are not feasible nor are they practical, the following represent the most feasible options to provide access to the Commission's computer data bases:

Option 1A, Unrestricted Direct Access
Option 1B, Restricted Direct Access
Option 1C, Restricted Access Via a Front-end Minicomputer Controller
Option 2A, Access to Data Residing on a Contractor's Computer System
Option 2B, Access to Data Residing on a Contractor's Computer System with National Technical Information Service (NTIS) Serving as Account Manager

In addition to any of the above options, we believe a value-added public network telecommunications service may be beneficial to the public to equalize telecommunications costs from remote locations around the country.

V Discussion

12. Option 1A, Unrestricted Direct Access, represents the mode of access requested by the AFCEE petition. It would provide unrestricted on-line electronic access to data bases approved for use via standard commercial telephone lines. Data would be available at the same currency, completeness, timeliness, and accuracy levels as is available to Commission employees. However, the impact upon Commission operations would be difficult to assess. Commenters' estimates ranged from one to 100 queries per day with connect times of ten minutes to three hours per day. Access periods most requested included 24 hours per day and 8:00 a.m. to 8:00 p.m. daily. Total usage by all interested persons is inestimable. Considerable one-time and continuing costs would be incurred by the Commission to develop or purchase a chargeback system; develop special software programs; purchase communications hardware; and associated postage, supplies and personnel compensation. Security could not be guaranteed under this option.

13. Option 1B, Restricted Direct Access, is quite similar to Option 1A except that impact upon the Commission users could be lessened by limiting access to as few as one port and limiting the access time allotted to each query. Security would be enhanced by isolating and controlling the specific access port(s). Further, the time period per day could be adjusted to give priority to internal requirements. While this option would provide some communications cost savings, over Option 1A above, start-up costs and ongoing costs remain high.

14. Option 1C, Restricted Access Via a Front-end Minicomputer Controller, would add enhanced security by controlling all access queries and the data released to the public. Purchase of the minicomputer would greatly increase the start-up costs.

15. Option 2A, Access to Data Residing on a Contractor's Computer System, would completely eliminate competition for use between Commission users and the public. Security would be optimized by limiting the data provided to the contractor. Some minor degradation in timeliness could result during the transition of data from the Commission's files and loading into the contractor's computer system. However, we would expect this time lag not to exceed 24 hours. A contractor would be free to develop enhanced information packages which the Commission is prohibited from providing. Moreover, significant start-up costs to the Commission would be eliminated.

16. Option 2B, Access to Data Residing on a Contractor's Computer System with NTIS Serving as Account Manager. Options 2A and 2B are identical except that Option 2B includes accounts management by NTIS. This arrangement permits the Commission to retain reimbursements. However, under this arrangement, Commission products will not flow through NTIS but will be distributed directly to the contractor eliminating physical handling by NTIS. As mentioned above in paragraph 2, the Commission currently has an arrangement similar to option 2B with NTIS for distribution of magnetic tape and microfiche products.

17 Analysis of the AFCCE petition and the record developed in this proceeding leads us to conclude that the AFCCE proposal has some merit. Options 2A and 2B appear to be the most practicable means to open certain Commission data bases to the public without compromising the Commission's budgetary, security and system integrity considerations. We believe that Option 2B, with NTIS acting as account manager for a third party contract, would use the least Commission resources and provide an efficient means of public access to the Commission's electronic data bases. The data files we plan to immediately make publicly available are the 32 Private Land Mobile and one General Mobile Radio Services. Other files will be considered for public access at a later date when the Commission and the public gain experience and confidence with the arrangement and sufficient demand exists for additional computer data bases.

18. Accordingly, in conjunction with NTIS the Commission plans to prepare a competitive solicitation document to select a contractor to make Commission data files publicly available. The contractor ultimately selected will develop a computer system capable of providing access to the public on a commercial basis at a reasonable cost. Reimbursement of Commission costs would be administered by NTIS from revenues paid to the contractor for services received. We believe that this proposal provides the best means of meeting the needs of both the Commission and the public interest.

VI. Ordering Clauses

19. Accordingly it is ordered, that the AFCCE petition is adopted to the extent indicated and otherwise denied.

20. It is further ordered, that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

The following is the list of commenters in the proceeding:

L. A. Colby
Jeremiah Courtney
D.L. Vernier
National Ski Patrol System
Northwestern School of Law, Lewis and Clark College
Boeing Computer Services
G.R.McLeod
Comp Comm. Inc.
Association of American Railroads
American Association of State Highway and Transportation Officials
CBS, Inc.
Harris Corporation
Forest Industries Telecommunications
National Association of Business and Educational Radio, Inc.
GTE Service Corporation
American Petroleum Institute
Special Industrial Radio Service Association, Inc.
Dow, Lohnes, and Albertson
Koteen and Naftalin
Communications General Corporation
Teletech, Inc.
Maxcell Telecom Plus, Inc.
Dash, Strauss, and Goodhue
Hughes Aircraft
Robert Jonews, P.E.
Metropolitan Radio Telephone Systems, Inc.
National Technical Information Service
Sachs/Freeman Associates
International Business Machines, Inc.

The following is the list of reply commenters in this proceeding:

Motorola, Inc.
AGNET
Maxcell Telecom Plus, Inc.
Daly, Joyce and Borsari
North American Telephone Association
National Association of Business and Educational Radio, Inc.
General Electric Company
Comp Comm., Inc.
Information Consultants

The following is the list of the 32 Private Land Mobile and one General Mobile Radio Services planned to be made available to the public.

CODES AND NAMES OF THE RADIO SERVICES

Part I—All frequencies except 800 and 900 MHz Bands

Industrial

(IB) Business
(IF) Forest Products
(IM) Motion Picture
(IP) Petroleum
(IS) Special Industrial
(IT) Telphone Maintenance
(IW) Power
(IX) Manufacturers
(IY) Relay Press

Land Transportation

(LA) Automobile Emergency
(LR) Railroad
(LX) Taxicab

Motor Carrier

(LI) Interurban Passenger
(LJ) Interurban Property
(LU) Urban Passenger
(LV) Urban Property

Public Safety

(PF) Fire
(PH) Highway Maintenance
(PL) Local Government
(PP) Police
(PO) Forestry Conservation
(PS) Special Emergency
(RS) Radiolocation
(ZA) General Mobile

Part II—806–821/851–866 MHz Bands

Conventional Category, and Trunked

(GB), Business, (YB)
(GO), Industrial/Land Transportation, (YO)
(GP), Public Safety/Special Emergency, (YP)
(GX), Commercial (SMRS), (YX)

Part III—929–930 MHz Band

(GS) Private carrier paging systems (PCPS) (All other applicants use the code for the radio service in which eligibility is claimed. See Part I of this table)

[FR Doc. 84-21633 Filed 8-16-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Ch. I

[CC Docket No. 84-800; FCC 84-395]

Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes to establish a methodology and procedures for prescribing authorized rates of return for the interstate services of AT&T Communications, and exchange telephone carriers. The intent of the methodology and procedures is to promote just and reasonable rates, and to avoid costly hearings before administrative law judges.

DATES: Comments are due on October 15, 1984. Reply comments are due on November 15, 1984.

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

FOR FURTHER INFORMATION CONTACT: Warren Lavey, Common Carrier Bureau, (202) 632-6910.

Proposed Rulemaking

In the matter of authorized rates of return for the interstate services of AT&T Communications and Exchange Telephone Carriers; CC Docket No. 84-800.

Adopted: August 8, 1984.
Released: August 13, 1984.

By the Commission: Commissioner Rivera absent.

I. Introduction

1. Prescription by the Commission of authorized rates of return for dominant common carriers is an integral element in Title II of the Communications Act of 1934, as amended. This type of prescription serves a critical role in determining just and reasonable rates to consumers by achieving a balance between ratepayer and investor interests.[1] When a carrier's rate of return is unreasonably high, its customers pay unreasonably high charges. On the other hand, an unreasonably low rate of return makes it difficult for the carrier to attract capital.

2. In the past, we prescribed a single rate of return for the interstate services of American Telephone and Telegraph Co. (AT&T) and the exchange carriers, determined through individual, occasional proceedings.[2] These proceedings were protected, partly because standards and principles had not been refined explicitly in advance, and partly because they employed trial-type hearings before an administrative law judge. Before January 1, 1984, AT&T owned the Bell System Operating Companies (BOCs),[3] which controlled

[1] 47 U.S.C. 202, 205; Nader v. FCC, 520 F.2d 182, 204 (D.C. Cir. 1975); United States v. FCC, 709 F.2d 610, 612 (D.C. Cir. 1983); FPC v. Hope Natural Gas, 320 U.S. 591, 602 (1944). *See generally* P. Garfield & W. Lovejoy, Public Utility Economics 114–34 (1964); 1 A. Kahn, The Economics of Regulation 42–54 (1970); M. Gordon, The Cost of Capital to a Public Utility (1974). In the Competitive Carrier Rulemaking, 95 FCC 2d 554 (1983) (Fourth Report and Order) and earlier orders, the Commission determined that certain categories of carriers are nondominant, *i.e.*, lack market power. Because competition serves to check these carriers' charges, it is not necessary for the Commission to prescribe an authorized rate of return for nondominant carriers. In Long-Run Regulation of AT&T's Basic Domestic Interstate Services, 95 FCC 2d 510 (1983), we discussed some of the issues regarding future regulation of AT&T Communications' (ATCOM's) earnings and rates.

[2] AT&T: Modification of Prescribed Rate of Return, 86 FCC 2d 221 (1981). *Aff'd sub nom.* United States v. FCC, *supra*; AT&T (Docket No. 20376), 57 FCC 2d 960 (1976); AT&T (Docket No. 19129), 33 FCC 2d 213 (1972), *aff'd sub nom. Nader, supra*; AT&T (Docket Nos. 16258, 15011), 9 FCC 2d 30 (1967). Carriers that concurred in AT&T's interstate tariffs also were covered by this rate of return. In MTS and WATS Market Structure (Phase I), 93 FCC 2d 241, 315–10 (1983), the Commission required that the rate of return prescribed in 1981, 12.75%, be used to target any exchange carrier's excess charges and ATCOM's interexchange services. In further reconsideration of that order, FCC 84-38 (released February 15, 1984), we recognized that the 12.75% prescription may be outdated and allowed ATCOM and the exchange carriers to file tariffs targeted to earn less than 12.75%, but not more than 12.75% (para. 29). Recently, we applied the 12.75% rate of return in ordering ATCOM and the exchange carriers to reduce the rates for their switched interstate services. Investigation of Access and Divestiture Related Tariffs; MTS and WATS Market Structure, FCC 84-201 (released May 15, 1984).

[3] AT&T owned only a minority of the equity capital of Cincinnati Bell Telephone Co. and Southern New England Telephone Co.

exchange access facilities for some 80 percent of all telephone subscribers in the nation. A single AT&T, on behalf of itself and the BOCs, raised equity capital in the market. Thus, it was sensible to establish a single rate of return for AT&T and the BOCs. The roughly 1400 exchange carriers whose facilities reached the remaining 20 percent of subscribers may well have had characteristics sufficiently different from those of AT&T and the BOCs to justify different rates of return for their interstate services. Yet, our single AT&T/BOCs rate of return was applied to them as well through the interrelated jurisdictional separations and toll settlements processes, and through their concurrence in AT&T tariffs. It appears that the unitary prescribed rates of return were not unreasonably low for these carriers, since none of them petitioned for a separate, higher rate.

3. This unitary approach may no longer be in the public interest. First, with implementation of the divestiture, AT&T and the BOCs are separate companies, engaged in different activities, with different financial characteristics and risks. Second, the interstate enterprise itself is no longer a "partnership" among AT&T and the exchange carriers with the participants earning the same rate of return on their interstate rate bases. The exchange access component has been separated out through access tariffs filed by individual exchange carriers and by the National Exchange Carrier Association for participating exchange carriers. It is reasonable to assume that the cost of capital varies among AT&T Communications (ATCOM) and the exchange carriers. It appears that more individualized prescriptions of rates of return now may be in the public interest and a reasonable result of changing industry conditions. Updated, more individualized prescriptions should help us assure that consumers pay the lowest reasonable charges during this period of industry and regulatory changes.

4. But, these changed conditions potentially create an administrative quagmire for the industry and for this agency. We do not have the resources to conduct over 1,400 rate proceedings on a company-by-company basis with oral hearings frequently enough to keep up with changing financial and industry circumstances. For these reasons, we are instituting this proceeding seeking comments on proposals to: (1) Establish reasonable groupings of carriers for which rates of return shoud be prescribed by grouping, or at least a key component of rates of return (cost of equity) should be prescribed by grouping; (2) establish a "formula" approach to estimating elements which should be used in prescribing a rate of return in each such grouping; (3) utilize notice-and-comment rulemaking procedures in lieu of oral hearings on some or all of the elements which should be used in prescribing a rate of return; and (4) establish a fixed interval in advance for review and potential represcription of rates of return. *See Washington Utilities & Transportation Commission v. FCC*, 513 F.2d 1142, 1157 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975) ("Regulatory practices and policies that will serve the 'public interest' today may be quite different from those that were adequate to that purpose in 1910, 1927, or 1934, or that may further the public interest in the future.").

5. In an order adopted March 28, 1984,[4] the Commission stated its intent to examine the authorized rates of return for the interstate services of ATCOM and the exchange telephone carriers (which are organized in seven Bell Regional Holding Companies (BRHCs) and other telephone companies). That order also described the legal framework for prescribing an authorized rate of return. The currently-applicable authorized interstate rate of return for each of these carriers is 12.75%, prescribed in May 1981.[5] The reasons cited for a new examination of this authorized rate of return include the restructuring of the industry by the *Modification of Final Judgment*,[6] changes in the carriers filing tariffs for interstate services resulting from that antitrust consent decree and our access charge rules,[7] and changing economic conditions.[8]

6. Specifically, we propose development of a "formula" to be applied periodically to groupings of carriers established in this proceeding which would have the same prescribed overall rate of return or, at least, the same cost of equity. The formula would use a methodology established in this proceeding for computing a carrier's or grouping's financial structure, cost of equity, cost of embedded debt, and costs of embedded convertible and nonconvertible preferred stock. In this Notice we propose a fixed interval of two years between prescriptions, a grouping of carriers, and methods for computing cost of equity, costs of embedded debt and nonconvertible preferred stock, and amount of zero-cost sources of financing. We expect that this formula approach would reduce the costs, uncertainty, and delay inherent in the historic use of extensive hearings for each revision to prescribed rates of return.[9] Our proposal is designed to look forward into changing industry and financial conditions, and to help prescribed rates of return better serve their critical role in determining just and reasonable rates for consumers as well as for carriers' investors.

II. Discussion

7 We tentatively conclude that the public interest would not be served by oral proceedings before administrative law judges on the issues to be addressed through use of such a formula, or on the development of a formula. Such hearings are not required by the Communications Act or the Administrative Procedures Act (APA).[10] Section 4(j) of the

[4] Investigation of Access and Divestiture Related Tariffs; MTS and WATS Market Structure, 49 FR 13418 (April 4, 1984).

[5] AT&T: Modification of Prescribed Rate of Return, *supra*. *See* note 2 *supra*.

[6] United States v. AT&T, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983).

[7] MTS and WATS Market Structure (CC Docket No. 78-72, Phase I), 93 FCC 2d 241 (1983), *modified*, FCC 83-356 (released August 22, 1983), *further modified*, FCC 84-36 (released February 15, 1984).

[8] *See Nader, supra*, 520 F.2d at 205 ("we recognize as a general proposition that such a prescription cannot remain binding indefinitely without agency reevaluation, especially during periods of rapidly changing conditions"); United Gas Pipe Line Co. v. Memphis Light, Gas & Water Division, 358 U.S. 103, 113-14 (1958).

[9] Commenters may suggest methodologies different than a formula approach, such as use of the rates of return allowed by state commissions. *See* MTS and WATS Market Structure, *supra*, 93 FCC 2d at 316 n.102. Facing somewhat similar problems, the Federal Energy Regulatory Commission recently established procedures for determining benchmark rates of return on common equity for jurisdictional electric utilities and for applying them in individual cases. Generic Determination of Rate of Return on Common Equity for Electric Utilities, Dkt. No. RM 80-36-000, Order No. 389, and Notice of Proposed Rulemaking, Dkt. No. RM 84-15-000, 28 FERC paras. 61,067, 61,068 (issued July 18, 1984). Other common carriers for which the Commission has prescribed authorized rates of return, including Communications Satellite Corp., may file comments on the proposed formula and possible application of it to them.

[10] *See* ITT World Communications Required Rate of Return, 88 FCC 2d 701, 706 (1981); Western Union Telegraph Co. v. FCC, 665 F.2d 1126, 1151-52 (D.C. Cir. 1981); AT&T v. FCC, 572 F.2d 17, 22 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978); RCA Global Communications v. FCC, 559 F.2d 881, 887 (2d Cir. 1977); Bell Tel. Co. of Penn. v. FCC, 503 F.2d 1250, 1264-65 (3rd Cir. 1974), *cert. denied*, 422 U.S. 1026 (1975); AT&T v. FCC, 449 F.2d 439, 450-51 (2d Cir. 1971). *See also* Vermont Nuclear Power Corp. v. National Resources Defense Council, 435 U.S. 519, 543 (1979) ("administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties"); United State v. Florida East Coast Railway Co., 410 U.S. 224, 241 (1973) (statutory "hearing" requirement may be satisfied in some circumstances by evidentiary submission in written form only); Mobil Oil Corp. v. Federal Power Commission, 483 F.2d 1238 (D.C. Cir. 1973).

Communications Act of 1934, 47 U.S.C. 154(j), authorizes the Commission to "conduct its proceedings in such a manner as will conduce to proper dispatch of business and to the ends of justice." We do not believe that, for the matters raised in this rulemaking, section 205(a) requires oral hearings. Rather, the statutory standard is that the record compiled be sufficiently complete to support a finding that the prescription is just and reasonable, and the standard can be satisfied by notice-and-comment procedures. Furthermore, the APA defines ratemaking as rulemaking, 5 U.S.C. 551(4)–(5). The APA's rulemaking provisions, 5 U.S.C. 553, require only that agencies give interested persons an opportunity to participate through submission of written data, views, or argument, with or without opportunity for oral presentation; an evidentiary hearing is required only when so provided for by statute. The Communications Act does not so provide for rate-of-return prescriptions. While we tentatively conclude that oral hearings should not be employed on issues to be addressed by rule in this proceeding, we invite comments on possible limited issues for which our discretion to employ oral hearings should be invoked.

8. One element of our examination is whether we should have a single authorized rate of return applicable to ATCOM and all exchange carriers, or rather different rates applicable to different, non-overlapping subsets (groupings) of these carriers. Historically, we analyzed what would be a just and reasonable rate of return for AT&T and applied that overall rate to AT&T and to all exchange carriers concurring in AT&T's tariffs. After the AT&T divestiture and with the filing of exchange access and "copycat" interexchange tariffs,[11] having more individualized prescribed overall rates of return for these carriers may better promote just and reasonable rates. One approach to achieving more individualized rates might be allow *ad hoc* deviations from a baseline rate of return for carriers meeting certain standards for justification. However, a more systematic and comprehensive approach involves having a particular, previously-established set of carrier groupings for purposes of applying a formula for prescribing rates of return. *See Permian Basin Area Rate Cases,* 390 U.S. 747, 770 (1968) (a commission may regulate producers' interstate sales by the prescription of maximum group or geographical area rates rather than by proceedings conducted on an individual producer basis). The selection of a carrier grouping should consider the similarity of carriers' financial characteristics, financial structures, and costs of financing sources; the incentives created by applying the formula to any carrier or aggregation of carriers; and the regulatory problems in establishing and applying separate prescribed rates of return.

9. As an initial proposal, grouping these carriers by ATCOM, each BRHC separately, exchange carriers owned by GTE Corp., and all other exchange carriers seems to be a reasonable, manageable disaggregation. The Bell Operating Companies within a BRHC share financing from their respective holding company's equity capital. In fact, because of the similarity of the BRHCs' financial structures at the time of divestiture and the current similarity of their businesses, it may be reasonable to aggregate the BRHCs into a single grouping for application of the formula in the next few years. Also, the exchange carriers owned by GTE share financing from that holding company's equity capital. The hundreds of other exchange carriers, even when grouped by holding company, are substantially smaller in their revenues from interstate services.[12] There may be other characteristics of carriers which favor establishing separate groupings, *e.g.,* carriers with under 10,000 subscribers, cooperatives, carriers borrowing from the Rural Electrification Administration, or carriers without publicly-traded stock. Comments may discuss the relevance of certain characteristics for establishing groupings.

10. Under this proposed set of groupings, we propose that all exchange carriers not owned, in whole or part, by a BRHC or GTE be treated in one of two alternative ways. A single overall rate of return could be prescribed for all carriers in the grouping. This has the advantage of simplicity. For example, we would not have to determine the particular financial structure and costs of financing for a subsidiary of a conglomerate holding company or for a cooperative exchange carrier. Alternatively, a single cost of equity—which is often the most difficult component in prescribing an overall rate of return—could be prescribed for all carriers in the grouping. Then, with different financial structures and embedded costs of debt and preferred stock, the carriers in the grouping could have different, more individualized overall authorized rates of return established through application of the formula. While this latter option is more complex than the former, it may be attractive because carriers in this grouping have varying amounts of low-cost old debt or debt financed by the Rural Electrification Administration, and they have varying mixes of debt and equity. A variation on this option would be to establish a few steps within a range of authorized rates of return for carriers in this grouping with criteria for which carriers qualify for each step.

11. Basically, we propose to adopt all or parts of the methodology used in the 1981 prescription for determining the key components of a formula for prescribing an overall rate of return, and to apply that methodology to each grouping of carriers that we adopt. The 1981 order was not explicit about the methodology used in computing AT&T's embedded costs for debt and nonconvertible preferred stock financing. The cost estimates filed by AT&T in that proceeding used the total annualized interest expense on debt (long, medium, and short term) divided by the total amount of debt financing (long, medium, and short term), and the total annualized dividends on nonconvertible preferred stock divided by the total amount of nonconvertible preferred stock financing. We accepted cost computations using this methodology in that proceeding, and we propose to apply a similar methodology for these factors in the formula. To be more explicit, for purposes of computing costs in the future, we propose to employ (1) the total actual annual interest on debt and dividends on nonconvertible preferred stock, using the most recent available (preferably audited) data; and (2) the weighted average annual actual amounts of debt and nonconvertible preferred stock, using the most recent available (preferably audited) data. Because ATCOM and the BRHCs do not have such post-divestiture data available for comments submitted in 1984, they should file in 1984 annualized estimates of these figures using all available 1984 data. *See* para. 17 *infra.* For purposes of computing financial structures (the percent of financing derived from particular sources), we propose to employ the most recent available estimates of total book amounts of debt and nonconvertible preferred stock. However, we recognize that in some instances it may be desirable to impute a financial structure different from that based on book values of financing sources, and we seek comments on alternatives and standards for such

[11] *See* Investigation of Access and Divestiture Related Tariff; MTS and WATS Market Structure, *supra,* 49 FR at 13424.

[12] *See* United States Telephone Association, Holding Company Report (May 1984).

computations. Finally, we recognize the emergence of "creative financing" involving various types of financing techniques. We seek comments on how to incorporate the impacts of these financing techniques.

12. The capital structure used in the 1981 prescription included amounts for common stock equity, convertible preferred stock equity, nonconvertible preferred stock equity, debt (long, intermediate, and short term), and zero-cost sources of financing. For AT&T, the last category consisted of capital stock subscribed and related premium and capitalized stock installments, unmatured interest, unmatured dividends, and matured interest and dividends.[13] AT&T's calculation of its amount of zero-cost financing involved a methodology by which it computed its cash working capital for its rate base. AT&T utilized a complex, expensive-to-apply, lead-lag methodology.[14] It is likely that lead-lag methodology is not currently employed by many exchange carriers, and would be burdensome and costly for them to implement. While we want to avoid double counting and missing amounts of zero-cost financing, we also want to have a simple (readily applied and auditable) methodology yielding estimates of zero-cost financing amounts similar to those obtained when the lead-lag methodology is employed to compute cash working capital.[15] We propose to compute the amount of zero-cost financing directly from typical balance sheet entries for capital stock subscribed and related premium and capitalized stock installments, unmatured interest, unmatured dividends, and matured interest and dividends. If any of these sources of financing is deducted from a carrier's rate base, it should not be added in computing the carrier's amount of zero-cost financing. Conversely, there may be sources of zero-cost financing not listed above which are not deducted from a carrier's rate base. Commenters should indentify such deletions from or additions to this list of sources of zero-cost financing for particular carriers. To avoid having monthly fluctuations distort the amount of zero-cost financing, we propose to employ the most recent twelve-month average amounts of these sources.

13. We propose that, for purposes of computing financial structure, we should employ the most recent available (preferably audited) data on the book amounts of carriers' common stock and convertible preferred stock. Historically, estimation of the cost of common stock and convertible preferred stock (hereafter collectively referred to as equity) has been a time-consuming, expensive, and uncertain process. In the 1981 AT&T prescription proceeding, we assigned the same cost to each of these two sources of financing. We considered various cost-estimation methodologies, including discounted cash flow, capital asset pricing model, comparable earnings studies, and risk premium added to bond yields.[16] According to one of the methods proposed by an AT&T expert witness, a reasonable cost estimate for its common stock could be derived by adding a risk premium to the effective yield on a long-term, AAA rated bond. 86 FCC 2d at 236–37, 246. Adding a 2.5% rick premium to a bond yield was found reasonable on appeal in light of the then-prevailing financial and industry conditions. *United States v. FCC, supra,* 707 F.2d at 618.

14. It is not clear that we should employ the same costs for common and convertible preferred stock for all carriers. In earlier prescriptions, we recognized that convertible preferred stock was a small source of AT&T's financing and that conversion from AT&T preferred to common stock was occurring.[17] However, other carriers may use convertible preferred stock as a large source of financing with little conversion to common stock. We seek comments on what should be the relationship between the cost rates of common and convertible preferred stock for the different groupings of carriers.

15. We invite parties to file analyses of the relative merits of various methodologies for estimating cost of equity, and to file estimates of a grouping's cost of equity using any reasonable methodology.[18] Our proposal is to apply a bond-yield-plus-risk-premium methodology for estimating cost of equity (assuming, for purposes of explanation here, the same cost rates for common and convertible preferred stock). Bond yields vary with several factors including interest rates and the riskiness of firms. The risk premium represents the difference in expected risk, and hence expected yields, of debt versus equity investments. We ask parties to address the advantages and disadvantages of this methodology, and the best choice of bond yield for any grouping of carriers. Within this proposed methodology, we may employ yields on U.S. Treasury Bonds of a particular maturity, particular carriers' long-term debt, or the Standard & Poor's (or Moody's) Industrial Bond Yield Index (AAA, AA, A, of BBB). Also, we could apply an average of yields over the most recent three or six months to calculate the relevant bond yield. We propose to apply multi-month and multi-company average yields. This approach will reduce the possible distortions caused by short-term fluctuations in bond yields in estimating costs of common stock to be applied for a multi-month period. We also seek guidance on how we should estimate the risk premium for each grouping at a particular time, recognizing that risk premiums can be volatile. Finally, we also recognize that many of these carriers or their parents are engaged in non-jurisdictional activities and other ventures that would not be covered by these prescribed rates of return, *e.g.,* manufacturing, equipment distribution, and cable television services. Commenters may discuss how we should adjust the risk premiums for such carriers.

16. Another factor in the formula and procedures for prescribing rates of return deals with the intervals between prescriptions. When a carrier's cost of capital declines substantially, its rate of return should be represcribed lower to assure that consumers benefit from the carrier's reduced revenue requirement. On the other hand, when a carrier's cost of capital rises substantially, its rate of return should be represcribed higher to assure that it is able to attract capital. In the past, the Commission has changed the authorized rate of return by initiating new rulemaking proceedings at irregular intervals. Several years lapsed between the termination of one proceeding and the start of the next. The

[13] 86 FCC 2d 226–33.

[14] *See* AT&T: Charges for Interstate and Foreign Communication Service, 9 FCC 2d 30, 43–47 (1967); AT&T: Charges for Interstate Telephone Service, 64 FCC 2d 1, 72–73 (1977).

[15] It may be desirable to develop a replacement for the lead-lag methodology in computing cash working capital for rate bases.

[16] Courts have not confined agencies' discretion in employing methods for assessing a firm's cost of equity. While an agency may utilize a variety of cost-estimation methodologies in one proceeding, it may also employ any single reasonable methodology. *See Permian Basin, supra,* 390 U.S. at 776–77 ("rate-making agencies are not bound to the service of any single regulatory formula"); Federal Power Commission v. Hope Natural Gas, 320 U.S. 591, 602 (1943) (for purposes of judicial review, the validity of a rate order is determined by "the result reached not the method employed"). *See also* R. Ibbotson & R. Sinquefield, Stocks, Bonds, Bills, and Inflation: The Past and The Future (1982); T. Copeland & J. Weston, Financial Theory and Corporate Policy 272–98 (1979). Recently, the Federal Energy Regulatory Commission, *supra* note 9, expressed an "inclination" favoring use of the discounted cash flow method of estimating the cost of equity. But, that Commission did not foreclose commenters from emloying other methods in their calculations.

[17] 57 FCC 2d at 963, 86 FCC 2d at 248–49.

[18] The estimated cost of equity should take into account the cost of financing equity issues. *See* 86 FCC 2d at 243–44.

carriers' costs of capital varied during the intervals between proceedings and also while the record was being developed during proceedings. However, frequent adjustments to the prescribed rate(s) of return can lead to churning of the tariffed rates paid by customers; frequent rate changes can disrupt planning and impose costs on consumers, carriers, and investors. We propose a regular, two-year interval between prescriptions. These regular-interval adjustments would not preclude a carrier from petitioning for a change in its rate of return based on changed circumstances at any time, or the Commission initiating a review. We propose that carriers file data necessary for each new prescription five months before that prescription. Carriers' comments on the level of the risk premium for computing the cost of equity should also be filed at that time. The interested public would file comments on the carriers' submissions four months before the prescription. Finally, the carriers would file reply comments three months before the prescription.

17 We intend that comments filed in response to this Notice will serve two purposes. First, they should help us evaluate the reasonableness of the proposed methodology and procedures. This requires discussion of both theoretical issues and issues which requires analysis of carriers' financial data. Second, comments should help us decide on the target date for a new prescription of rates of return, with possible implementation of the proposed methodology and procedures. Again, analysis of carriers' financial data will be useful in deciding on the reasonableness of the currently-effective prescription and whether the need for a new prescription is growing. Accordingly, comments by ATCOM, GTE, and the BRHCs in response to this Notice should provide the following data which may be used in developing a prescription. First, they should file the book amounts of financing obtained from (a) common stock (most recent); (b) convertible preferred stock (annual and most recent); (c) nonconvertible preferred stock (annual and most recent); (d) embedded debt (long, intermediate, and short-term) (annual and most recent); and (e) zero-cost financing (twelve-month average). Second, they should file the annual amounts of (a) interest payments on debt; (b) dividend payments on convertible preferred stock; and (c) dividend payments on nonconvertible preferred stock. These calculations should apply the proposals described in this Notice (see paras. 11–13 *supra*), and these comments should supply any necessary additional explanation of the methodology used to develop these figures and provide reasonable supporting data. In addition to filing these figures, if one of these carriers proposes an alternative methodology for calculating any of these figures, it should explain its methodology and present the resulting numbers. As for obtaining such data on other exchange carriers, we are not requiring these carriers to file financial data at this time. Information on the financial structures and interest payments of about half of these carriers appears in United States Telephone Association, Annual Statistical Volume II (published July 1984). While the information is somewhat out-of-date, incomplete, and unaudited, it appears to be a useful collection of financial data on a large number of exchange carriers. Another useful vehicle for obtaining financial information on exchange carriers may be the National Exchange Carrier Association. Parties may want to comment on the development of financial data on these other exchange carriers and on use of this source.

III. Ordering Clauses

18. Pursuant to our authority under sections 4 (i) and (j), 205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 205, and 403, it is ordered that comments on factors for our examination of authorized rates of return for AT&T and exchange telephone carriers shall be due on October 15, 1984, with reply comments due on November 15, 1984. Where comments are based on the analyses of experts, those analyses should be submitted under oath for the record. The Common Carrier Bureau is delegated authority to convene meetings or use other procedures for gathering information for this proceeding.

19. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rules, 47 CFR 1.1231. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

20. In accordance with the provisions of 47 CFR 1.419(b), an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C. 1919 M Street, N.W.

21. Pursuant to the Regulatory Flexibility Act of 1980, it is certified that the rules proposed in this proceeding are exempt from application of the statute because they will not have a significant economic impact on a substantial number of small entities. Although some local exchange carriers are small, local telephone companies do not appear to fall within the Regulatory Flexibility Act's definition of a "small entity," which incorporates the definition of a "small business" in section 3 of the Small Business Act. The latter definition excludes any business that is dominant in its field of operation. Exchange carriers, even small ones, enjoy a

dominant monopoly position in their local service area. This Commission has found all exchange carriers to be dominant in the *Competitive Carrier Rulemaking*, 85 FCC 2d 1, 23–24 (1980). This certification shall be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to Section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-21678 Filed 8-16-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-752; FCC 84-372]

Changes in AM Technical Rules To Reflect New International Agreements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend various provisions of the Commission's AM technical rules to reflect engineering standards developed in new international agreements.

DATES: Comments should be filed by September 20, 1984 and reply comments should be filed by October 5, 1984.

ADDRESS: Federal Communications Commission, Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Frederic D. Schottland or Wilson A. La Follette, Mass Media Bureau, (202) 632-5414, or Jonathan David, Mass Media Bureau, (202) 7632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of Changes in AM Technical Rules to Reflect New International Agreements; MM Docket No. 84-752.

Adopted: July 26, 1984.

Released: August 14, 1984.

By the Commission.

1. Comments are invited on a series of rule making proposals which are an outgrowth of new international AM broadcasting agreements which have been or are now being negotiated. These proposals are outlined below.[1]

2. Many of the AM rules were developed years ago based on the international agreements then in effect. Principally this meant the 1950 North American Regional Broadcasting Agreement ("NARBA") and the 1968 United States/Mexican Bilateral AM Agreement, and their predecessors.[2] In recent years there have been a series of developments which need to be taken into account. Recognizing the value of a region-wide AM agreement, the nations of Region 2 (which includes the Americas, Greenland and the Caribbean) met to consider development of a new regional AM braodcasting agreement. At the second session of the Region 2 Conference at Rio de Janeiro in 1981, such a new regional agreement was adopted. This agreement referred to as the Final Acts, Rio de Janeiro, 1981, made a number of important changes in the approaches taken to AM coordination in the Region. Although this agreement was designed to be applicable throughout the Region, there was recognition that separate bilateral arrangements might better serve the needs of signatory countries in their mutual dealings. To this end the United States and Canada recently concluded a new bilateral AM agreement, and negotiations continue on a new United States-Mexican bilateral AM Agreement. With these developments in mind, we believe it is appropriate to begin a rule making proceeding to consider the revisions of the Commission's rules which may be required to reflect the terms of the new agreements.[3]

3. The changes we are considering fall into two major categories. The first involves minor changes affecting only the methodologies employed in making calculations, such as in the use of metric units in lieu of the English units which have been employed in many of the rules. Even though these changes are not substantive as such, a change in the method of calculation may lead to a change in the data derived. For that reason we think it useful to obtain comments on these procedural aspects. In addition, there is a second group of changes which are of a substantive nature, affecting standards, definitions or approaches taken to AM allocations matters.

4. *Groundwave curves.* The existing FCC groundwave propagation curves which are contained in Section 73.184, graphs 1 through 19a, date back to 1938. They were based on various technical papers in the mid 1930's[4] and have been in constant use since then. More recently, in its preparations for the Region 2 Conference on AM Broadcasting, the FCC developed an analytical computer program, based upon the same underlying theory as the existing FCC curves, in order to recalculate and replot the curves in metric format. The resulting curves, based on an inverse distance field of 100 mV/m at one kilometer, were adopted by the March 1980 First Session of the Region 2 AM Broadcasting Conference in Buenos Aires, Argentina.

5. The curves adopted by the Region 2 Conference depicted field strength in dBu versus kilometers. During subsequent preparations for the U.S. and Canada AM Broadcasting Agreement that was signed on January 17, 1984, the groundwave curves were replotted in a joint effort in order to depict field strength in mV/m versus kilometers. This was accomplished using graph paper identical in size to that contained in NARBA and the FCC rules. However, it should be noted that these curves and the Region 2 groundwave curves differ only in thier format. The U.S. and Mexico have also tentatively agreed to use the U.S./Canada curves in the U.S./Mexico AM Broadcasting Agreement that is now under negotiation.

6. We now propose to amend the FCC rules by substituting the 19 curves that were adopted for the U.S./Canada Agreement for the existing FCC groundwave curves. For reference these curves are shown in an appendix to this Notice. We believe that the new curves are more accurate than those they would supersede and thus would eliminate drafting errors which have been associated with the existing curves. Additionally, their adoption will eliminate the need for referring to different sets of curves when performing engineering studies involving both domestic and foreign assignments.

7 In order to facilitate groundwave field strength calculations relying upon computer programs, it is the FCC's intention to publish its computer program used for calculating the groundwave curves. Additionally, the

[1] In a companion action we have adopted a *Report and Order* including the proceeding in BC Docket No. 82-187. In so doing the Commission adopted several rule changes that related to that proceeding's focus on implementation of the Plan for AM Broadcasting called for under the new Region 2 AM Broadcasting Agreement. The new proceeding we are now inaugurating has a broader scope and will include consideration of a wide range of rule changes to reflect new AM agreements.

[2] NARBA provided the basis for AM coordination with Canada, Cuba, the Bahamas and the Dominican Republic. Because Mexico was not a NARBA signatory, a separate bilateral agreement between the United State and Mexico was developed.

[3] In this regard we have had the benefit of the continuing assistance of the Technical Subgroup of the Radio Broadcasting Industry Advisory Committee. The Subgroup has made important contributions to the development of U.S. proposals in the negotiations which could be employed to ease the process of implementation.

[4] The specific papers are cited in Section 73.184(c).

calculated points that were used in plotting the curves will be published for use by those parties that prefer to use "look-up" tables in their computer programs. It is our belief that these steps will help to establish uniformity in groundwave calculations. The computer program to be published also makes it possible to calculate groundwave field strength using dielectric constants and conductivity values other than those which are depicted in the curves. Thus, we no longer believe that the existing graph 20 of § 73.184 will be required and we propose to delete it.

8. *Skywave propagation.* For purposes of calculating skywave field strength, 50% of the time [F(50)], for distances up to 4,250 kilometers, the Region 2 Conference adopted a skywave field strength curve, based on a radiated field of 100 mV/m at a distance of one kilometer at the pertinent vertical angle. This curve was modeled after the 50% curve contained in figure 1a of § 73.190 of the FCC rules. The Conference also adopted a formula for calculating field strength at distances greater than 4,250 km. To determine field strength, 10% of the time [F(10)], 50% field strength values are increased by 8 dB. It is expressed in linear units, as $F(10)=F(50)\times 2.5$ mV/m. A similar approach was adopted in the new U.S./Canada AM Broadcasting Agreement, the only difference being that the adopted curves depict field strength in mV/m rather than in dBu as is the case for the Region 2 curve. The U.S. and Mexico have also tentatively agreed to use the skywave curve and formulas that were adopted in the U.S./Canada Agreement.

9. Both the Region 2 Agreement as well as the new U.S./Canada Agreement adopted a formula for calculating elevation angle versus transmission distance, and a graph of angle versus distance in kilometers is contained in the agreements for reference purposes. Similarly, the U.S. and Mexico have tentatively agreed to use this formula and graph in the new AM agreement that is under negotiation. However, it should be noted that only median elevation angles are employed in accordance with these international agreements when calculating F(10) field strength values, whereas, § 73.185(d) of the FCC rules currently require use of curves 4 and 5 of figure 6a of § 73.190 when determining the pertinent elevation angle for F(10) field strength values.

10. We believe that the use of the F(50) skywave curve which was adopted in the U.S./Canada Agreement as well as use of an 8 dB adjustment to derive F(10) field strength values from F(50) field strength values provides results that are generally consistent with values obtained using Figure 1a currently in § 73.190 of the rules. Thus, we are proposing to replace Figure 1a with the new metric curve adopted in the international agreements. We are also proposing to replace Figure 6a with a new family of curves in metric format. For curve 1 of Figure 6a, the median curve, we propose to adopt the formula discussed above that was adopted in the international agreements. We are also proposing to adopt two additional formulas that are shown in an appendix for curves 4 and 5. These two additional formulas and curves would only be used for domestic engineering studies. Use of these formulas should further facilitate use of computer programs in engineering studies. As a practical matter, we do not believe that calculated elevation angles should be carried beyond 0.1 degree. In the event of disagreement between values obtained using the formula and the curves, we propose that values derived from the formula shall take precedence over values derived from the curves.

11. Finally, it is our intention to ultimately replot Figures 2, 5, 7, 8, 9, 10, and 11 of Section 73.190 of the rules to reflect metric units or radiation values referred to one kilometer, as appropriate. By so doing it will then be possible for all engineering studies, both domestic and international, to be performed using references in metric units. We also propose to delete Figures 1 and 6 of § 73.190 because they no longer appear to serve any useful purpose.

12. *Puerto Rican and Virgin Island Issues.* The present rules do not appear to give adequate attention to the special situation affecting Puerto Rico and the U.S. Virgin Islands which are located nearly 1,000 miles from the continental U.S. and less than 500 miles from the coast of South America. Also they are affected by the proximity of a large number of Caribbean Islands. Finally, because of the high conductivity of the sea water paths surrounding Puerto Rico and the Virgin Islands, even distant stations can have a significant effect there during daytime hours. This becomes all the more important because the radio broadcasting Plan for Region 2 includes a substantial number of stations listed in numerous nearby countries which are indicated to be operating with powers of 50 kW or higher. Interference studies performed by Commission staff have indicated that generally high interfering limits will be caused or are already being caused to Puerto Rican and Virgin Island stations by these foreign stations. In fact, on several occasions during recent years, Puerto Rican broadcasters have submitted informal reports to the FCC summarizing interference problems already being experienced.

13. It is the long term goal of the FCC, in concert with the Department of State, to pursue negotiations with foreign administrations in order to develop steps that would mitigate the interference. However, even if these endeavors are successful, it is anticipated that Puerto Rico and the Virgin Islands will continue to experience serious interference. Thus, the Commission believes that it is appropriate to consider steps that could provide Puerto Rican and Virgin Island broadcasters with greater flexibility in mitigating the effects of foreign interference.

14. Therefore, we are proposing to amend the rules to increase the maximum power permitted for Class III stations in Puerto Rico and the Virgin Islands to 50 kW, provided that full domestic and foreign protection is provided in accordance with the Commission's rules and applicable international agreements. Class III stations are equivalent to Class B stations as defined by the Region 2 AM Broadcasting Agreement, and the maximum power permitted by that Agreement for Class B stations is 50 kW. The new U.S./Canada AM Agreement adopted the same power limit and the draft agreement being negotiated with Mexico has tentatively included it as well.

15. We are open to counter proposals for power levels differing from that which we have proposed above. We are also prepared to give consideration to proposals related to the Class IV service in Puerto Rico and the Virgin Islands within the context that we discussed above. Because there are only six Class IV stations in Puerto Rico, this appears to open the possibility of treating these stations in similar fashion as Class III stations. However, Class IV stations are currently notified internationally as Class C stations, and it would be necessary to re-notify them as Class B stations. We are also aware of the possible need in Alaska for higher power to provide service into remote areas and we are open to proposals to treat Class III and IV stations in Alaska in a similar fashion as now being proposed for Puerto Rico. Other locations, such as Hawaii, are similarly remote from the 48 contiguous states and could also be considered for special treatment as discussed above, and

comments in this regard are invited. It should be noted, however, that a prerequisite for implementing such new rules is completion of the new agreement with Mexico and final disposition of NARBA since that agreement still applies between the U.S. and the Bahamas and Dominican Republic.

16. *Nominal transmitter power.* The Commission's rules, consistent with NARBA and the U.S./Mexico agreements, require stations to be licensed with a nominal power, in accordance with their Class, at the following steps: 0.25, 0.5, 1.0, 2.5, 5.0, 10.0, 25.0, and 50.0 kW. This has tended to restrict the flexibility of stations in achieving the most economical antenna design for their particular circumstances. In current practice some flexibility is provided by assuming that the station is operating at one of the nominal power levels while permitting the actual antenna input power to be reduced in order to reduce radiation from the antenna system. This is treated as if the efficiency of the antenna system had been reduced and, thus, the antenna input power may only be reduced to the point where the antenna system would no longer meet minimum efficiency as specified in § 73.189 of the rules. As a result, the flexibility permitted by the reduction of actual power may not satisfy the needs of the broadcaster. For example, interference considerations might theoretically permit a station to operate non-directionally with a power of 4 kW or, by using a directional antenna system, with a power of 5kW. If the directional antenna approach is infeasible or too costly, the station would not have the choice of using 4 kW non-directionally because the rules only permit the use of specific power steps. In such a case, the station would be limited to 2.5 kW. Such restriction appears to unnecessarily limit a station's ability to provide efficient service.

17 Based on this situation we believe it is appropriate to consider amending the rules to permit any level of power to be specified as a nominal power level, provided that it falls within the minimum and maximum power limits for its Class of station. However, there are two concerns which such a proposal raises. First of all current rules specify that any increase in power of an AM station is to be treated as a major change. However, Under the system being proposed, it may not be appropriate to require the filing of a major change application for what may only be a minor adjustment in power. Comments are invited on whether to treat this case as a minor change and, if so, what demarcation line should be used to distinguish a major from a minor change. Also, there could be a significant impact on the processing of AM applications. In a related Notice of Proposed Rule Making, MM Docket No. 84-281, adopted March 15 of this year, we proposed to open 14 foreign Class I-A Clear Channels to applications for new stations filed with the Commission. It is also anticipated that permitting operation at powers other than those required by the current rules will generate a substantial number of applications for power increases by existing stations. Because AM stations are assigned based on the location of signal contours rather than on simple mileage criteria, even a relatively small increase in power could require a detailed engineering study. In view of the limited staff resources available for processing these applications, it is important to develop efficient procedures for processing these applications especially since proposals for marginal increases in power could delay processing of applications for new stations or for substantial increases in service to the public by existing stations. Among other things, it appears that the public interest would be better served by prohibiting applications for increases in power below a certain minimum percentage (e.g., 20%) in order to permit more expeditious authorization of service for new stations and for stations proposing substantial increases in service area. Finally, we note that it also may be necessary to develop new or modified processing procedures to deal with the conflicting power increase applications which would be filed and the possibility that the grant of one such application could foreclose the grant of another. Comments and suggestions in this regard are invited.

18. Other than this change, the definition of nominal power would remain the same as would its use elsewhere in the rules. It is our intent to continue rules for minimum antenna efficiency (see § 73.189). It would be our intention to calculate the "Q" of standard patterns using the variable nominal powers that would be permitted. As a practical matter, we also plan to establish a system for rounding authorized operating power similar to that currently being used in the FM service § 73.212).

19. In addition to comments on the above matters, parties are invited to offer suggestions on other aspects of the rules which might be changed to reflect the new international agreements or on other methods which could be used to make changes in the areas discussed above.

Regulatory Flexibility Initial Analysis

I. Reason for Action

The proposed rules are designed to reflect changes in international agreements.

II. Objective

The *Notice* proposes to change several rules relating to calculation methods ro reflect usage in newly enacted and contemplated international agreements and to provide greater flexibility in the selection of station facilities to provide interference-free coverage in the most efficient manner.

III. Legal Basis

Section 303 of the Communications Act of 1934, as amended, empowers the Commission to foster the more efficient use of radio in the public interest.

IV Description, Potential Impact and Number of Small Entities Affected

The only affected group consists of licensees and applicants for AM stations. The proposed changes would allow them greater flexibility in the selection of facilities and greater precision in the engineering calculation they are required to perform.

V Recording, Record Keeping and Other Compliance Requirements

No new requirements would be added by the proposed action.

VI. Federal Rules which Overlap, Duplicate or Conflict with the Proposed Rules

None.

VII. Any Significant Alternative Minimizing Impact on Small Entities Consistent with Stated Objectives

No adverse impact on small entities is expected.

20. Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, it is proposed that Part 73 of the Commission's Rules be amended as set forth in the attached Appendix.

21. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before September 20, 1984, and reply comments on or before October 5, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such

information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

22. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissoner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street, NW., Washington, D.C. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632-7000.

23. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or proceeding. Any person who submits a written *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and Commission consideration or court review, *ex parte* contacts in this proceeding which affect individual license rights, will not be permitted. An *ex parte* contact is a message (spoken or written) concerning the merits of pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C. For further information on this matter contact Larry Olson (202) 632-6955 or Jonathan David (202) 632-7792.

Federal Communications Commission.

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

William J. Tricarico,

Secretary.

Appendix A—Groundwave Field Strength Curves

Note.—Appendix A will not be printed herein due to the continuing effort to minimize publishing costs. It may be reviewed, however, in the FCC Dockets, Branch, Room 239, and the FCC Library, Room 639, both located at 1919 M St. NW., Washington, DC, 20554. The appendix is also filed with the original document at the Office of the Federal Register.

Appendix B

Curves and formulas for calculating skywave field strength

The following curves and formulas are those being proposed for inclusion in Part 73 of the rules.

The proposed curve for 50% skywave field strength values, F(50), for distances up to 4,250 km is modeled after existing figure 1a of Section 73.190 of the rules. For distances greater than 4,250 km, the following formula may be used:

$$F_c = \left[\text{antilog} \; \frac{\frac{231}{3+d/1000} - 35.5}{20} \right] \text{uV/m}$$

Where:

F_c = 50% skywave field strength values which are also depicted on the curve of skywave field strength values.

d=path distance in km.

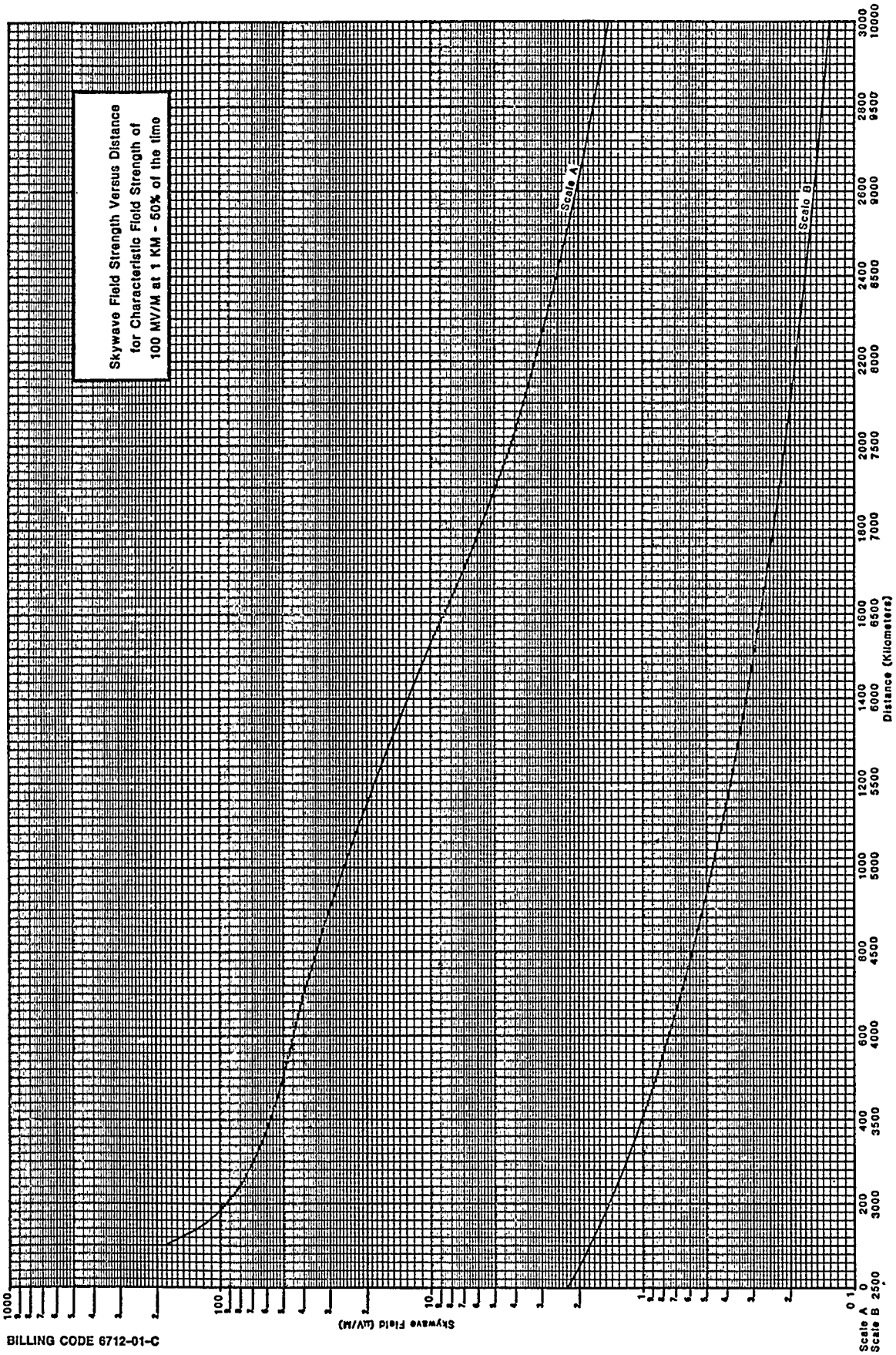
10% skywave field strength values are calculated by the formula:

$F(10)=F(50)(2.5)\ \mu V/m$

Attached is a table of field strength values which are depicted by the curve of 50% skywave field strength values. This table is consistent with similar tables contained in the Region 2 AM Broadcasting Agreement and the U.S./Canada AM Agreement. They are provided here as a possible means of establishing "look up" tables for computer programs in the future upon adoption of the new curves.

The three formulas that are being proposed for use in calculating angles of departure versus transmission range are listed on the attached family of curves by that title.

BILLING CODE 6712-01-M



BILLING CODE 6712-01-C

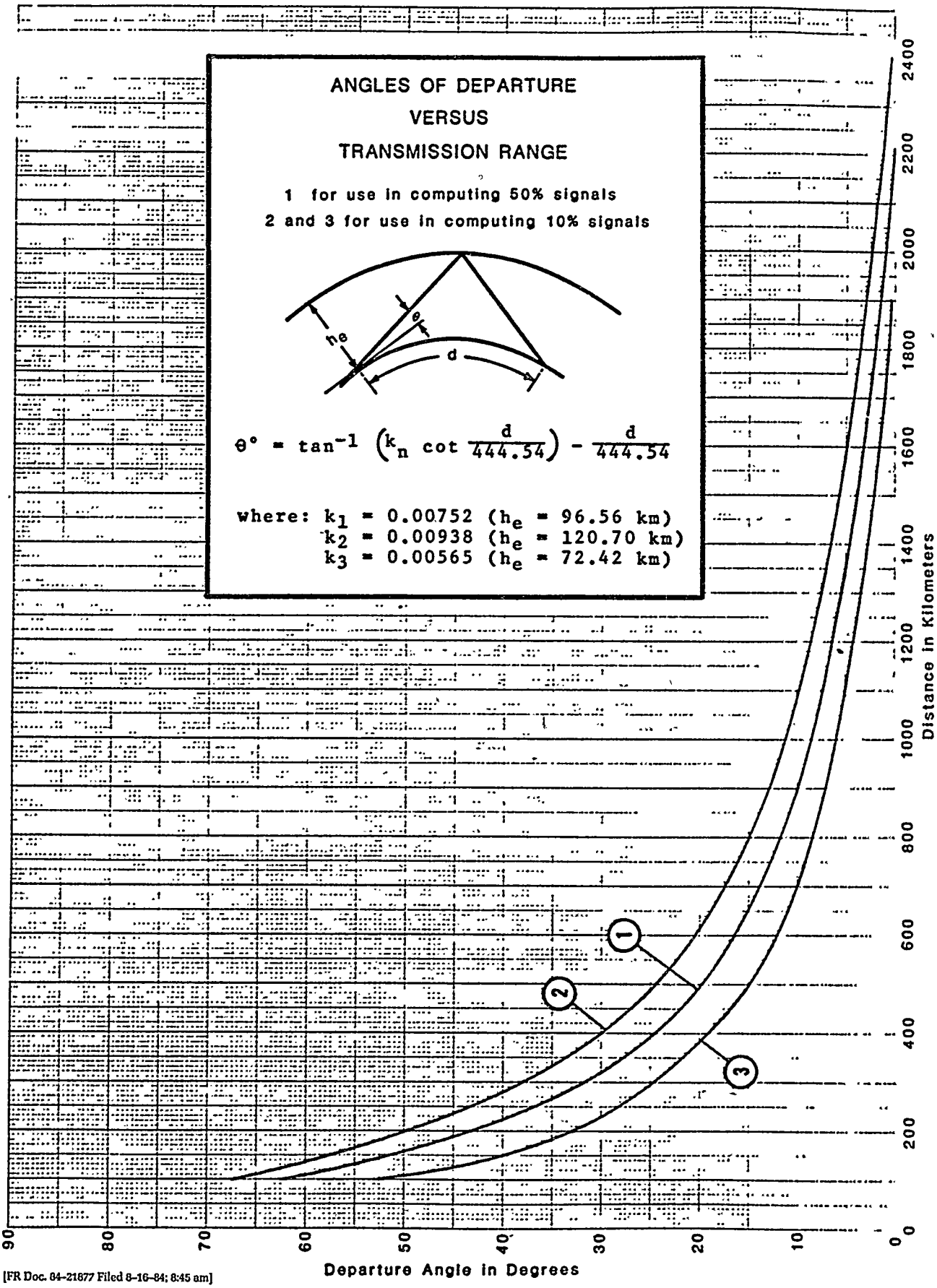
TABLE.—SKYWAVE FIELD STRENGTH VERSUS DISTANCE FOR A CHARACTERISTIC FIELD STRENGTH OF 100 MV/M

d(km)	F_c (μ V/m) 50 pct
100	179.11
150	117.18
200	92.06
250	77.54
300	68.82
350	62.06
400	57.08
450	52.86
500	49.45
550	46.78
600	44.36
650	41.95
700	39.54
750	36.81
800	34.40
850	32.30
900	29.39
950	27.63
1000	25.54
1050	23.56
1100	21.84
1150	19.91
1200	18.30
1250	16.78
1300	15.32
1350	13.97
1400	12.71
1450	11.55
1500	10.50
1550	9.53
1600	8.57
1650	7.72
1700	6.98
1750	6.34
1800	5.80
1850	5.32
1900	4.89
1950	4.49
2000	4.14
2100	3.61
2200	3.18
2300	2.79
2400	2.45
2500	2.26
2600	2.03
2700	1.85
2800	1.69
2900	1.55
3000	1.43
3100	1.33
3200	1.23

TABLE.—SKYWAVE FIELD STRENGTH VERSUS DISTANCE FOR A CHARACTERISTIC FIELD STRENGTH OF 100 MV/M—Continued

d(km)	F_c (μ V/m) 50 pct
3300	1.15
3400	1.07
3500	1.00
3600	0.94
3700	0.88
3800	0.83
3900	0.79
4000	0.75
4100	0.71
4200	0.67
4300	0.64
4400	0.61
4500	0.58
4600	0.55
4700	0.53
4800	0.51
4900	0.49
5000	0.46
5100	0.45
5200	0.43
5300	0.41
5400	0.40
5500	0.38
5600	0.37
5700	0.36
5800	0.34
5900	0.33
6000	0.32
6200	0.30
6400	0.28
6600	0.27
6800	0.25
7000	0.24
7200	0.23
7400	0.22
7600	0.21
7800	0.20
8000	0.19
8200	0.18
8400	0.17
8600	0.17
8800	0.16
9000	0.15
9200	0.15
9400	0.14
9600	0.14
9800	0.13
10000	0.13

BILLING CODE 6712-01-M



[FR Doc. 84-21877 Filed 8-16-84; 8:45 am]
BILLING CODE 6712-01-C

Notices

Federal Register
Vol. 49, No. 161
Friday, August 17, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 84-337]

Migratory Grasshoppers; Declaration of Emergency Because of Migratory Grasshoppers

Whereas, a serious infestation of migratory grasshoppers is occurring in parts of Colorado, Idaho, Montana, North Dakota, and Utah, and is likely to occur in Oregon and Wyoming, and

Whereas, these ravenous insects are rapidly destroying federally owned rangeland and are moving onto adjacent cropland where they can quickly inflict catastrophic damage to thousands of acres of cropland,

Now, therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. 953 (7 U.S.C. 147b), I declare that there is an emergency which threatens segments of agricultural production industries of this country, particularly the grain, potato, bean, hay, and livestock industries, and I authorize the transfer and use of such sums as may be necessary from appropriations or other funds available to the agencies or corporations of the Department of Agriculture for the conduct of a program to control and to prevent the dissemination of the migratory grasshopper, in whatever stage of life, on federally owned lands and on adjacent cropland where the adjacent cropland does not exceed 20% of the total treatment area.

EFFECTIVE DATE: This declaration of emergency shall become effective August 14, 1984.

Richard E. Lyng,
Acting Secretary, Secretary of Agriculture.

[FR Doc. 84-21988 Filed 8-16-84; 8:45 am]
BILLING CODE 3410-34-M

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.
Date: September 10-12, 1984.
Time: 8:00—4:00 p.m.
Place: Quality Inn Downtown, 125 Calhoun Street, Charleston, South Carolina 29403.
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 listed below.
Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.
Contact Person for Agenda and More Information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 209 West Auditors Building, Washington, D.C. 20251; telephone: 202/447-4329.

Done at Washington, D.C., this 6th day of August 1984.

John Patrick Jordan,
Administrator, Cooperative State Research Service.

[FR Doc. 84-21990 Filed 8-16-84; 8:45 am]
BILLING CODE 3410-22-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Construction Project Report
Form Numbers: Agency—C-700(SL); OMB—0607-0171
Type of Request: Extension of a currently approved collection
Burden: 2,900 respondents; 8,700 reporting hours
Needs and Uses: These data are needed to measure construction activity. They are used by Census to estimate the gross national product, by the public sector to formulate and evaluate policy, and by the private sector business decisions.
Affected Public: State or local governments
Frequency: Monthly
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: Bureau of Economic Analysis
Title: Foreign Airline Operators' Revenues and Expenses in the United States
Form Number: Agency—BE-36; OMB—0608-0013
Type of Request: Extension of a currently approved collection
Burden: 60 respondents; 120 reporting hours
Needs and Uses: This survey is used to obtain data on foreign airlines' revenues and expenses in the United States. The information is required for the preparation of the international transportation account of the U.S. balance of payments.
Affected Public: Businesses or other for-profit institutions
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: Bureau of Economic Analysis
Title: Foreign Carriers' Ocean Freight Revenues and Expenses in the United States
Form Numbers: Agency—BE-29; OMB—0608-0012
Type of Request: Extension of a currently approved collection
Burden: 130 respondents; 260 reporting hours
Needs and Uses: The survey is used to obtain data on foreign carriers' revenues and expenses in the United States. The data international transportation account of the U.S. balance of payments.
Affected Public: Businesses or other for-profit institutions
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: Economic Development Administration (EDA)
Title: Current and Projected Employee and Payroll Data
Form Numbers: Agency—ED-612; OMB—0610-0003

Type of Request: Extension of a currently approved collection
Burden: 800 respondents; 800 reporting hours
Needs and Uses: The report is needed to determine whether entities assisted by EDA are in compliance with Title VI of the Civil Rights Act of 1964 and Departmental and Agency regulations. Those entities creating or saving less than 15 jobs as a result of EDA assistance are not required to report.
Affected Public: State or local governments, businesses or other for-profit institutions, non-profit institutions
Frequency: On occassion, annually for 5 years
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: Office of Inspector General
Title: Applicant for Funding Assistance
Form Numbers: Agency—CD-346; OMB—0605-0001
Type of Request: Extension of a currently approved collection
Burden: 2,310 respondents; 577 reporting hours
Needs and Uses: The data is used to establish the good character of principal officers and employees of organizations, firms, or recipients or beneficiaries of grants, loans, or loan guarantee programs that may receive grants, loans or guarantees from the Commerce Department.
Affected Public: Individuals or households, businesses or for-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation:
OMB Desk Officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20203.

Dated: August 14, 1984.

Edward Michals,
Department Clearance Officer.

[FR Doc. 84-21953 Filed 8-16-84; 8:45 am]
BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Order No. 267]

Resolution and Order Approving the Application of the Board of Harbor Commissioners of the City of Long Beach for a Foreign-Trade Subzone for National Steel and Shipbuilding Company in San Diego, CA, Within the San Diego Customs Port of Entry

Resolution and Order

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

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 considerd the matter, hereby orders:

After consideration of the application of the Board of Harbor Commissioners of the City of Long Beach, grantee of Foreign-Trade Zone 50, filed with the Foreign-Trade Zones Board (the Board) on March 6, 1984, requesting authority on behalf of National Steel and Shipbuilding Company (NASSCO) for FTZ subzone status at the NASSCO shipyard in San Diego, California, within the San Diego Customs port of entry, the Board finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the proposal would be in the public interest, if approval is subject to certain conditions, approves the application subject to the following conditions: (1) Any steel plate, angles, shapes, channels, rolled sheet stock, bars, pipes and tubes, classified under Schedule 6, Part 2, Subp. B, TSUS, and not incorporated into merchandise otherwise classified, and which is used in manufacturing shall be subject to Customs duties in accordance with applicable law, if the same item is then being produced by a domestic steel mill; and (2) in addition to the annual report, NASSCO shall advise the Board's Executive Secretary as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

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.

Foreign-Trade Zones Board, Washington, D.C., Grant of Authority To Establish a Foreign-Trade Subzone in San Diego, California, Within the San Diego Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized an empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Board of Harbor Commissioners of the City of Long Beach, grantee of Foreign-Trade Zone No. 50, has made application (filed March 6, 1984, Docket No. 7-84, 49 FR 9246) in due and proper form to the Board for authority to establish a special-purpose subzone at the shipyard of the National Steel and Shipbuilding Company (NASSCO), in San Diego, California, within the San Diego 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 would be satisfied if approval is given subject to the conditions stated in the resolution accompanying this action;

Now, therefore, in accordance with the application filed March 6, 1984, the Board hereby authorizes the establishment of a subzone at NASSCO's San Diego shipyard, designated on the records of the Board as Foreign-Trade Subzone No. 50B at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 10th day of August 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-21879 Filed 8-16-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATE: Comments on these applications must be submitted on or before September 6, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84-00028."

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937 These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596-10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares merchandise, or services of the class exported by the applicant, and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937-40 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the Federal Register identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Barnston, Inc., 223 Derby Street, Salem, MA 01970.

Telephone: (617) 744-7723.

Application No.. 84-00028.

Date Received: August 6, 1984.

Date Deemed Submitted: August 8, 1984.

Members in Addition to Applicant: None.

Summary of the Application:

A. *Export Trade:* Barnston, Inc. proposes to engage in and export under an export trade certificate of review the following products: shower curtains, towels, bathroom accessories, toilet seats, and marine personal safety devices and life preservers.

B. *Barnston intends to engage in the following export trade activities and methods of operation:*

(1) To establish prices and quantities of Products for the Export Markets.

(2) To enter into agreements with suppliers individually wherein:

(a) Barnston agrees not to represent any competitors of such supplier as an export intermediary unless authorized by the supplier; and/or

(b) The supplier agrees not to sell, directly or indirectly through any other intermediary, into the Export Markets in

which Baniston represents such supplier as an export intermediary, and if such sales do occur, to pay a commission to Baniston;

(3) To enter into nonexclusive agreements with entities wherein those entities agree to act as agents and distributors for the Export Markets;

(4) To enter into exclusive agreements with agents and distributors, wherein:

(a) Baniston agrees to deal in Product in the Export Markets only through that agent or distributor, and/or

(b) That agent or distributor agrees not to represent Baniston's competitors in the Export Markets or not to buy Products from Baniston's competitors for resale in the Export Markets;

(5) The agreement described in paragraphs (2), (3), and (4) above may contain territorial and quantity restrictions for the Export Markets;

(6) To refuse to quote prices to or to sell to buyers in the Export Markets whom Baniston considers to compete in the Export Markets with Baniston, its suppliers, its distributors and agents (exclusive and nonexclusive), or its retail customers in the Export Markets.

The OETCA is issuing this notice in compliance with section 302 (b)(1) of the Act which requires the Secretary to publish a notice of the application in the Federal Register identifying the persons submitting an application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: August 14, 1984.

Irving P. Margulies,

General Counsel.

[FR Doc. 84-21874 Filed 8-16-84; 8:45 am]

BILLING CODE 3510-DR-M

[Docket Number ITA-AB-6-82]

Henry Stern & Company, Inc.; Decision of Appeal

Decision on Appeal

This is a decision on an appeal filed by the Department of Commerce ("Commerce") from a decision ("Initial Decision") rendered on October 3, 1983 by Administrative Law Judge Hugh J. Dolan. Judge Dolan's Initial Decision dismissed an administrative proceeding initiated against Respondent Henry Stern & Company, Inc. 28 U.S.C. 2462 (1982).

I. A summary of the Facts of the Case

On September 23, 1982, the Office of Antiboycott Compliance initiated an administrative proceeding against Henry Stern & Company, Inc. ("Stern"), by issuing a Charging Letter. The letter charged Stern with four violations of the prohibition against furnishing boycott-related information in § 369.2 of the Export Administration Regulations, and with five violations of the reporting requirement in 15 CFR 369.6 (1982). The alleged violations occurred between September 26, 1977, and January 16, 1979. In its answer to Commerce's Charging Letter, Stern raised twelve separate defenses. Stern did not raise the statute of limitations as a defense at that time.

In May of 1983, Judge Dolan ordered the Department of Commerce to file a memorandum explaining why the Administrative Law Judge should not dismiss the administrative proceeding on grounds of the statute of limitations, 28 U.S.C. 2462. Commerce complied with the order. On October 3, 1983, before holding an evidentiary hearing, Judge Dolan issued a twenty-four page decision which dismissed Commerce's claim against Stern.

The Department of Commerce appealed Judge Dolan's Initial Decision in November, 1983. Both counsel for Stern and Patton, Boggs, & Blow as *amicus curiae* filed papers in opposition.

II. A Summary of Judge Dolan's Initial Decision

In dismissing the agency proceeding, Judge Dolan based the decision on his interpretation of 28 U.S.C. 2462.

28 U.S.C. 2462 provides:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon.

The Initial Decision explained that "[t]here are three questions for consideration in these cases.

1. Does the statute of limitations contained in 28 U.S.C. 2462 apply to these civil penalty proceedings?

2. When does the 5-year period set forth in the statute begin to run?

3. What action stops the running of the statute?"

In answering the first question, Judge Dolan held that the statute of limitations contained in 28 U.S.C. 2462 did not apply to the commencement of an agency proceeding, but that it applied to the commencment of an enforcement action in a federal district court. *Initial Decision* at 9-11. Second, Judge Dolan held that "[t]the 5-year period within 28 U.S.C. 2462 begins to run at the time a violation is committed," and not at the completion of the administrative proceeding. *Initial Decision* at 23. Third, Judge Dolan held that the limitations period is not suspended during the administrative hearing and appeal process. *Initial Decision* at 16. Having held that a federal enforcement action would be barred by 28 U.S.C. 2462, Judge Dolan dismissed the administrative proceeding.

III. Issues on Appeal

In its appeal, the Department of Commerce rises three central objections to Judge Dolan's Initial Decision:

Issue I: The statute of limitations in 28 U.S.C. 2462 will not bar Commerce from enforcing an administratively assessed penalty in a federal district court.

Subpoint (A): Under 28 U.S.C. 2462, the federal enforcement action accrues at the completion of the agency proceeding and appeal, not at the time of the alleged violation.

Subpoint (B): Even assuming that the federal action accrues at the time of the alleged violation, the limitation period is suspended during the agency proceeding and appeal.

Issue II: Regardless of whether or not Commerce is barred from bringing a federal enforcement action, Judge Dolan should not have dismissed the case.

Issue III: Judge Dolan abused his discretion and acted arbitrarily and capriciously.

The discussion which follows concentrates on Issue II.

IV Discussion

Though the Initial Decision was premised on an interpretation of the statute of limitations contained in 28 U.S.C. 2462, Judge Dolan did not hold, nor could he have held that the administrative proceeding itself was barred by 28 U.S.C. 2462. Even if that statute of limitations applies to administrative proceedings, the Charging Letter against Stern was issued within five years of all the alleged boycott violations.

In dismissing the proceeding, Judge Dolan simply assumed that the administrative action must be dismissed if a subsequent federal enforcement action would be time barred. Though Judge Dolan never explained the basis for this assumption, there exists only one logical rationale. Judge Dolan apparently believed that in a situation where a district court will not enforce an administratively imposed penalty, the administrative proceeding itself is made irrelevant. For two reasons, however,

Judge Dolan's assumptions are unsound and legally insufficient.

First, an administrative tribunal, like a court of law, is required to decide the case immediately before it, and not some hypothetical future proceeding. It is important to remember that Judge Dolan did not hold that the *administrative* proceeding itself was barred by the statute of limitations; only a future federal enforcement action, in his opinion, would be barred. In making this determination, Judge Dolan contemplated a hypothetical case in which an administrative penalty is assessed, the violator refuses to pay, and the Department of Commerce decides to bring a federal enforcement action. This was not the issue before him in this proceeding. Moreover, it is not appropriate for the Administrative Law Judge to speculate how a federal district court would decide the issue should it arise. In short, the issue upon which Judge Dolan dismissed the proceeding was not yet ripe for an administrative determination.

Second, even if a district court were to dismiss a future enforcement action, the administrative proceeding would not be moot. It is not appropriate to assume that a boycott violator will refuse to pay a properly assessed administrative penalty.

More important, under the antiboycott statute and regulations, Commerce need not depend on a federal district court to penalize an antiboycott violator. The Export Administration Act and its regulations authorize the Administrative Law Judge (or the Assistant Secretary on appeal) to: (1) Suspend or revoke any validated export license; (2) revoke any violator's export privileges; and (3) exclude the violator from practice before the Commerce Department. 50 U.S.C. App. section 2410(c)(2)(A); 15 CFR 388.3(a) (1983). Indeed under the Export Administration Act, the Department of Commerce, in appropriate circumstances, can suspend or revoke a violator's export privileges for up to one year, but suspend that sanction on the condition that the violator pay an administratively assessed penalty. 50 U.S.C. app. section 2410(d). Thus, the administrative proceeding has a relevance and vitality which exists independently from some future federal enforcement action. Judge Dolan erred as a matter of law when he dismissed the administrative proceeding.

As the discussion above indicates, Judge Dolan's interpretation of 28 U.S.C. 2462, even if correct, is not a legally sufficient basis for dismissal. Accordingly, it was neither necessary nor appropriate to decide whether or not a hypothetical federal district court enforcement action could be brought against Henry Stern & Company, Inc. In the circumstances of this proceeding, any administrative interpretation of the statute at best could be only advisory. Thus, I expressly am declining to interpret the statutory language in 28 U.S.C. 2462.

Finally, in addition to its other arguments, the Department of Commerce appealed the Initial Decision on grounds that Judge Dolan abused his discretion and acted arbitrarily and capriciously. Having remanded the case for the reasons explained above, it is not necessary to address this question.

V Order

On the basis of the foregoing legal analysis, it is held that the Initial Decision dated October 3, 1983 is premised on legal conclusions which are contrary to law. Accordingly, I hereby reverse the Initial Decision and remand the matter to the Administrative Law Judge for further proceedings.

Dated: August 10, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-21950 Filed 8-16-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-401]

Bars and Shapes From Mexico; Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Final Affirmative Countervailing Duty Determinations and Countervailng Duty Orders.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of certain deformed concrete reinforcing bars, hot-rolled carbon steel bars, and hot-rolled carbon steel bar-size shapes (bars and shapes), as described in the "Scope of Investigations" section below. The net bounty or grant is determined to be 104.58 percent *ad valorem* for certain named manufacturers, producers, or exporters which unreasonably refused to provide requested information, and 2.03 percent *ad valorem* for all other manufacturers, producers, and exporters of bars and shapes.

EFFECTIVE DATE: August 17, 1984.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1778.

SUPPLEMENTARY INFORMATION:

Final Determinations and Orders

Based upon our investigations, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of bars and shapes. For purposes of these investigations, the following programs are found to confer bounties or grants:

- Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).
- Preferential Federal Tax Incentives (CEPROFI).
- Fund for Industrial Development (FONEI).
- Nacional Finaciera, S.A. (NAFINSA) Loans.

We determine the net bounty or grant to be 104.58 percent *ad valorem* for certain named companies indicated inthe "Administrative Procedures" section of this notice that failed to provide timely information and 2.03 percent *ad valorem* for other manufacturers, producers, or exportes.

Case History

On March 13, 1984, we received a petition from the Labor-Management Committee for Fair Foreign Competition, Inc., on behalf of U.S. producers of bars and shapes who represent a major portion of that industry. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Mexico of bars and shapes receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act). Critical circumstances were also alleged under section 703(e) of the Act.

We found the petition to contain sufficient grounds upon which to initiate countervailing duty investigations, and on March 28, 1984, we initiated such investigations (49 FR 13178). We stated that we expected to issue preliminary determinations by June 6, 1984.

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, section 303 (a)(1) and (b) of the Act applies to these

investigations, and the critical circumstances provisions are not applicable. Also, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports or these products cause or threaten material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Mexico in Washington, D.C., on March 28, 1984, and requested a response by April 27, 1984. In a letter dated April 25, 1984, the Mexican government requested an extension of two weeks to submit its response, and the response was submitted on May 11, 1984. The response stated that three firms, Altos Hornos de Mexico, S.A., Hylsa, S.A. (Hylsa); and Siderurgica Lazaro Cardenas will voluntarily stop their exports of the products under investigation. No other information concerning these three companies was timely supplied.

On June 6, 1984, we issued our preliminary determinations in these investigations (49 FR 24157).

From June 25 to July 5, 1984, and on July 20, 1984, we conducted a verification in Mexico.

Our notice of preliminary determinations gave interested parties an opportunity to submit oral and written views. No public hearing was requested, but interested parties did submit written views.

Scope of Investigations

The products covered by these investigations are certain deformed concrete reinforcing bars, hot-rolled carbon steel bars, and hot-rolled carbon steel bar-size shapes. For a further description of these products, see Appendix A of this notice.

The period for which we are measuring benefits is calendar year 1983. In their responses, the government of Mexico and the verified companies provided data for the applicable period.

Analysis of Programs

In its responses to our questionnaire, the government of Mexico provided data for the applicable period. Based upon our analysis of the petition, the responses to our questionnaires, our verification, and written comments by interested parties, we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters of bars and shapes in Mexico under the following programs:

A. FOMEX

FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions that establish contracts for lines of credit with manufacturers and exporters. On July 27, 1983, FOMEX was formally incorporated into the National Bank of Foreign Trade.

Exporters may obtain either FOMEX pre-export loans denominated in pesos with a maximum annual interest rate of 8 percent, or FOMEX export loans denominated in dollars with a maximum annual interest rate of 6 percent. U.S. importers may obtain FOMEX loans by opening a letter of credit in a U.S. bank, for which the importer pays a fee. The importer can then draw on the line of credit as purchases are made. U.S. banks accept drafts against the line of credit and transfer the drafts to Mexican banks. These drafts are finally sold to FOMEX. The repayment schedule is due in full in 180 days at 6 percent annual interest rate, which is below the rates available for comparable commercial available loans.

Since FOMEX pre-export, export, and importer financing programs provide loans for export-related purposes at interest rates significantly less than those prevailing for comparable commercially available loans, we determine that this program confers a bounty or grant upon the exportation of bars and shapes. During the period under the investigation, Compania Siderurgica de Guadalajara, S.A. (CSG) and Fundidora y Laminadora Anhauac, S.A. (FLA) recieved FOMEX loans, and a U.S. purchaser from Aceros do Chihuahua (AC) received FOMEX financing.

To quantify the benefit, we used, as a benchmark for the commercial interest rate in Mexico, the national average commercial rate for comparable short-term peso or dollar-denominated loans during the appropriate period. For peso loans, we chose the nominal rate published monthly by the Bank of Mexico in the *Indicadores Economicos* (the "IE rate") as our benchmark. This rate is the weighted average of the rates charged by commercial banks on peso loans.

For dollar-denominated loans, we used the mean average interest rate for commercial and industrial short-term loans as published by the U.S Federal Reserve Bank, since we could not find a national average commercial short-term interest rate for dollar-denominated loans in Mexico.

Based on this information, we determine that, during the appropriate period, comparable peso-denominated loans were available commercially at 63.03 percent, and comparable dollar-denominated loans were available at an average rate for the investigation period of 12.73 percent.

We determined the benefits from these loans based on a comparison of the cost of the FOMEX financing and the cost of comparable commercially available loans with the benchmarks described above. These benefits are allocated over the companies' total bars and shapes exports to the United States during the review period. On this basis, we calculated a bounty or grant in the amount of 1.48 percent *ad valorem*.

B. CEPROFIs

CEPROFIs are tax credits used to promote National Development Plan (NDP) goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small- and medium-sized firms. CEPROFI tax credits are granted for investments in plant and equipment and for certain payments relating to increased employment and wages. The value of the tax credits is established as a percentage of the investment made. Certain types of investment receive higher percentage tax credits than do others.

The CEPROFI tax credits are issued as tax certificates of fixed value, which may be used to pay Mexican federal taxes for up to five years. Certain CEPROFI certificates are granted for making investments in "priority" industrial activities; others are available to all industries on equal terms.

Article 25 of the decree that established the basic authority for the issuance of CEPROFIs, published in the *Diario Official* on March 6, 1979, requires each recipient to pay a 4 percent supervision fee. The 4 percent supervision fee is "paid in order to qualify for, or to receive" the CEPROFIs. Therefore, it is an allowable offset from the gross bounty or grant as defined by section 771(6)(A) of the Act.

CSG, AC, and Aceros San Luis, S.A. (ASL) received CEPROFIs for investment in "priority" industrial activities and/or CEPROFIs that are available only in certain regions of the country. Because these types of CEPROFIs are limited to a specific group

of industries or to companies located in specific regions, we determine that these CEPROFIs confer a bounty or grant. To calculate the amount of the bounty or grant, we allocated the CEPROFI benefits granted to bars and shapes producers during the period of investigation over total sales of the merchandise under investigation and/or total sales of the firms when the CEPROFIs could not be traced to the products under investigation. We thus determined that a bounty or grant in the amount of 0.51 percent *ad valorem* exists.

C. FONEI

FONEI is a specialized financial development fund, administered by the Bank of Mexico, which grants long-term credit at below market rates for the creation, expansion, or modernization of enterprises in order to foster industrial decentralization and promote the efficient production of goods capable of competition in the international market. FONEI loans are available under various programs having different eligibility requirements.

CSG and AC received FONEI loans for plant expansion. CSG also received FONEI loans for pullution control. FONEI loans for pollution control are generally available to all Mexican firms, and were found not countervailable in our *Final Countervailing Duty Determination and Countervailing Duty Order; Portland Hydraulic Cement and Cement Clinker from Mexico* (48 FR 43063) (See section II.B. of this notice).

FONEI loans for plant expansion are only available to companies located outside of Zone IIIA (Mexico City and environs). Because such loans are limited to particular geographic regions and are made at below market rates, we determine that FONEI loans for plant expansion confer a bounty or grant upon respondents. Because the interest rates on the FONEI loans under review are subject to change and have changed over the life of the loans, we treated these loans as a series of short-term loans. To evaluate the benefit of these loans, we compared the cost of the FONEI loans with the cost of commercially available loans bearing an interest rate equivalent to the IE rate. We than divided the amount of the benefit (i.e., the difference in the two loan costs) by the total sales of the companies for the period. In this manner, we calculated a benefit of 0.04 percent *ad valorem* for FONEI loans.

D. NAFINSA Loans

The petition alleged that bounties or grants were provided by loans from NAFINSA. The response provided no information on NAFINSA loans, and we stated in our preliminary determinations that we would seek additional information for our final determinations on any benefits received under this program.

We verified that CSG received a loan from NAFINSA in the form of a direct line of credit. The loan was granted at a variable interest rate that changed during the period of investigation. We consider that because loans granted by NAFINSA are limited to specific regions and are made on terms inconsistent with commercial considerations, these loans confer a bounty or grant. We allocated the amount of the benefit received over the total sales during the period. On this basis we calculated a bounty or grant of 0.0001 percent *ad valorem.*

II. Programs Determined Not To Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters of bars and shapes under the following programs:

A. National Preinvestment Fund for Studies and Projects (FONEP)

Administered by NAFINSA, FONEP finances such studies as economic, technical and feasibility studies, as well as basic and detailed engineering projects.

CSG received FONEP loans for feasibility studies. We verified that financing of such feasibility studies is generally available to all companies in Mexico. Therefore, we determine that these loans do not confer a bounty or grant.

B. FONEI Loans for Pollution Equipment

CSG received FONEI loans for the acquisition of environmental control equipment. While some types of FONEI loans are restricted to industries located in specific regions of the country, these loans were not so limited. Any industry in Mexico is eligible to receive FONEI loans in order to comply with the anti-pollution requirements. Because these FONEI loans are not limited to exporters, to a specific enterprise or industry, or to a group of enterprises or industries, we determine that FONEI loans for acquisition of environmental control equipment do not confer a bounty or grant.

C. Dual Exchange Rates

Petitioner alleged that Mexican exporters are permitted to retain foreign currency for future imports. This practice allegedly results in a subsidy to the extent of the exchange rate differential between what importers must typically pay for foreign exchange and the cost to exporters of using the currency retention program. We verified that there is no requirement that an individual or business must export in order to get the controlled rate of exchange for imports.

We determined in the *Final Negative Countervailing Duty Determination; Pork Rind Pellets from Mexico* (48 FR 39105) that the dual level exchange rate system existing in Mexico does not confer a bounty or grant.

D. Wage Controls

Petitioner alleged that certain firms benefit from government wage controls. We verified that no maximum wage limits exist. The government of Mexico established only a minimum wage, not a maximum, and this minimum was established for the benefit of the workers and not for the industry.

E. CEPROFIs for Mexican Manufactured Capital Goods

AC received a CEPROFI for the purchase of Mexican-made capital goods. This type of CEPROFI is not countervailable because it is not targeted to a specific industry, group of industries, or to companies located in specific regions of the country.

III. Programs Determined Not To Be Used

We determine that the following programs have not been used by the verified companies that manufacture, produce, or export bars and shapes in Mexico. Unless otherwise indicated, the basis for these determinations is the Mexican government's statement that the responding manufacturers, producers, and exporters of certain bars and shapes did not receive benefits under this program and our confirmation of this fact during verification.

A. State Investment Incentives

The petition alleged that certain Mexican states offer selected industries exemptions from state taxes, free or low cost land, or infrastructure improvements as incentives to establish or expand industrial facilities and to export.

B. Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN)

This program is aimed at developing industrial parks and cities.

C. National Funding for Industrial Promotion (FOMIN)

FOMIN operates as a trust fund, providing funding to certain small and medium-sized companies by either buying stock or providing loans at rates

below those of commercial lending institutions.

D. The Mexican Institute of Foreign Trade (IMCE)

IMCE was created by a law published on December 31, 1970, in the *Diario Official.* IMCE was organized primarily for the purpose of promoting Mexico's foreign trade and coordinating efforts to stimulate such trade. IMCE performs a number of functions including organizing and directing trade fairs abroad, promoting the visits of foreign trade missions to Mexico, carrying out investigations to identify national products or services which might be in demand abroad, and providing exporters with technical assistance.

E. Article 94 Loans

Under section II of Article 94 of the General Law of Credit Institutions and Auxiliary Organizations (the Banking Law), the Bank of Mexico establishes channels of credit to different sectors of economic activity. There are 12 categories of credit under section II.

Most categories carry their own maximum interest rate which is set by the Bank of Mexico. Loans granted under category 12 are targeted to exports of manufactured products. The maximum interest rate under this category is 8 percent.

F Import Duty Reductions and Exemptions

Petitioner alleged that bars and shapes exporters receive import duty reduction or exemptions on equipment used in the production of exports.

G. Preferential Prices for Natural Gas, Oil and Electricity

Petitioner alleged that prices for natural gas, oil and electricity are set by the Mexican government and could include 30 percent discount for respondents. In its response, the Mexican government stated that energy pricing policies are the same for bars and shapes manufacturing as they are for all other domestic industries in Mexico. During verification, we ascertained that the bars and shapes producers paid energy rates that were generally available to industrial users and that they did not receive special discounts.

H. Preferential Vessel, Freight, Terminal, and Insurance Benefits

Industries in Mexico may benefit from rebates or other discounts on transportation, storage, and insurance expenses involved in exporting products to the United States.

I. Equity Infusions

The petition alleged that bounties or grants were provided to the bars and shapes industry through the provision of equity and other benefits by virtue of government ownership and control. The verified companies received no equity infusions.

J. Subsidized Inputs

The petition alleged that the bars and shapes industry purchased iron and coal at preferential terms. The verified companies received no subsidized inputs.

K. Plant Security

The petition alleged that the bars and shapes industry received bounties or grants from the Mexican government through the provision of plant security. The response states and we verified that the Mexican government did not provide plant security to the companies.

L. Port Facilities

The petition alleged that the government of Mexico provided preferential incentives for port facilities used by the steel industry. We verified that no port facilities were utilized by the examined companies.

IV Program Determined To Be Suspended

We determined that the following program has been suspended.

A. Certificado de Devolucion de Impuesto (CEDI)

The CEDI is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise, or, if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product. CEDIs are nontransferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value-added taxes, and import duties) over a period of five years from date of issuance. The government of Mexico suspended eligibility for CEDI tax certificates by an Executive Order published in *Diario Official* and effective on August 25, 1982.

In its response the Mexican government stated that no outstanding valid CEDI certificates are now held by exporters of bars and shapes and that these companies have not in the past used this program to offset their taxes. We verified this statement. Therefore, we are not calculating a net bounty or grant for CEDIs received by the bars and shapes industry before the suspension of this program.

Petitioner's Comments

Comment I

Petitioner argues that there were insufficient sales examined for a dual countervailing duty rate, and that we should use a single high best information rate of duty.

DOC Position.

We disagree. We have obtained information on the value of exports of bars and shapes from Mexico supplied by the U.S. Customs Service under the Special Summary Steel Invoice (SSSI) program. This information shows that we have verified more that 60 percent of 1983 exports, by value, from Mexico of bars and shapes. Based on this verified information, we have determined the bounty or grant to be 2.03 percent *ad valorem,* with the following exception. Four companies unreasonably refused to provide requested information, and in accordance with Commerce regulation 19 CFR 355.39(b), we are applying the higher best information rate to those companies.

Comment 2

Petitioner argues that the Department should not allow new companies to enter the case after the preliminary determinations.

DOC Response

The issue is moot in that we did not take information supplied by these companies into account in making our final determination.

Comment 3

Petitioner alleges that the Department erred in not assessing a preliminary countervailing duty against Mexican companies based on the dual exchange rate and the currency retention "scheme" Petitioner maintains that the Mexican government permits exporters to retain proceeds from foreign exchange that they acquire in their export sales, which gives the exporter access to foreign exchange at the market or preferred rate of exchange.

DOC Position

We disagree. We verified that there is no requirement that an individual or business needs to export in order to get the controlled or favorable rate of exchange for imports. See section II C. of this notice.

Comment 4

Petitioner has expressed concern that bars and shapes imported under TSUSA 806.30, the category for metal articles originating in the United States, sent

abroad for processing, and returned to the U.S. for further processing, may be subject to countervailing duties only on the dutiable "value added" in Mexico. Petitioner argues that this classification should have no effect upon our method of calculating duties, which should be determined by using the total value of these bars and shapes upon importation in the U.S. At the same time, petitioner requests that we exclude one company Materias Primas Raga because it has a contract with a U.S. supplier of raw materials of U.S. origin to process them into finished bars.

DOC Position

None of the products under investigation were classified under TSUSA 806.30 during 1983, the period examined. Therefor, we defer resolution of this issue until it actually arises in the course of a periodic review of these orders under section 751 of the Act. In addition, we are uncertain what position petitioner is advocating on this issue, given the somewhat contradictory views expressed in their brief and in the letter concerning Materias Primas Raga.

Respondent's Comments

Comment 1 of AC, CSG, FLA and ASL

These respondents argue that FOMEX export financing obtained directly by U.S. importers of bars and shapes should be disregarded in calculating the net bounty or grant attributable to the manufacture, production, and exportation of bars and shapes.

DOC Response

We disagree. FOMEX financing provided to U.S. importers of bars and shapes at preferential rate is an export subsidy provided to the merchandise under investigation. See section I.A. of this notice.

Comment 2 of AC, CSG, FLA and ASL

Certain respondents argue that the benchmark for FOMEX dollar-denominated loans should be the interest rate applicable to bankers' acceptances, rather than the interest rate for commercial and industrial short-term loans as published by the U.S. Federal Reserve Bank. Respondents maintain that export sales transactions are secured by the goods themselves. Thus, these transactions involve less risk for the lenders and the loans are made at a lower interest rate.

DOC Position

We disagree. We have been unable to find a national average commercial short-term interest rate for dollar-denominated loans in Mexico. We have determined that banker's acceptances do not accurately reflect the average of dollar denominated loan interest rates.

Comment 3 of AC, CSG, FLA and ASL

Respondents maintain that since the Department verified that the amount of CEPROFI certificates received by three of the companies represent the total amount of CEPROFIs received for all products produced by the companies, and not just the amount related to the production of bars and shapes, the Department must calculate the net benefit of such certificates by taking into account total sales of all products and not just the products under investigation, as was done for purposes of the preliminary determinations. The Department must also disregard CEPROFIs received by one company for merchandise other than bars and shapes.

DOC Position

We agree. We have calculated the benefits received for bars and shapes production separately from the benefits received for total production.

Comment 1 of Aceros Laminados

Counsel for Aceros Laminados, a Mexican steel company, and W. Silver Inc., a U.S. steel importer, has requested exclusion of their producs from these investigations. Aceros Laminados ships to the United States rebars that have been manufactured in the U.S., sent to Mexico under bond for cutting, and returned to the U.S. The companies claim that the petition in combination with section 771(12) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(12)) (the Act), limits these determinations to only products "manufactured" in Mexico. Products which were manufactured in the U.S. and sent to Mexico for reprocessing, they allege, are not within the Act's definition of manufactured merchandise, and should be excluded because of petitioner's letter accompanying the petition which refers to bars "manufactured in Mexico"

DOC Position

These rebars are not excluded from these determinations on the grounds that they have been "manufactured" in the United States rather than Mexico. The scope of these investigations includes all bars and shapes that have been manufactured, produced, or exported in Mexico, as stated in the preliminary determinations and as requested in the petition. The petition itself requests the imposition of countervailing duties upon "steel reinforcing bar and merchant bar imported from Mexico", in its title, and nowhere in its text is there a clause or provision limiting the allegations to only those products "manufactured in Mexico." We therefore find no reason to interpret the language of the accompanying letter as a limitation on the scope of the petition.

In the initiation and preliminary determinations we interpreted the scope of these investigations as set forth in the petition as "bounties or grants within the meaning of the countervailing duty law * * * being provided to manufacturers, producers, or exporters in Mexico of certain deformed concrete rebars, and hot-rolled carbon steel bar-size shapes." That is also the scope of these orders.

If the petition had been limited to bars and shapes "manufactured" in Mexico, even then the Aceros Laminados rebars would not be excluded. The issue then would be the proper definition of "manufactured." Section 771(12) of the Act is inapposite for purposes of this issue, as it is not a definition of the term "manufacture." Additionally, the process of cutting a product to a specific length may properly be considered a process of manufacture. Customs law, for example, defines the term "manufacture" as a processing operation that advances the material in condition or value, or both, but still leaves the material with the same identity. These reprocessed rebars would qualify as being "manufactured" in Mexico under that test.

Comment 2 of Aceros Laminados

Aceros Laminados also states that it has applied to the U.S. Customs Service for a ruling that the rebars it exports qualify for classification under item 806.20 of the Tariff Schedules of the United States, (TSUSA). Item 806.20 is for "articles exported for repairs or alterations," and the duty for such articles is assessed upon the value of those repairs or alterations, rather than upon the full value of the goods. Aceros Laminados maintains that the expected classification of its rebars under TSUSA 806.20 affirms the fact that they are truly of U.S. origin rather than of Mexican manufacture, and that the characterization of the cutting process as an "alteration" will negate the possibility of its being a manufacturing process.

DOC Position

We reserve the question of how TSUSA 806.20 goods are to be treated under these countervailing duty orders for resolution in the course of the administrative review in which the facts require such a decision. Since these

goods have not been subject to a ruling by the Customs Service affording the 806.20 classification, and are presently treated like any other rebar being exported from Mexico, there is no guarantee that their status will change in the future. This issue, therefore, is not ripe for purposes of these investigations.

Comment 3 of Aceros Laminados

Aceros Laminados argues as an alternative basis for exclusion that the company has not received or applied for any benefits from the government of Mexico under the programs involved in these investigations. The company produced a letter certifying and attesting to that fact which was first received by the Department on July 6, 1984.

DOC Position

This certification letter constitutes an untimely request for exclusion because it was submitted more than 30 days after the initiation of these investigations (19 CFR 355.38).

Comment of Respondent Hylsa., S.A.

Counsel for Hylsa, S.A., a Mexican steel corporation, together with the government of Mexico, argue that the Department should accept Hylsa's late response rather than using the best information available to determine whether, and at what rate, the company has received countervailable benefits from the Mexican government. Alternatively, Hylsa asserts that the best information available is the information previously submitted and verified during the investigation of *Certain Carbon Steel Products from Mexico*, along with the additional information provided in the late Hylsa response. These data justify assessment of a company specific rate for Hylsa's exports that is lower than the rate imposed in the preliminary determinations.

DOC Position

The government of Mexico submitted its first response to our questionnaire on behalf of itself and all Mexican producers of bars and shapes on May 11, 1984, and an amended response on May 14, 1984. Both versions listed Hylsa, S.A. as a company which manufacturers, produces, or exports bars and shapes. Both versions stated that Hylsa was not responding, because they "will voluntarily stop their exports of the product under investigation."

In the preliminary determinations, we used the petitioner's estimates of benefits received by the non-responding companies as the best information available. Section 355.39(b) of the Commerce regulations empowers the Department to use the best information otherwise available when information is not submitted in timely fashion, and to take into account an unreasonable refusal to provide requested information when determining what is the best available information. We termed the refusal of Hylsa an unreasonable refusal to cooperate, and calculated the amounts of its subsidization according to information provided by the petitioner submitted on May 23, 1984. We notified the company through a representative of the government of Mexico of our decision. We used petitioner's information because it was the only data then available, and because the regulations specifically authorized us to do so. (19 CFR 355.39(b))

On June 22nd, three days before our verification was to begin, we received from Hylsa an index of information previously submitted in *Certain Carbon Steel Products from Mexico*, along with 1983 financial statements and auditors' reports, other financial documents, and supplementary answers to the questionnaire. Hylsa consented to the use by the Department of the information it had submitted in the previous investigation.

We consider this an inadequate and untimely filed response. The investigation of *Certain Carbon Steel Products from Mexico* did not result in a final determination. The response Hylsa submitted in that case, therefore, though verified by the Department, cannot be used in this case.

Additionally, the earlier investigation involved different product groups and investigative time periods which would result in inaccurate calculations of the net subsidy of bars and shapes. We therefore see no reason for treating the previously submitted information as the best information available. Because Hylsa refused to cooperate and later submitted an inaccurate and untimely filed response, we feel justified in using the petitioner's data as the best information available.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determinations. During verification, we followed normal procedures, including meetings with government officials, inspection of government documents, and on-site inspection of the records and operation of companies exporting the merchandise to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present oral views in accordance with our regulations (19 CFR 355.34(a)). No request was made to present oral views. Written views have been received and considered.

The suspension of liquidation ordered in our preliminary affirmative determination shall remain in effect until further notice. The net bounty or grant for duty deposit purposes is 104.58 percent *ad valorem* for Altos Hornas de Mexico, S.A., Hylsa, S.A., Siderurgica Lazaro Cardenas; and Aceros Corsa, S.A., and 2.03 percent *ad valorem* for all other manufacturers, producers, or exporters.

As required by section 706(a)(3), we are directing the U.S. Customs Service to require a cash deposit in the amount of 104.58 percent for certain named firms and 2.03 percent for all other manufacturers, producers, or exporters of the f.o.b. value for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register, and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), we hereby give notice that we are commencing an administrative review of this order on August 17, 1984. For further information concerning this review contact Richard Moreland (202) 377-2786. This notice is published pursuant to sections 303 and 706 of the Act (19 U.S.C. 1303, 1671e).

Dated: August 13, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[C-301-401]

Certain Textiles and Textile Product from Colombia; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Colombia of certain textiles and textile products, as described in the "Scope of Investigation" section below, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our

investigation proceeds normally, we will make our preliminary determination on or before October 16, 1984.

EFFECTIVE DATE: August 17, 1984.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0167

SUPPLEMENTARY INFORMATION:

Petition

On July 23, 1984, we received a petition from counsel for the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union on behalf of the U.S. producers of certain textile and textile products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Colombia of certain textiles and textile products receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act").

Colombia is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise is dutiable. Therefore, section 303 (a)(1) and (b) of the Act applies to this investigation. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether imports of these products cause or threaten to cause material injury to a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain textiles and textile products from Colombia and we have found that the petition meets the requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Colombia of certain textiles and textile products, as described in the "Scope of the Investigation" section of the notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by October 16, 1984.

Scope of Investigation

The products covered by this investigation are certain textiles and textile products which are described in Appendix A.

Allegations of Bounties or Grants

The petition lists a number of practices of the government of Colombia which it alleges confer bounties or grants on manufacturers, producers, or exporters in Colombia of certain textiles and textile products. These practices are listed below.

(1) Tax Reimbursement Certificate Program (CERT).

(2) Preferential Export Credit through PROEXPO.

(3) Preferential Lending at Government Subsized Rates through the Private Investment Funds (PIF) and the Industrial Fomento Institute (IFI).

(4) The Waiver of Duties and Fees on Imported Machinery under the Plan Vallejo.

(5) Textile Development Program.

(6) Free Industrial Zone.

(7) Export Insurance Subsidy through PROEXPO.

(8) Employee Training Program through El Servicio Nacional de Aprendizaje (SENA).

(9) Export Tax Benefits through Law 67 of 1979.

We are not investigating the following because this program, as described in the petition, is not a bounty or grant.

(1) —Subsidies to Cotton Growers.

Dated: August 13, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A—List of TSUSA Codes Under Which There were Imports From Colombia Into the United States During 1983

The products covered by this investigation are certain textiles and textile products. The merchandise is currently classified under the item numbers of the *Tariff Schedules of the United States Annotated (TSUSA)* listed below.

Yarns							
3006020	3006028	3010000	3012000	3013000	3022024	3023026	3024026
3024028	3025026	3032042	3105047	3109120			

Fabric							
3200002	3200040	3200058	3201038	3201040	3201044	3201054	3201058
3201092	3202032	3202054	3202058	3202092	3203026	3203028	3203058
3204094	3211002	3211092	3221058	3221064	3223092	3230083	3230092
3231088	3241092	3251092	3261092	3312018	3312020	3313020	3361540
3366457							

Special Construction Fabrics							
3455075	3461000	3513000	3514010	3518060	3556510	3571500	3574500

Textile Furnishings							
3601515	3604825	3630520	3631500	3636540	3638000	3642300	3657825
3657865	3658640	3658670	3658680	3661540	3662160	3662460	3662480
3666500	3666900	3667925	3676025				

Apparel							
3702400	3702800	3721030	3721050	3721060	3724500	3741000	3743550
3746040	3762430	3762830	3762886	3780550	3780553	3786030	3786530
3790210	3790220	3790240	3790490	3790640	3790645	3792020	3792350
3792610	3793160	3793180	3794020	3794050	3794320	3794620	3794640
3794670	3795550	3796210	3796215	3796220	3796230	3796240	3796260

3796280	3797250	3797630	3798311	3798340	3798351	3798355	3798360
3798420	3798735	3798904	3798925	3799020	3799510	3799530	3799540
3799555	3799565	3799575	3799585	3799610	3799620	3799645	3830210
3830221	3830306	3830330	3830350	3830390	3830505	3830506	3830570
3830610	3830615	3830616	3830630	3830805	3830810	3830815	3830841
3830860	3831510	3831620	3831841	3832014	3832016	3832060	3832205
3832215	3832230	3832240	3832305	3832310	3832315	3832325	3832330
3832340	3832350	3832352	3832360	3832365	3832708	3832730	3832920
3833010	3833090	3833445	3833448	3833465	3833770	3834300	3834709
3834715	3834730	3834753	3834761	3834765	3835030	3835036	3835052
3835086	3835090	3835830	3836200	3836330	3836360	3836371	3837205
3837210	3837540	3837550	3837560	3837590	3838004	3838045	3838125
3838621	3838670	3839015	3839036	3839040	3839050	3839060	3839070
3839211	3839225	3839230	3839240	3839245	3839255		
Miscellaneous							
3865045	3894000	3896265	7020600	7021200	7031600	7041595	7063640
7064106	7064150	7278200					

[FR Doc. 84-21955 Filed 8-16-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-201-405]

Certain Textiles and Textile Products From Mexico; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of certain textiles and textile products, as described in Appendix A of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before October 17, 1984.

EFFECTIVE DATE: August 17, 1984.

FOR FURTHER INFORMATION CONTACT: Laura Winfrey, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-0160.

SUPPLEMENTARY INFORMATION:

Petition

On July 24, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union filed on behalf of the U.S. industry producing certain textiles and textile products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Mexico of certain textiles and textile products receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, section 303 (a)(1) and (b)(1) of the Act applies to this investigation. Accordingly, for dutiable merchandise included in the petition, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry. In addition, regarding nondutiable merchandise included in the petition there is no requirement for an injury determination because there are no "international obligations" within the meaning of section 303(1)(2) of the Act which require such a determination for nondutiable merchandise from Mexico.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain textiles and textile products from Mexico, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether the manufacturers, producers, or exporters in Mexico of certain textiles and textile products, as described in the "Scope of Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by October 17, 1984.

Scope of Investigation

The products covered by this investigation are certain textiles and textile products as described in Appedix A of this notice.

Allegation of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Mexico of certain textiles and textile products receive benefits under the following programs which constitute bounties or grants:

- Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).
- Fund for Industrial Development (FONEI).
- Import Duty Reductions and Exemptions.
- Preferential Federal Tax Credits (CEPROFI).
- Guarantee and Development Fund for Medium and Small Industries (FOGAIN).
- Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN).
- National Preinvestment Fund for Studies and Projects (FONEP).
- Preferential Prices for Energy in Certain Regions.
- National Financiera, S.A. (NAFINSA).
- Category 12 Loans under Article 94 of the Banking Law.

• Preferential Foreign Currency Financing through PROFIDE.

• Accelerated Depreciation of Capital Equipment and Plant Expansion.

• Benefits Provided Through the National Bank for Foreign Trade (BANCOMEXT).

• Preferential Export Credit Insurance.

• Preferential State Investment Incentives.

In addition, we will include in this investigation the following Mexican government program which, in prior cases, we found might confer counteravailable benefits:

• Trust Fund for Small and Medium Sized Companies (FOMIN).

Dated: August 13, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A

The products covered by this investigation are certain textiles and textile products.

The merchandise is currently classified under the item numbers of the Tariff Schedules of the United States Annotated (TSUSA) listed below:

Yarns							
3006020	3006024	3006028	3010000	3011000	3012000	3013000	3020024
3021024	3021028	3022020	3022024	3022026	3022028	3023024	3023026
3023028	3024026	3032040	3032042	3054000	3076810	3100106	3100109
3100110	3100114	3100130	3100149	3100150	3100208	3100209	3100214
3100230	3100249	3100250	3100270	3100510	3101015	3101070	3101109
3101114	3101150	3101170	3102150	3104027	3104047	3104050	3105015
3105046	3105047	3105049	3105051	3106029	3106034	3106038	3108000
3109000	3109120	3109140					
Cordage							
3152020	3152040	3152500	3153000	3154000	3155500	3165500	3165800
3167000	3190300	3190700					
Fabric							
3200002	3200036	3200088	3200092	3200094	3201002	3201044	3211046
3220002	3221044	3221064	3221072	3221084	3222026	3224094	3225026
3225028	3228028	3229094	3242092	3248090	3251064	3258092	3272092
3273094	3282092	3282094	3312092	3359500	3361540	3366251	3366253
3366257	3384004	3385007	3385009	3385010	3385013	3385021	3385024
3385032	3385036	3385041	3385045	3385046	3385049	3385064	3385065
3385069	3391000						
Special Construction Fabrics							
3455053	3455055	3455057	3455073	3455075	3455077	3460050	3460065
3467000	3476040	3476800	3480065	3513000	3515010	3515060	3516010
3517060	3518060	3519060	3522060	3528010	3528060	3531000	3533012
3535052	3550400	3551600	3552500	3554530	3558100	3562510	3574500
3577010	3578060	3580290	3580690	3581400	3583500	3585040	3591010
3591030							
Textiles Furnishings							
3600600	3601515	3602500	3604225	3604335	3604825	3604835	3607000
3607800	3607900	3608300	3608400	3610530	3610540	3612410	3614200
3614500	3614600	3614800	3615420	3615426	3615610	3615650	3615650
3630510	3630515	3631020	3631040	3632000	3632562	3632564	3632575
3632580	3632590	3634500	3636030	3636540	3638512	3638515	3638525
3638545	3638550	3638555	3640500	3641300	3641800	3642000	3642300
3642500	3643000	3655060	3657815	3657825	3657865	3658400	3658610
3658620	3658640	3658660	3658670	3658680	3661820	3662460	3662480
3664200	3664600	3664700	3665100	3667700	3667925	3667930	3668400
3673424	3673428	3676025	3676040	3676080			

[FR Doc. 84-21958 Filed 8-16-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-225-401]

Initiation of Countervailing Duty Investigation; Certain Textiles and Textile Products from Panama

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Panama of certain textiles and textile products, as described in the "Scope of Investigation" section below, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before October 16, 1984.

EFFECTIVE DATE: August 17, 1984.

FOR FURTHER INFORMATION CONTACT: Jack Davies, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202)377-1784.

SUPPLEMENTARY INFORMATION:

Petition

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute (ATMI), the Amalgamated Clothing and Textile Workers Union (ACTWU), and the International Ladies' Garment Workers Union (ILGWU) on behalf of the domestic textiles and textile products industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Panama of certain textiles and textile products receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"). Panama is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, section 303 (a)(1) and (b) of the Act applies to this investigation. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten to cause material injury to a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain textiles and textile products and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Panama of certain textiles and textile products, as

listed in the "Scope of the Investigation" section of the notice, receive benefits which constitute bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by October 16, 1984.

Scope of the Investigation

The products covered by this investigation are textiles and textile products. The merchandise is currently classified under the *Tariff Schedules of the United States Annotated* (TSUSA) item numbers as listed in appendix A to this notice.

Allegations of Bounties or Grants

The petition alleges that producers, manufacturers, or exporters in Panama of certain textiles and textile products receive benefits under a number of programs that constitute bounties or grants. We will initiate a countervailing duty investigation on the following allegations:

- Tax Allowance Certificates under the Export and Fiscal Incentive Law.
- Tax and fiscal benefits based on location in the Colon Free Trade Zone.
- Tax and fiscal benefits, export financing, and export insurance under the Incentive Law for National Manufactured Products.

Dated: August 10, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration

Appendix A

The products covered by these investigations are certain textiles and textiles products. The merchandise is currently classified under the item numbers of the Tariff Schedules of the United States Annotated (TSUSA) listed below.

Yarns					
310.1170					
Fabric					
338.5009					
Special Construction Fabrics					
355.4530					
Textile Furnishings					
365.7825	366.7925	366.7930			
Apparel					
370.3600	370.8820	373.2200	374.1000	374.1500	374.3530
374.3550	374.4000	374.6020	374.6040	376.2430	376.2830
376.2886	378.0576	379.0240	379.0250	379.0260	379.0620
379.0640	379.2340	379.2630	379.2640	279.3130	379.3140
379.3180	379.3190	379.3336	379.3530	379.3540	379.4020
379.4050	379.4060	379.5520	379.5530	379.5550	379.5555
379.6992	379.7620	379.7630	379.7640	379.8311	379.8360
379.8735	379.8911	379.9035	379.9510	379.9540	379.9555
379.9575	379.9585	383.0305	383.0805	383.1802	383.2205
383.2305	383.2325	383.2720	383.2731	383.4709	383.4730
383.4761	383.5072	383.5073	383.5395	383.6350	383.6360
383.6371	383.6372	383.7560	383.7878	383.8073	383.8160
383.8660	383.9015	383.9060	383.9070	383.9225	383.9245
Miscellaneous					
385.3000	385.5000	386.0430			

[FR Doc. 84-21957 Filed 8-16-84; 8:45 am]
BILLING CODE 3510-DS-M

[Docket No. ITA-AB-1-81]

Robert E. Meyer, Respondent; Decision on Appeal

This is a decision of an appeal filed August 18, 1983 by Robert E. Meyer, Esq. from a decision rendered by Administrative Law Judge Hugh J. Dolan on July 22, 1983.

Having examined both parties' appeal memoranda, Judge Dolan's Initial Decision, and the record below, I find that Judge Dolan's Initial Decision is legally sound and should be affirmed in all respects.

Judge Dolan's Initial Decision does not violate Respondent's constitutionally protected rights nor does it misinterpret the applicable statutory or regulatory law. Judge Dolan in no way abused his discretion nor acted arbitrarily and capriciously.

Accordingly, it is hereby ordered that Judge Dolan's Initial Decision of July 22, 1983 is affirmed in all respects. Within the terms of the Initial Decision, Respondent has thirty (30) days from the date of this order in which to pay the assessed penalty of $5,000 before interest and processing penalties will be imposed.

Dated: August 10, 1984.

William T. Archey,

Acting Assistant Secretary.

[FR Doc. 84-21959 Filed 8-16-84; 8:45 am]
BILLING CODE 3510-25-M

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Taking of Marine Mammals; Issuance of Permit

On March 27, 1984, Notice was published in the Federal Register (49 FR 11700) that an application had been filed with the National Marine Fisheries Service by the National Zoological Park, Smithsonian Institution, Washington, D.C. 20008, to take California sea lions (*Zalophus californianus*) for the purpose of scientific research.

Notice is hereby given that on August 9, 1984, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit to the National Zoological Park, subject to certain conditions set forth therein.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C., and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 14, 1984.

Carmen J. Blondin,

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

[FR Doc. 84-21923 Filed 8-16-84; 8:45]
BILLING CODE 3510-22-M

Taking of Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216)

1. Applicant:

a. Name: Zoologischer Garten der Stadt Wuppertal (P334).

b. Address: Hubertusallee 30, 5600 Wuppertal 1, West Germany.

2. Type of Permit: Public Display.

3. Name and Number of Animals: California sea lions (*Zalophus californianus*), 3.

4. Type of Take: Captive maintenance of beached and stranded animals.

5. Location of Activity: California.

6. Period of Activity: 1 year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Veterinardirektor of Wuppertal have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 84-21924 Filed 8-16-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: August 17, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On April 27, May 25, and June 22, 1984, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (49 FR 18152, 49 FR 20048, 49 FR 22117, and 49 FR 25664) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide the commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1984:

Class 8340

Line, Tent, 8340–00–263–0254

Class 8345

Streamer, Warning, Aircraft, 8345–00–863–9170

SIC 0782

Grounds Maintenance, Lewiston Levee Parkway, Nez Perce County, Idaho

Asotin Recreation Area, Asotin County, Washington

SIC 7347

Janitorial/Custodial, USDA Forest Service, Fernan Ranger Station, 2502 E. Sherman Avenue, Coeur d'Alene, Idaho

Janitorial/Custodial, U.S. Courthouse, 511 E. San Antonio Avenue, El Paso, Texas

SIC 9199

Administrative Services, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado

C.W. Fletcher,
Executive Director.

[FR Doc. 84-21912 Filed 8-16-84; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: September 19, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1984, October 18, 1983 (48 FR 48415):

SIC 7349

Janitorial/Custodial, Federal Building, 648 Mission, Ketchikan, Alaska

Janitorial/Custodial, Federal Building Tower, Floors 2, 7 and 8 and all outside work, 310 New Bern Avenue, Raleigh, North Carolina

Janitorial/Custodial, Federal Building and U.S. Courthouse, 300 West Washington Street, Greenville, South Carolina

Janitorial/Custodial, U.S. Courthouse, 120 North Henry Street, Madison, Wisconsin

SIC 7369

Commissary Shelf Stocking and Custodial, Whiteman Air Force Base, Missouri

C.W. Fletcher,
Executive Director.

[FR Doc. 84-21913 Filed 8-16-84; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare an Environmental Impact Statement; Proposed Construction and Operation of a Multi-Purpose Range Complex at Fort Polk, LA

AGENCY: Department of the Army, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Description of Action:* Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Army, U.S. Army Forces Command, Headquarters, 5th Infantry Division (mechanized) intends to prepare an Environmental Impact Statement on the Proposed Construction and Operation of a Multi-Purpose Range Complex at Fort Polk, Louisiana. This proposed project will provide a modern range and supporting facilities for the new M1 Abrams tank and M2, M3 Bradley fighting vehicles. The Multi-Purpose Range Complex (MPRC) is a facility capable of supporting the individual and collective training tasks associated with these vehicles. None of the present ranges at Fort Polk have this capability. The MPRC vehicular course will consist of three lanes with four to seven gravel course roads per lane, a two-lane access road and a four-vehicle gravel assembly area with vault latrine for each lane. Moving and stationary targets will be provided for each lane. Targets will be wired to a central computer which will control target movement and record scoring. Only inert practice rounds will be fired at the targets; no high explosives rounds will be used at the MPRC. The range complex assembly area will cover about three acres and will include a classroom, administrative and mess facility, latrine and shower facilities, a twenty-vehicle maintenance area and ammunition loading dock. Space requirements of the range complex are dependent on topographic and drainage features. From 500-650 acres will be permanently cleared during construction, and an additional 18,000-30,000 acres will be required for the intensive impact of rounds within the safety fan are unpredictable; therefore, the entire safety fan will be off limits over 200 days per year during training events at the MPRC.

2. *Alternatives:* Four suitable sites for the MPRC have been considered, and one has been designated the preferred site based on better training potential, minimal travel distance from the cantonment area and reduced impact on other training activities.

In addition to the three alternate sites, the alternative of not constructing an MPRC at Fort Polk has been considered. This would require continued use of existing ranges, a reduction in military readiness and result in lesser training potential than location of the MPRC at any of the four suitable sites.

3. *Scoping Process:* The purpose of the scoping process is to determine the significant issues to be addressed in the Environmental Impact Statement (EIS). As part of this process, a public meeting has been scheduled to allow individuals and representatives of organizations to assist in developing a series of issues recommended for detailed discussion in the EIS. This public meeting will be held 29 August 1984 at 7:00 P.M. at the Municipal Country Club, Leesville, Louisiana. In addition to this public meeting, a series of scoping meetings between the Army and other federal, state and local agencies will be scheduled.

4. The following potential issues have been identified to date and will be addressed in the DEIS:

a. Loss of habitat and cavity trees used by Red-cockaded Woodpecker.

b. Increased off-post noise levels.

c. Reduction of available hunting area.

d. Damage to archeological sites.

e. Loss of mineral permit areas.

f. Loss of grazing area currently permitted by the US Forest Service to local cattle owners.

g. Reburial or relocation of natural gas pipeline.

h. Loss of unlimited access to three cemeteries.

5. *Availability of Draft EIS:* The DEIS is expected to be available for public review and comment in June of 1985.

FOR FURTHER INFORMATION, CONTACT: Mr. Stephen Parris, Environmental and Energy Control Division, Directorate of Engineering and Housing, Fort Polk,

Louisiana, 71459 Telephone (310) 535-6260 or (318) 535-6244.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 84-21904 Filed 8-16-84; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Board on International Education Programs; Meetings

AGENCY: National Advisory Board on International Education Programs.

ACTION: Notice of Meetings.

SUMMARY: This notice sets forth the schedule of a forthcoming meeting of the National Advisory Board on International Education Programs. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend.

DATES: September 10-11, 1984.

ADDRESS: FOB-6, The Barnard Auditorium, Horace Mann Learning Center, Room 1131.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Postsecondary Relations Staff, ROB-3, Room 3066, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2715.

SUPPLEMENTARY INFORMATION: The National Advisory Board on International Education Programs is established under section 621 of the Higher Education Act of 1965, as amended, by the Education Amendments of 1980 (Pub. L. 96-374; 20 U.S.C. 1131). Its mandate is to advise the Secretary of Education.

This meeting of the National Advisory Board on International Education Programs is open to the public. The agenda includes reports from two Subcommittees: the Subcommittee on Alternatives to UNESCO (Education Sector) and the Subcommittee on Recommendations for the Reauthorization of the Higher Education Act of 1965, as amended (Title VI). In addition, a report from the Director, Center for International Education and overviews of activities and operations of the Office of Postsecondary Education will be presented.

The meeting will be held from 9:00 a.m. to 4:30 p.m., the 10th of September. The Committee members will visit the Center for International Studies, Georgetown University, Washington, D.C. and the Foreign Service Institute, Arlington, Virginia on the 11th of September.

Records are kept on the committee proceedings and are available for public inspection at the Office of Postsecondary Relations Staff, from 8:00 a.m. to 4:00 p.m., ROB-3, 7th and D Streets, S.W., Room 3066, Washington, D.C.

Signed at Washington, D.C., on July 17, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84-21902 Filed 8-16-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER84-579-000]

AEP Generating Co.; Filing

August 13, 1984

The filing Company submits the following.

Take notice that on August 2, 1984, AEP Generating Company (AEGCO), a wholly-owned subsidiary company of American Electric Power, Inc. (AEP), tendered for filing as initial rate schedules a unit power agreement between AEGCO and Indiana & Michigan Electric Company (IMECO), another AEP subsidiary, for 35% of the output of a new generator, Rockport Unit No. 1, that is presently under construction by IMECO as part of the Rockport Plant, and a unit power agreement between AEGCO and Kentucky Power Company (KEPCO), another AEP subsidiary for an additional 15% of the output of Rockport Unit No. 1. The AEGCO-KEPCO unit power agreement is proposed to become effective only in the event KEPCO is unable to obtain a timely and useful approval by the Kentucky Public Service Commission of a pending application by KEPCO to directly own 15% of Rockport Unit No. 1 by September 1, 1984. Rockport Unit No. 1 is scheduled to commence commercial operation on or about December 1, 1984 with the first testing for commercial operation anticipated to occur not earlier than September 1, 1984. AEGCO has requested that the effective date of the demand and energy related charges in these initial rate schedules be on or about December 1, 1984, the date of commercial operation. AEGCO also seeks authorization to commence billing IMECO for test power and energy commencing with the availability of test energy at the Rockport Plant Unit No. 1 which may begin as early as September 1, 1984. Therefore, AEGCO has asked for a waiver of the 60-day notice period to begin billing for test power and energy effective on or about September 1, 1984.

Copies of this filing have been sent to the Public Service Commission of Indiana, the Michigan Public Service Commission and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21929 Filed 8-16-84; 8:45]

BILLING CODE 6717-01-M

[Docket No. ER84-580-000]

Central Vermont Public Service Corp.; Filing

August 13, 1984.

The filing Company submits the following:

Take notice that on August 2, 1984, the Central Vermont Public Service Corporation (CVPS) tendered for filing as an initial rate schedule a System Sales Agreement (the "Agreement") between the Connecticut Power and Light Company ("CL&P") and the Western Massachusetts Electric Company ("WMECO") (CL&P and WMECO together are hereinafter referred to as the "NU Companies") and Central Vermont Public Service Corporation. The Agreement, dated May 1, 1983, provides for the sale of energy (a "Transaction") from the CVPS system to the NU Companies and the purchase by the NU Companies of energy from the CVPS system.

The Agreement provides that the parties will determine and agree on the day preceding (and shall strive to complete such agreement prior to 11:00 a.m. of the day preceding) the commencement of a Transaction whether it is economically advantageous to the parties that a sale,

pursuant to the Agreement, take place during that day or week.

The NU Companies shall pay CVPS monthly an amount determined by multiplying the megawatt hours delivered by CVPS and received by the NU Companies for the preceding month by the energy reservation charge in dollars/MWH for each transaction occurring in that month plus an energy charge. The energy charge shall be determined by multiplying the megawatt hours delivered by CVPS for the preceding month by the energy rate for each transaction occurring in that month. The energy charge shall be based upon the forecasted incremental energy cost adjusted for transmission losses to the delivery point.

In order to permit the NU Companies to achieve the mutual benefit of this Agreement, CVPS hereby requests that the Commission, waive the sixty-day notice period and permit the rate schedule to become effective on July 30, 1983.

Copies of the filing were served upon the respective jurisdictional customers of the parties hereto, as well as the Vermont Public Service Board. CVPS further states that the filing is in accordance with section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21930 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA84-22-000]

Colorado Interstate Gas Co., Petition for Adjustment

August 13, 1984.

Take notice that on July 25, 1984, Colorado Interstate Gas Company (Petitioner), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. SA84-22-000 a petition for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) for an exemption from the filing requirements of § 281.204(b)(2) of the Commission's Regulations, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that the collection and review of essential agricultural use requirements data and the preparation of the annual update of its index of customer requirements under § 281.204(b)(2) of the Commission's Regulations require substantial time and expense on the part of agricultural users, CIG's customers, CIG personnel and CIG's Data Verification Committee.

Petitioner also states that it anticipates that it would be able to meet the full requirements of its customers in the near term as indicated in Petitioner's FERC Form 16 filed April 30, 1984, and FERC Form 15, for the year ended December 31, 1983. Therefore, Petitioner submits that annual compliance with the filing requirements of § 281.204(b)(2) is currently unnecessary and would result in special hardship and unfair distribution of burdens to Petitioner's customers, as well as to Petitioner.

Petitioner further states that it would make timely and appropriate tariff filings to comply fully with the Commission's Regulations implementing Section 401 of the NGPA should Petitioner determine at a future date that it would not be able to meet its full customer requirements or should its FERC Form 16 projections indicate a supply deficiency.

The procedures applicable to the conduct of this adjustment are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in the adjustment proceedings shall file a motion to intervene in accordance with the provisions of such Subpart K. All petitions to intervene must be filed within 15 days after publication in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21931 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL84-30-000]

Gulf States Utilities Co., Petition for Declaratory Order Directing Disbursement of Settlement Funds

August 13, 1984.

Take notice that on July 30, 1984, Gulf States Utilities Company ("Gulf States") submitted for filing its Petition for Declaratory Order Directing the Disbursement of Settlement Funds pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.101 et seq.).

Gulf States states that it proposes to refund $6,440,939 plus accrued interest, after deductions for administrative and legal expenses, to eligible wholesale customers.

Gulf States proposes to recover its allocation of these expenses, plus interest at the same rate applicable to the refunds to the wholesale customers. Gulf States proposes that the allocation of unreimbursed litigation expenses, amounting to $208,153 be paid out of the accrued interest before disbursement to wholesale customers of the principal and interest.

Therefore, Gulf States requests that this Commission issue a declaratory order directing the disbursement of settlement fund consistent with the proposed manner; that a conference and/or hearing be convened at the earliest opportunity to facilitate the refund to customers; and for all other relief as appropriate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21932 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL84-31-000]

Kern River Cogeneration Co., Petition for Declaratory Order

August 13, 1984.

Take notice that on July 27, 1984, Kern River Cogeneration Company (KRCC) submitted for filing its Petition for Declaratory Order pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207).

KRCC requests an order affirmatively answering the question whether, under the circumstances described in its petition, certain interconnection equipment which KRCC proposes to own and operate as a component of its Kern River Cogeneration Facility (Project) is part of the qualifying cogeneration facility certified on December 9, 1983, by the Commission in Docket No. QF83-423-000 under the Public Utility Regulatory Policies Act of 1978 ("PURPA").

KRCC proposes to own and operate certain interconnection facilities as part of the Project. Those interconnection facilities consist of a switchyard and a 1.6-mile segment of a 2.2.-mile 220 kV transmission line which connects the Project to Southern California Edison Company (SCE) transmission system (collectively, Interconnection Facilities). KRCC states that the Interconnection Facilities will be used to serve the power delivery obligations of the Project and to conduct standby power from SCE to Getty Oil Company (Getty).

KRCC further states that it will pay all costs incurred in connection with the construction, operation and maintenance of the Interconnection Facilities and will receive no compensation from either Getty or SCE for providing interconnection services.

KRCC also states that under the circumstances described in its petition, the Interconnection Facilities are a logical and integral part of the Project's electrical distribution system. The Project requires a switchyard to direct the power generated by the Project to the SCE system and to Getty and to synchronize the power for compatibility with the SCE system. The transmission line is required to conduct electric power for delivery to SCE's transmission system and to conduct standby electric power from SCE to Getty.

KRCC has requested issuance on an expedited basis of an order declaring that under the circumstances described in its petition, the Interconnection Facilities, consisting of the switchyard and the 1.6-mile segment of the 2.2-mile transmission line, are part of the qualifying cogeneration facility certified by the Commission in Docket No. QF83-423-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 4, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21933 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-617-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Certificate

August 13, 1984.

Take notice that on July 30, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-617-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Panhandle proposes to transport natural gas for A.P Green Refactories Company (Shipper) under the authorizaiton issued in Docket No. CP 83-83-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Panhandle proposes to transport up to 4,400 Mcf of natural gas per day and up to 1,314,000 Mcf of natural gas per year on behalf of Shipper. It is stated that Shipper is purchasing the gas through Yankee Resources, Inc., at Panhandle's existing interconnection with Union Texas Petroleum Corporation in Major County, Oklahoma, and the existing interconnection with Oklahoma Natural Gas Company in Dewey County, Oklahoma. From these two points of receipt, Panhandle proposes to transport and deliver equivalent volumes (less four percent reduction for fuel) to Shipper in Audrain County, Missouri. Panhandle attests that Shipper is an existing direct industrial sales customer. Panhandle also requests "flexible authority" to add and delete sources of supply or receipt/delivery points. It is asserted, Panhandle would file additional information to insure that any changes in sources or receipt/delivery points would be on behalf of the same end-user at the same location and under the same terms and conditions which could be authorized in Docket No. CP84-617-000. It is further asserted that Panhandle's transportation charge would be based upon Panhandle's Rate Schedule OST and there is no 5-cent added incentive charge proposed.

Shipper would utilize the gas transported in refactory production in kilns, dryers and auxiliary equipment, it is stated. Panhandle further states that it would not construct nor add to its existing facilities to provide this transportation service. The term of the proposed service would be from the date automatic authorization expires until the earlier of 1) eighteen months from the May 15, 1984, date of the transportation agreement 2) termination of the authorization as provided by Subpart F of 18 CFR Part 157, or 3) termination of the service by any of the parties, it is explained.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kennety F. Plumb,

Secretary.

[FR Doc. 84-21934 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-600-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Certificate

August 13, 1984.

Take notice that on July 25, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-600-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Panhandle proposes to transport natural gas for

Kaiser Aluminum and Chemical Corporation (Shipper) under the authorization issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Panhandle proposes to transport up to 1,900 Mcf of natural gas per day and up to 620,500 Mcf of natural gas per year on behalf of Shipper. It is stated, Shipper is purchasing gas from Consolidated Fuel Supply, Inc., at the tailgate of the Union Texas Petroleum Plant which is attached to Panhandle's system in Major County, Oklahoma. From that point, and from the Mobil Oil Corporation Plant in Dewey County, Oklahoma, Panhandle proposes to transport and deliver equivalent volumes (less four percent reduction for fuel) to Shipper in Audrain County, Missouri. Panhandle attests that Shipper is an existing direct industrial sales customer. Panhandle also requests flexible authority to add and delete sources of supply or receipt/delivery points. It is asserted, Panhandle would file additional information to insure that any changes in sources or receipt/delivery points would be on behalf of the same end-user at the same location and under the same terms and conditions as would be authorized in Docket No. CP84-600-000. It is further asserted that Panhandle's transportation charge would be based upon Panhandle's Rate Schedule OST and there is no 5-cent added incentive charge proposed.

Shipper would utilize the gas transported for space and process heating, it is stated. Panhandle further states that it will not construct nor add to its existing facilities to provide this transportation service. The term of the proposed service would be from the date automatic authorization expires until the earlier of: (1) Eighteen months from the June 6, 1984, date of the transportation agreement, (2) termination of authorization as provided by Subpart F of Part 157 of the Commission's Regulations, or (3) termination of the service by any of the parties, it is explained.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21935 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL84-32-000]

Plains Electric Generation and Transmission Cooperative, Inc., Complainant v. Public Service Co. of New Mexico, Respondent; Complaint, Petition for Declaratory Order, and Motion for Issuance of an Order to Show Cause and Institution of Expedited Proceeding

August 13, 1984.

The filing Company submits the following:

Take notice that on August 2, 1984, Plains Electric Generation and Transmission Cooperative, Inc., (Complainant) submitted for filing its Complaint, Petition for Declaratory Order, and a Motion for an Order to Show Cause and Institution of Expedited Proceeding, pursuant to Sections 205 and 206 of the Federal Power Act, 16 U.S.C. 824 d, e and Rules 206, 207, 209 and 212 of the Rules of Practice and Procedure of the Commission.

Complainant alleges:

(1) that the Public Service Company of New Mexico (Respondent), a jurisdictional electric utility, has received certain refunds from natural gas producers attributable to PNM's purchases since 1977 for use, *inter alia*, in generating electric power sold to Complainant, among others, during that period;

(2) that Respondent has proposed in an application with the New Mexico Public Service Commission (NMPSC) to refund such amounts on the basis of future energy usage plus interest at a flat rate of 11%;

(3) that this Commission has exclusive jurisdiction to determine both the amount and method by which such refunds should be passed on to Respondent's wholesale customers, including Complainant;

(4) that Respondent has not initiated proceedings with this Commission;

(5) and that both Respondent's failure to institute proceedings before this Commission and the proposed refund plan violate Sections 205 and 206 of the Federal Power Act.

Complainant objects to Respondent's failure to initiate proceedings with this Commission to ensure that refunds are made as expeditiously as possible to the wholesale customers. Complainant also objects to Respondent's proposed refund plan as being unjust and unreasonable, as set forth in greater detail below. Therefore, Complainant requests that the Commission:

(a) Issue a declaratory order asserting jurisdiction over this dispute;

(b) Issue an Order To Show Cause requiring Respondent to inform this Commission of its plans and to support both the method by which it will pass on the settlement damages to Plains and the other wholesale customers and the amount of such damages to be refunded; and

(c) Enter upon a hearing on an expedited basis to determine the appropriate basis for calculating the amount of the refund and method of payment due to Plains.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene; copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21936 Filed 8-16-84; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. ER83-487-004]

South Carolina Electric and Gas Co., Refund Report

August 13, 1984.

Take notice that on July 25, 1984, South Carolina Electric and Gas Company (SCE&G) submitted for filing its compliance refund pursuant to the Commission's letter order issued May 2, 1984.

SCE&G states that its refund compliance report includes a summary of the refund, a computation of the base refund, and a computation of interest on

the base refund. The compliance report does not include a recalculation of total revenue under both the bonded rate and the settlement rate.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 27, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21937 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-424-000]

Turbo Gas & Electric, Ltd. Geothermal Heat Pump; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 13, 1984.

On July 23, 1984, Turbo Gas & Electric, Ltd. (Applicant) of 91 Newbury St, Third Floor, Boston, Massachusetts 02116, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commisssion's regulations. No determination has been made that the submittal constitutes a complete filing.

Applicant proposes to construct a 600 kilowatt turbo expander facility, located at the Com Gas Plant, in New Bedford, Massachusetts. The facility would use as its primary energy source the energy made available by depressurization of high pressure transmission gas to low pressure distribution gas. The high pressure gas will be expanded in a turbine driving an induction generator. Applicant characterizes the energy source as "waste" The facility will burn some natural gas to provide supplemental heat to a heat exchanger. The heat exchanger would use as its primary heat source hot water pumped from nearby geothermal wells. The total amount of energy input to the facility from the natural gas burned represents no more than 25% of the total energy input into the system.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21939 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-425-000]

Turbo Gas & Electric, Ltd. Solar Heated Air; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 13, 1984.

On July 23, 1984, Turbo Gas & Electric, Ltd. (Applicant) of 91 Newbury St., Third Floor, Boston, Massachusetts 02116, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Applicant proposes to construct a 600 kilowatt turbo expander facility, located at the Com Gas Plant, in New Bedford, Massachusetts. The facility would use as its primary energy source the energy made available by depressurization of high pressure transmission gas to low pressure distribution gas. The high pressure gas will be expanded in a turbine driving an induction generator. Applicant characterizes the energy source as "waste" The facility will burn some natural gas to preheat the high pressure gas and supplement an outlet gas heat exchanger. The latter would use as its primary heat input solar heated hot air. The total amount of energy input to the facility from the natural gas burned represents no more than 25% of the total energy input into the system.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21940 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-608-000]

United Gas Pipe Line Co., Request Under Blanket Authorization

August 13, 1984.

Take notice that on July 27, 1984, as supplemented August 1, 1984, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP84-608-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to construct and operate a 1-inch sales tap to supply an estimated 100 Mcf of natural gas annually to the residence of Mr. Don Holcomb through Entex, Inc. (Entex), under its Rate Schedule DG-N, under the authorization issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that United was authorized in Docket No. G-232 to sell natural gas to Entex for resale and distribution through Entex's distribution system serving the east Texas area. It is further stated that the currently effective service agreement between United and Entex covering such service is dated December 13, 1979. It is averred that the proposed sales tap would be located on United's Waskom-Goodrich 20-inch line, located in Hancock Smith Survey, Abstract 596, Panola County, Texas. It is further averred that the proposal would cause no increase in Entex's contractual maximum daily quantity nor its entitlement under United's curtailment plan. It is stated that United has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Any person of the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural

Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21941 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF84-5141-000]

Western Area Power Administration; Revised Filing

August 13, 1984.

Take notice that on May 30, 1984 and June 14, 1984 notices were issued in Docket Nos. EF84-5014-000 and EF34-5141-000, respectively; both notices related to Rate Order No. WAPA-23 for third party transmission for the Central Valley Project.

The notice issued on May 30, 1984 contained insufficent filing information and an incorrect docket number. The notice was reissued on June 14, 1984 but it also contained incorrect information. The following is a correct statement of the approval date and effective date of Rate Order No. WAPA-23:

Take notice on May 15, 1984, the Deputy Secretary of the Department of Energy, by Rate Order No. WAPA-23, did confirm and approve, on an interim basis, to be effective on January 1, 1984, a new rate schedule for third party transmission (Schedule CV-TPT1) for the Central Valley Project, Western Area Power Administration.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 29, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-21942 Filed 8-16-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FR-2654-6]

Availability of Environmental Impact Statements Filed August 6, 1984 Through August 10, 1984 Pursuant to 40 CFR 1506.9

Responsible agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 840350, Draft, MMS, MXG, 1985 Eastern, Central and Western Gulf of Mexico OCS Oil and Gas Sales 94, 98, and 102, Leasing, Due: October 1, 1984, Contact: Mark Rouse (504) 837-4720.

EIS No. 840351, Final, FHW, PA, Ohio, River Boulevard/LR-1039, Section 4, and West End Bridge Interchange Construction, Allegheny County, Due: September 17, 1984, Contact: Vincent Ciletti (717) 782-2222.

EIS No. 840352, Final SCS, NC, Swan Quarter Wateshed Flood Protection, Double, West, Quarter and Bay Supplement, Hyde County, Due: September 17, 1984, Contact: Coy Garrett (701) 255-4011.

EIS No. 840353, Final, FS, CA, Devers-Valley 500 kV, Serrano-Valley 500 kV and Serrano-Villa Park 220 kV Transmission Line Project, Orange and Riverside Counties, Due: September 17, 1984, Contact: Hal Seabring (415) 556-9380.

EIS No. 840354, Draft, FAA, MA, Barnstable Municipal Airport Runway 15-33 Extension and Navigational Aid Improvements, Due: October 10, 1984, Contact: M. Ashraf Jan (617) 273-7060.

EIS No. 840355, Final, COE, AK, Endicott Hydrocarbon Reservoir Development Project, Sagavanirktok River Delta, Permit, C/O, Due: September 17, 1984, Contact: Richard Gutleber (907) 552-2572.

EIS No. 840356, Final, FHW, VA, VA-460 Upgrading and Relocation, VA-KY State Line to Intersection Route 83, Deel, Buchanan and Dickenson Counties, Due: September 17, 1984, Contact: James Tumlin (804) 771-2371.

EIS No. 840357, DSuppl, FHW, ND, Washington Street Corridor Improvements, Century Avenue to Bismarck Avenue, Burleigh County, Due: October 1, 1984, Contact: John Kliethermes (701) 255-4011.

EIS No. 840358, FSuppl, UMT, FL, Jacksonville/River Crossing Automated Transit Extension Alternative, Duval County, Due: September 17, 1984, Contact: Steven Arrington (904) 633-2643.

EIS No. 840359, Draft, NRC, LA, River Bend Station Unit 1, Construction License, West Feliciana Parish, Due: October 1, 1984, Contact: Edward Weinkam (301) 492-7000.

EIS No. 840360, Draft, NRC, NY, Nine Mile Point Nuclear Station Unit 2, Operating License, Oswego County, Due: October 1, 1984, Contact: Mary Haughey (301) 492-7000.

EIS No. 840361, Final, BPA, OR, WA, ID, MT, Expanded Residential Weatherization Program, Due: September 17, 1984, Contact: Anthony Morrell (503) 230-5136.

EIS No. 840362, Final, EPA, OH, Middle East Fork Planning Area Wastewater Treatment Systems, Grant, Clermont County, Due: September 17, 1984, Contact: Harlan Hirt (312) 353-2315.

Amended Notices:

EIS No. 840243, Draft, BLM, UT, CO, Book Cliffs Resource Management Plan, Duchesne, Grand and Uintah Counties, Utah and Garfield, Mesa, Moffat and Rio Blanco Counties, Colorado, Due: September 13, 1984, Published FR 6-15-84—Review extended.

EIS No. 840274, Draft, FHW, AK Raspberry Road Reconstruction, between Jewel Lake Road and Minnesota Drive, Due: August 20, 1984, Published FR 6-29-84—Review extended.

Dated: August 14, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-22030 Filed 8-16-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[File No. BPH-840105AD; MM Docket No. 84-793 et al.]

Faye S. Anderson et al., Hearings

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Faye S. Anderson; Smiths Grove, Kentucky.	BPH-840105AD	84-793
B. J. Barry and Lynn B. Williams; Smiths Grove, Kentucky.	BPH-831202AI	84-794
C. John E. Dalton; Smiths Grove, Kentucky.	BPH-830928AC	84-795

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The

text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading and applicants(s)

1. Air Hazard, A, C
2. Comparative, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20534. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-21875 Filed 8-16-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-798 et al.]

T. P Communications, Inc., et al., Hearings

Hearing Designation Order

In re Applications of T. P. Communications, Inc.; MM Docket No. 84-798, File No. BRH-820601D5; Has: Station WYAN-FM, Upper Sandusky, Ohio, 95.9 MHz, Channel 240A; 3.0 kW (H&V), 300 feet; For Renewal of License AND U.S. Communications, Inc.,, MM Docket No. 84-799, File No. BPH-820901AP; REQ: Upper Sandusky, Ohio, 95.9 MHz, Channel 240A, 3.0 kW (H&V), 300 feet; For Construction Permit For a New FM Station.

Adopted: August 7, 1984.

Released: August 13, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by The Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of T. P Communications, Inc. for renewal of license for Station WYAN-FM, Upper Sandusky, Ohio, and U.S. Communications, Inc. for a construction permit for a new FM station on the channel presently occupied by WYAN-FM.

2. Since no determination has been reached that the antenna proposed by U.S. Communications, Inc., would not constitute a menace to air navigation, an issue regarding this matter is required.

3. The applicants are qualified to operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by U.S. Communications, Inc., would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, beter serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., NW., Washington, D.C. 20554.

6. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

7 It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1. 221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended and § 73.3594 of the Commission's Rules, give notice of the hearing, (either individually or, if feasible and consistent with the Rules, jointly) within the time and manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-21876 Filed 8-16-84; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1474]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

August 13, 1984.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of assignments, FM Broadcast Stations. (Quartzsite,Arizona) (MM Docket No. 83-603, RM-4424)

Filed by: Buck Burdette on 6-8-84.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-21874 Filed 8-16-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-003914-001.

Title: Oakland Marine Terminal Agreement.

Parties: The Port of Oakland (Port) Sea-Land Service, Inc. (Sea-Land).

Synopsis: Agreement No. 224-003914-001 modifies the basic agreement by modifying the percentage of wharfage

revenue payable by Sea-Land to the Port for cargo handled at the Port's Outer Harbor Terminal Area, in excess of certain revenue ton levels.

Agreement No.. 224-010631.

Title: Oakland Marine Terminal Agreement.

Parties: Port of Oakland (Port) Korea Shipping Corporation, Ltd. (KSC).

Synopsis: The agreement provides that the Port will assign to KSC premises at the Port's Outer Harbor Terminal, Berth 6, and to other of the Port's public container terminals. The premises will be used for the handling of KSC's vessels and related operations in its transpacific container service. KSC will utilize the premises at the Port of Oakland as its published regularly scheduled Northern California port of call for its vessel operations.

Agreement No.. 223-010632.

Title: Boston Marine Terminal Agreement.

Parties: The Massachusetts Port Authority (Massport) John T. Clark and Son of Boston, Inc. (Clark).

Synopsis: Agreement No. 223-010632 provides that Clark will provide stevedoring and other marine terminal services at the Paul Conley Marine Terminal owned by Massport in the Port of Boston. The agreement will run to September 30, 1986. The parties have requested a shortened review period under section 6(e) of the Shipping Act of 1984.

By Order of the Federal Maritime Commission.

Dated: August 14, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-21919 Filed 8-16-84; 8:45 am]

BILLING CODE 6730-01-M.

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.. 202-009238-011.

Title: Greece/United States Atlantic and Gulf Conference.

Parties: Farrell Line, Inc., Sea-Land Service, Inc., Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would add U.S. intermodal authority and U.S. South Atlantic and Gulf ports to the scope of the agreement. It would also reorganize the agreement, consolidating provisions relating to the agreements authority into one article, adding provisions covering service contracts, shipper's requests and complaints, self-policing and certain prohibited acts, and would revise existing independent action provisions to comply with the Shipping Act of 1984.

By Order of the Federal Maritime Commissioner.

Dated: August 14, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-21918 Filed 8-16-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Caribank Corp., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 7, 1984.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Caribank Corporation,* Dania, Florida; to acquire 100 percent of the voting shares of Caribank of Palm Beach County, Boca Raton, Florida.

2. *Community Banks of Florida, Inc.,* Mims, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Community National Bank, Mims, Florida.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Shelby Financial Group, Inc.,* Shelbyville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Trust Bank of Shelbyville, Shelbyville, Illinois.

C. Federal Reserve Bank of St. Louis (Delmer P Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mammoth Bancorp, Inc.,* Brownsville, Kentucky; to become a bank holding company by acquiring 85.7 percent of the voting shares of Brownsville Deposit Bank, Brownsville, Kentucky.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Rawlins Bankshares, Inc.,* Rawlins, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Commerce, Rawlins, Wyoming.

Board of Governors of the Federal Reserve System, August 13, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21889 Filed 8-16-84; 8:45 am]

BILLING CODE 6210-01-M

First Security Corp., Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise

noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 6, 1984.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Security Corporation*, Salt Lake City, Utah; to engage *de novo* through its wholly owned indirect subsidiary, First Security Investment Management, Inc., Salt Lake City, Utah, in the business of acting as investment or financial adviser in providing portfolio investment advice and furnishing general economic information and advice including advising state and local governments.

Board of Governors of the Federal Reserve System, August 13, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21888 Filed 8-16-84; 8:45 am]

BILLING CODE 6210-01-M

NCB Financial Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under section 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.3(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 7, 1984.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *NCB Financial Corporation*, Williamsport, Pennsylvania; has filed an application to merge with Mid-State Bancorp, Inc., Altoona, Pennsylvania, thereby indirectly acquiring Mid-State Bank, Altoona, Pennsylvania. Mid-State will be merged into NCB Financial Corporation, and the name of the successor company will later be changed to Keystone Financial, Inc. NCB Financial Corporation has previously received approval to engage in underwriting, as reinsurer, credit life and accident and health insurance through Northern Central Life Insurance Company (*de novo*) on February 6, 1984 and a time extension to consummate was granted on May 31, 1984. To date, Northern Central Life Insurance Company is not yet operational.

Board of Governors of the Federal Reserve System, August 13, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-21890 Filed 8-16-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 10.

Public Health Service

Health Resources and Services Administration

Subject: Annual Space Utilization and Enrollment Report for Nursing and Health Professions (0915-0056)—Reinstatement

Respondents: Health professions and nursing schools which received federal construction funds

Subject: Indian Health Service Contract Dental Care Report (0915-0022)—Existing Collection

Respondents: Health care providers under contract to the Indian Health Service

Subject: Indian Health Service Contract Hospital Inpatient Report (0915-0021)—Existing Collection

Respondents: Health care providers under contract to the Indian Health Service

Subject: Indian Health Service Contract Health Service Report (Other than Hospital Inpatient or Dental)—(0915-0020)—Existing Collection

Respondents: Health care providers under contract to the Indian Health Service

OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Social-Epidemiologic Study of Race Differences in Cancer Survival—New Collection

Respondents: Individuals, physicians
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Premarket Notification Submission (510(k)) (0910-0120)—Extension/No Change
Respondents: Medical device manufactures
Subject: Product Application for the Manufacture of Whole Blood and Blood Components (0910-0077)—Extension/No Change
Respondents: Manufacturers of whole blood and blood components
Subject: Request for Certification or Testing of an Antibiotic Batch (0910-0007)—Extension/No Change
Respondents: Manufacturers of antibiotics
Subject: Reclassification Petitions for Medical Devices (0910-0138)—Reinstatement
Respondents: Medical device manufacturers
Subject: Request for Certification of an Insulin Batch (0910-0181)—Reinstatement
Respondents: Manufacturers of insulin
OMB Desk Officer: Bruce Artim

Health Care Financing Administration

Subject: Disclosure of Ownership and Financial Interest Statement (0938-0086)—Reinstatement
Respondents: Providers of services under Titles V, XVIII, XIX, and XX
Subject: Fire Safety Survey Report Forms (0938-0242)—Existing Collection
Respondents: State medicaid agencies
Subject: Hospice Survey Report Form—Existing Collection
Respondents: State medicaid agencies
Subject: Hospital Request for Certification—Existing Collection
Respondents: State medicaid agencies
Subject: Physical Therapist in Independent Practice Survey Report Form (0938-0071)—Existing Collection
Respondents: State medicaid agencies
Subject: Psychiatric Hospital Survey Report Form—Existing Collection
Respondents: State medicaid agencies
Subject: Repayment Request Documents—Hospitals, SNF, HHA—New Collection
Respondents: Hospitals, skilled nursing facilities and home health agencies
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Application for Disability Insurance Benefits (0960-0060)—Revision
Respondents: All applicants for disability insurance benefits
Subject: Application for Wife's or Husband's Insurance Benefits (0960-0008)—Revision
Respondents: All spouses of insured individuals, who are receiving wifes or husband's insurance benefits
Subject: Disability Report and Vocational Report (0960-0141)—Extension/No Change
Respondents: Individuals filing for disability benefits
Subject: Medical History and Disability Report—Widow, Widower, Surviving Divorced Wife or Disabled Child—Extension/No Change
Respondents: All individuals who wish to apply for disability benefits
OMB Desk Officer: Robert J. Fishman

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: August 13, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-21881 Filed 8-16-84; 8:45 am]
BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 81N-0314]

Reexamination of the GRAS Status of Sulfiting Agents; Availability of Tentative Report and Opportunity for Public Comments

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the tentative report of the ad hoc Review Panel on the Reexamination of the GRAS Status of Sulfiting Agents (the ad hoc Review Panel). The ad hoc Review Panel was formed by the Federation of American Societies for Experimental Biology (FASEB), Life Sciences Research Office. FDA and FASEB are inviting oral and written comments on the tentative report. The substances considered in this tentative report are potassium metabisulfite, sodium bisulfite, sodium metabisulfite, potassium bisulfite, sodium sulfite, and sulfur dioxide.

DATES: The tentative report will be publicly available on September 21, 1984. An open meeting of the ad hoc Review Panel is tentatively scheduled for Wednesday, October 31, 1984, 9 a.m., at a location in Bethesda, MD, that will be identified in the tentative report and announced in a future Federal Register notice. Requests to make oral presentations at the open meeting must be made in writing and postmarked before October 26, 1984, and received by October 29, 1984. Written comments on the tentative report must be postmarked before October 26, 1984 and received by October 31, 1984.

ADDRESSES: Written requests for single copies of the tentative report should be submitted to Sue Ann Anderson, Life Sciences Research Office, FASEB, 9650 Rockville Pike, Bethesda, MD 20814. Copies of the tentative report will also be on display at the Life Sciences Research Office and the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857

Written requests to make oral presentations at the open meeting should be sent to Sue Ann Anderson, Life Sciences Research Office, FASEB, and the Dockets Management Branch (addresses above).

Written comments on the tentative report should be sent to Sue Ann Anderson, Life Sciences Research Office, FASEB, and the Dockets Management Branch (addresses above).

FOR FURTHER INFORMATION CONTACT: Sue Ann Anderson, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301-530-7030.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 9, 1984 (49 FR 27994), FDA announced that FASEB had formed the ad hoc Review Panel to reexamine all relevant scientific data that bear on the human effects of sulfiting agents. FDA is announcing that the tentative report ad hoc Review Panel will be available on September 21, 1984. In its tentative report, the ad hoc Review Panel will consider the uses of and exposures to sulfiting agents and the health effects of the sulfiting agents as they relate to the GRAS status of these food ingredients. The sulfiting agents (also known as sulfites) include potassium metabisulfite, sodium bisulfite, sodium metabisulfite, potassium bisulfite, sodium sulfite, and sulfur dioxide.

In 1976, the Select Committee on GRAS Substances (the Select Committee), which was formed by FASEB, evaluated the GRAS status of the sulfiting agents in a report (PB-265 508), which is available from the

National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161. Based in part on that report, in 1982 FDA proposed to affirm that the use of sulfiting agents in food is GRAS (47 FR 29956; July 9, 1982). However, a large quantity of additional data and information on new and wider uses for sulfiting agents in foods and reports of health effects possibly associated with the consumption of sulfiting agents have become available since the Select Committee completed its review. In its tentative report, the ad hoc Review Panel will consider the recent scientific publications and the new information that were submitted to FDA in response to its proposal on the GRAS status of sulfiting agents.

Public comment on the tentative report is invited at an open meeting of the ad hoc Review Panel tentatively scheduled for October 31, 1984, 9 a.m., at a location in Bethesda, MD, that will be identified in the tentative report and announced in a future Federal Register notice. Interested persons are invited to provide data and information on uses of sulfiting agents, exposures to these substances, and health effects of sulfiting agents as well as to give their views on the safety of these substances at this meeting. Written requests to make oral presentations at the open meeting should be sent to the addresses above and must be postmarked before October 26, 1984, and received by October 29, 1984. In addition, interested persons may submit written comments on the tentative report. These comments should also be sent to the addresses above and must be postmarked before October 26, 1984.

Dated: August 14, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-21970 Filed 8-16-84; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Designation of Health Services Areas and Health Systems Agency Application Information

AGENCY: Health Resources and Services Administration, Public Health Services, HHS.

ACTION: Notice designating health services areas in Ohio and announcing application information for the designation and funding of health systems agencies.

SUMMARY: This notice is issued to announce the establishment of ten health service areas for the State of Ohio and to provide information on the application procedures to become a federally designated and funded health systems agency.

DATE: Entities interested in applying for designation must file a letter of intent to apply for such designation with the HHS Regional Office in Chicago by September 17, 1984 and an application by October 16, 1984.

ADDRESS: Application materials and further information may be obtained from the Regional Health Administrator, HHS Regional Office V, 330 S. Wacker Drive, Chicago, Illinois 60606, 312-353-1385.

FOR FURTHER INFORMATION CONTACT: John F. Belin, Director, Division of Planning Assistance and Assessment, BHMORD, 5600 Fishers Lane, Room 9A-19, Rockville, Maryland 20857, 301-443-6680.

SUPPLEMENTARY INFORMATION: On November 14, 1983, Governor Celeste requested that the Department rescind the designation of the State of Ohio under section 1536 of the Public Health System Act (the Act) and designate health service areas for the State. The Governor submitted an area designation plan which requested the establishment of ten health service areas for the State of Ohio. The Department reviewed this plan against the requirements of section 1511 of the Act and approved the Governor's request, as submitted. The only difference between the previous 10 health service areas and the current designation plan is that no bi-State health service areas are proposed.

Pursuant to section 1511 of the Act, as amended, the following areas now constitute the health service areas for the State of Ohio:

Health Service Area number 1 is the geographic area comprised of the counties of:

Butler	Highland
Warren	Hamilton
Brown	Adams
Clinton	

Health Service Area number 2 is the geographic area comprised of the counties of:

Darke	Miami
Clark	Montgomery
Shelby	Champaign
Preble	Greene

Health Service Area number 3 is the geographic area comprised of the counties of:

Pauling	Mercer
Allen	Van Wert
Putnam	Auglaize
Hardin	Logan
Hancock	

Health Service Area number 4 is the geographic area comprised of the counties of:

Williams	Henry
Ottawa	Erie
Defiance	Lucas
Sandusky	Huron
Fulton	Wood
Seneca	

Health Service Area number 5 is the geographic area comprised of the counties of:

Wyandot	Fayette
Pickaway	Knox
Marion	Morrow
Ross	Licking
Union	Delaware
Pike	Fairfield
Madison	Franklin
Scioto	

Health Service Area number 6 is the geographic area comprised of the counties of:

Coshocton	Washington
Athens	Jackson
Muskingum	Harrison
Morgan	Lawrence
Perry	Jefferson
Guernsey	Gallia
Hocking	Belmont
Noble	Meigs
Vinton	Monroe

Health Service Area number 7 is the geographic area comprised of the counties of:

Crawford	Ashland
Holmes	Stark
Richland	Wayne
Tuscarawas	Carroll

Health Service Area number 8 is the geographic area comprised of the counties of:

Summit	Portage

Health Service Area number 9 is the geographic area comprised of the counties of:

Lorain	Geauga
Lake	Cuyahoga
Medina	

Health Service Area number 10 is the geographic area comprised of the counties of:

Ashtabula	Trumbull
Mahoning	Columbiana

With respect to each area there will be designated, in accordance with section 1515 of the Act, a health systems agency whose primary responsibility will be the provision of effective health planning for its health service area and the promotion of the development of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency.

Pursuant to section 1515, notice is hereby given that application materials are now available in HHS Regional Office V for entities interested in applying for designation as the health systems agency for any of the areas listed above.

Once a health systems agency is designated for each of the areas, it will be entitled to receive a planning grant under, and in an amount determined

pursuant to, section 1515 of the Act. The amount of the planning grant will be determined in accordance with a formula set forth in the regulations governing this program (42 CFR Part 122, Subpart C), and will be based, in part, upon the population of the health service area, as determined by the Secretary. See 47 FR 29005 (July 2, 1982).

Dated: August 11, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84-21881 Filed 8-16-84; 8:45 am]

BILLING CODE 4160-16-M

Public Health Service

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Wednesday, September 19 and Thursday, September 20, 1984 at 9:00 a.m. to 5:00 p.m. both days in Room 5051 (Snow Room), Department of Health and Human Services North Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

The Committee will hear reports from its Subcommittees on Uniform Minimum Health Data Sets, Disease Classification and Automated Coding of Medical Diagnosis, and Vital Statistics Cooperative Program; the Work Groups on Indigent Health Data Needs, Statistical Aspects of Physician Payment Systems, and NCHS Publications Review will also report.

Further information regarding he Committee may be obtained by contacting Gail F Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7050.

Date: August 9, 1984.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 84-21920 Filed 8-16-84; 8:45 am]

BILLING CODE 4160-17-M

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the National Committee in Vital and Health Statistics (NCVHS) Subcommittee on Uniform Minimum Helath Data Sets established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Monday, September 17 and Tuesday, September 18, 1984 at 9:00 a.m. to 5:00 p.m. both days in Room 337-339A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The Subcommittee will hear testimony of regulators and providers of long-term care to the public as to the content, methods and procedures used to collect data relating to the provisions of such care.

Further information regarding he Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7050.

Date: August 9, 1984.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 84-21921 Filed 8-16-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C., 1531, *et seq.*):

Applicant: Zoological Society of San Diego, San Diego, CA, APP # 9671BL.

The applicant requests a permit to import two captive-born cape hunting dogs (*Lycaon pictus*) from the Pretoria Zoo, South Africa, for enhancement of propagation.

Applicant: John M. Miller, Corvallis, OR, APP # 152545.

The applicant requests a permit to take (=collect) ten specimens for purple-spined hedgehog cactus (*Echinocereus engelmannii* var *purpureus*) from Federal government lands in UT for scientific research.

Applicant: Institute for Herpetological Research, Stanford, CA, APP # 152406.

The applicant requests a permit to import six radiated tortoises (*Geochelone radiata*) from the Jersey Wildlife Preservation Trust, Great Britain, for enhancement of propagation.

Applicant: Louisiana Purchase Gardens and Zoo, Monroe, LA, APP # 2805BM.

The applicant requests a permit to purchase in interstate commerce one female red-fronted lemur (*Lemur fulvus rufus*) from the Philadelphia Zoological Society for enhancement of propagation.

Applicant: Michael Morrisson, Berkeley, CA, APP # 152410.

The applicant requests a permit to color leg-band San Clemente loggerhead shrikes (*Lanius ludoviciannus mearnsi*) on San Clemente Island, CA for scientific research.

Applicant: David J. Morafka, Carson, CA, APP # 1281BM

The applicant requests a permit to import and reexport 20 captive-born Bolson tortoises (*Gopherus flavomarginatus*) from Institute de Ecologia, Mexico, D.F., Mexico for scientific research.

Applicant: Ernest Johnson, Immokalee, FL, APP # 5783AB.

The applicant requests a permit to import a sport-hunted tropy of a bontebok (*Damaliscus doreas dorcas*) that was culled from a captive herd in South Africa for enhancement of propagation.

Applicant: Duke University Primate Center, Durham, NC, APP # 3260BM.

The applicant requests a permit to import two wild caught diademed sifaka (*Propithecus diadema*) from Madagascar for enhancement of propagation and survival.

Applicant: USFWS/Region 5, Newton Corner, MA, APP # 3419BM.

The applicant requests a permit to capture up to 18 Delmarva fox squirrels (*Sciurus niger cinereus*) from eastern Maryland for release as an "experimental population" in the Assawoman Wildlife Area, Sussex County, Delaware. The purpose is to reestablish the species within its historic range. A detailed discussion of this proposed experimental population was published in Federal Register Vol. 49, No. 67, pp. 13556-13558 on April 5, 1984.

Applicant: Linda Zimmerman, Colorado State University, Ft. Collins, Co, APP # 0417AB.

The applicant requests a permit to import 30 specimens of San Esteban Island chuckwalla (*Sauromalus vasius*) from Mexico for scientific research.

Applicant: John F Irwin, Los Angeles, CA, APP # 3608BM.

The applicant requests a permit to take (=capture collect) specimens of unarmored three-spine stickleback (*Gasterosteus aculeatus williamsoni*) from San Antonio Creek within the Vandenburg Air Force Base, Santa Barbara County, CA for scientific

research. Approximately 200–300 specimens are to be captured and released per month and 12 females are to be sacrificed per quarter over one year.

Applicant: Peabody Museum of Natural History, Yale University, New Haven, CN, APP # 0068AB.

The applicant requests a permit to import blood and tissue of tuatara (*Sphenodon punctatus*) from the New Zealand Wildlife Service for scientific research.

Applicant: Bucky R. Steele, Seagoville, TX, APP # 9992BL.

The applicant requests a permit to purchase in interstate commerce three female Asian elephants (*Elephas maximus*) from Barbara Tata, MA, for enhancement of propagation.

Applicant: USDA, Forest Service, Atlanta, GA, APP # 2952BM.

The applicant requests a permit to remove and reduce to possession (transplant) up to 200 specimens of Harper's beauty (*Harperoeallis flava*) on the Apalachicola National Forest, FL, for enhancement of the survival and propagation.

Applicant: Zoological Society of San Diego, San Diego, CA, APP # 1651BM.

The applicant requests a permit to export three jaguars (*Panthera onca*) to Chengtu Zoological Garden, Szechuan, People's Republic of China, for enhancement of propagation.

Applicant: Rio Grande Zoological Park, Albuquerque, NM, APP # 0572BM.

The applicant requests a permit to import four captive-born Round Island day geckos (*Phelsuma guentheri*) from the Jersey Wildlife Preservation Trust, Jersey, Channel Islands, for enhancement of propagation.

Applicant: Zoological Society of San Diego, San Diego, CA, APP # 03128BM.

The applicant requests a permit to import a pair of kiangs (*Equus hemionus kiang*) from the Canton Zoo, Peoples Republic of China, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 North 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 any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT 2 # or APP # when submitting comments.

Dated: August 10, 1984.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 84-21873 Filed 8-16-84; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit; Detroit Zoological Parks Department

Notice is hereby given that an Applicant has applied in due form for two Permits to import polar bears as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Detroit Zoological Parks Department, 8450 W. 10 Mile Road, Royal Oak, MI 48068–0039, APP #2956BM and APP# 2794BM.

2. Type of permits and activity: Import.

3. Name and number of animals and location of activity: One captive-born female polar bear (*Ursus maritimus*) from Kolmarden Zoo, Sweden and one captive-born female polar bear (*Ursus maritimus*) from Ruhr Zoo, West Germany to the Detroit Zoo, Royal Oak, MI.

4. Period of activity: Six months.

The purpose of these applications is to enhance the propoagation and survival of the species.

Concurrent with the publication of this notice in the Federal Register the Federal Wildlife Permit Office is forwarding copies of these applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Please refer to the appropriate APP # when submitting comments. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements contained in this notice are summaries of those of the applicants and do not necessarily reflect the views of the U.S. Fish and Wildlife Service.

Documents submitted in connection with the above applications are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: August 8, 1984.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-21825 Filed 8-16-84; 8:45 am]

BILLING CODE 4310-55-M

Republication of Lists of Endangered and Threatened Wildlife and Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The Service announces the republication and availability of the current Lists of Endangered and Threatened Wildlife and Plants.

DATE: The republished lists contain all changes through July 20, 1984.

ADDRESSES: Requests for copies should be addressed to the Publications Unit, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of Interior, Washington, D.C. 20240, (703/235–2771).

SUPPLEMENTARY INFORMATION: The Service has incorporated all changes to the lists at 50 CFR 17.11 and 17.12 published since the October 1, 1983 compilation of that title. In addition, minor changes or corrections to the spellings of names, historic ranges, and applicable rules elsewhere in 50 CFR have been incorporated in this special reprinting of these lists. Otherwise, no entry in these lists has been significantly affected. The document also contains a list of the eight species that have been removed from § 17.11 or § 17.12 since 1973. The 24-page document is available from the Publications Unit (address above).

Dated: August 10, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-21830 Filed 8-16-84; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collections requirement and related forms and explanatory material may be obtained

by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau's Clearance Officer and the Office of Management and Budget's reviewing official at (202) 395-7340.

Title: 43 CFR 4100 Grazing Application—Preference Summary and Transfer, Supplemental Information
Bureau Form Number: 4130-1a and 4130-1b
Frequency: Occasionally
Description of Respondents: Applicants desiring livestock grazing use permits
Annual Responses: 10,000
Annual Burden Hours: 2,500
Bureau Clearance Officer (alternate): Linda Gibbs (202) 653-8853

Dated: June 7, 1984.

James M. Parker,
Associate Director.

[FR Doc. 84-21891 Filed 8-16-84; 8:45 am]
BILLING CODE 4310-84-M

[N-3660]

Proposed Modification and Continuation of Withdrawal; Nevada

August 7, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 1,600 acre withdrawal for the Lahontan Reservoir Reclamation Project continue for an additional 50 years. The land will remain closed to appropriation under the public land laws, including mining, but has been and will remain open to mineral leasing.

DATE: Comments should be received by November 15, 1984.

ADDRESS: Comments should be sent to: State Director (NV-943.2), Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

The Bureau of Reclamation proposes that the existing withdrawal made by Public Land Order 4740 of November 6, 1969, be continued for a period of 50 years pursuant to section 204 of the FLPMA of 1976 (90 Stat. 2751; 43 U.S.C. 1714). The land is described as follows:

Mount Diablo Meridian, Nevada

T. 17 N., R. 25 E.,
Sec. 25, E½;
Sec. 36, E½;
T. 18 N., R. 25 E.,
Sec. 24, N½.
T. 18 N., R. 26 E.,
Sec. 16, S½;
Sec. 20, E½.

The area described contains approximately 1,600 acres in Churchill and Lyon Counties, Nevada.

The purpose of this withdrawal is to protect the Lahontan Reservoir Reclamation Project, the watershed and water quality of the Lahontan Reservior area and the use of the land for recreation and wildlife purposes. The withdrawal segregates the land from the operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawals may present their views in writing to the Chief, Branch of Land and Mineral Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued, and if so, for how long. The final determination of the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Edward F. Spang,
State Director, Nevada.

[FR Doc. 84-21922 Filed 8-16-84; 8:45 am]
BILLING CODE 4310-HC-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-202 and 203 (Preliminary)]

Tubular Metal Framed Stacking Chairs From Italy and Taiwan

AGENCY: United States International Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations 731-TA-202 and 731-TA-203 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from Italy and Taiwan of stacking chairs, of metal, having tubular frames, provided for in item 727.70 of the Tariff Schedules of the United States, which are allegedly being sold in the United States at less than fair value (LTFV).

EFFECTIVE DATE: August 10, 1984.

FOR FURTHER INFORMATION CONTACT: William Schechter (202-523-0300), U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on August 10, 1984, by counsel on behalf of Frazier Engineering, Inc., Greenfield, IN. The Commission must make its determinations in these investigations within 45 days after the date of the filing of the petition, or by September 24, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

Written Submissions

Any person may submit to the Commission on or before September 5, 1984, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such

statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with thee investigations for 9:30 a.m. on August 31; 1984, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact William Schechter (202–523–0300), not later than 12:00 noon, August 30, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submission except for confidential business data, will be available for public inspection during regular hours (8:45 am to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: August 14, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84-21343 Filed 8-16-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide updated notice as required by 49 U.S.C. 10524(b)(1) and 49 CFR 1167.4 that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Alco Standard Corporation, 825 Duportail Road, Chesterbrook, Wayne, PA 19087.

2. Wholly-owned subsidiaries (including divisions of the parent corporation and such wholly-owned subsidiaries which may participate in the operations, state of incorporation, and address of their respective principal offices:

Company Name	State of Incorporation	Address
A-Copy, Inc	Division	47 Eastern Boulevard, Glastonbury, CT 06033.
Acme Business Products, Inc	do	4395 Broadway, P.O. Box 4458, Macon, GA 31208.
Acme Pumps and Wellpoints, Inc	do	Post Office Drawer 1760, Plant City, FL 33566.
Acme Wellpoint of Florida, Inc	Florida	Do.
Aerospace Technologies, Inc	Texas	7445 East Lancaster, Fort Worth, TX 76112.
Alco Dispensing Systems	Division	455 East Kehoe Boulevard, Carol Stream, IL 60187.
Alco Foodservice Equipment Co	Florida	The Courtyards, 8181 N.W. 36th Street, Suite No. 20, Miami, FL 33166.
Alco Health Services Corp.	Delaware	P.O. Box 963, Valley Forge, PA 19482.
Alco Mill & Tool Supplies Co	Division	1507 Deloss Street, Indianapolis, IN 46201.
Alco Standard Acquisition Capital Corp	Delaware	2625 Concord Pike, Box 7139, Wilmington, DE 19803.
Alco Standard Canadian Coal	do	Do.
Alco Standard Petroleum	do	Do.
Alexander, Mercer and Hunt Co	Texas	2610 Irving Boulevard, Dallas, TX 75207.
Allegheny Wholesale Drug Co., Inc	Pennsylvania	100 Forty Road, Fitsburg, PA 15235.
Allstate Business Systems of Columbus, Inc	Division	7521 Hamilton Road, Columbus, GA 31835.
American Brazing Corp	do	4428 Harmon Parkway, Willoughby, OH 44094.
American Warehouses, Inc	do	P.O. Box 1816, Houston, TX 77251.
Automotive Center	do	3103 Lafayette Road, Indianapolis, IN 46222.
AMPCO Corp	do	1401 Monticello Avenue, Norfolk, VA 23510.
Autopro Corp	Indiana	7007 Coffman Road, Indianapolis, IN 46268.
A-W-D, Inc	do	Do.
Baldwin Paper Co., Inc	Division	161 Avenue of the Americas, New York, NY 10013.
Barnes Coal Co	Pennsylvania	P.O. Box 824, Valley Forge, PA 19482.
Barnes and Tucker Co	do	Do
Bearing, Belt & Chain	Arizona	P.O. Box 20427, Phoenix, AZ 85004.
Big Drum, Inc	Ohio	P.O. Box 1819, Columbus, OH 43216.
Big Moe Spring & Alignment, Inc	Indiana	4219 Gary Ave., Fairfield, AL 35064.
Brake,Chassis & Spring Co	Division	369 Cleveland Ave., Columbus, OH 43215.
Broco Products Co	do	Beloit Industrial Park I-90, Beloit, WI 53511.
Brotherston Hospital Supply Co	do	60th & Lancaster Avenue, Philadelphia, PA 19131.
Brotherston Health Care Services	do	312 S. 69th Street, Upper Darby, PA 19082.
Brown Drug Co	South Dakota	1414 M Avenue, Sioux Falls, SD 57104.
Carpenter/Offutt Paper, Inc	Division	P.O. Box 849, Long Beach, CA 90801.
Cardinal Auto Parts	do	2033 West State Road 18, Tiffin, OH 44883.
Central Paper Co	do	741 Fourth Street, P.O. Box 300, Menasha, WI 54952.
Chicago Industrial Rubber Co	do	862 Industrial Drive, Elmhurst, IL 60126.
City Automotive, Inc	do	900 Morton Avenue, Martinsville, IN 46201.
Cleveland Range Co	do	1333 E. 179th Street, Cleveland, OH 44110.
Cleveland Springs Co	Ohio	3404 Superior Ave., Cleveland, OH 44103.
Commercial Spring Co., Inc	Division	210 West Alexis Road, Toledo, OH 43612.
Copco Papers, Inc	do	525 N. Nelson Road, P.O. Box 537, Columbus, OH 43216.
Custom Coach Corp	do	1400 Dublin Road, Columbus, OH 43215.
Dean Industries	do	P.O. Box 2807, Culver City, CA 90230.
The Delfield Co	do	980 S. Isabella Road, P.O. Box 470, Mt. Pleasant, MI 48858.
Delta Helicopter Services, Inc	do	47 Eastern Blvd., Glastonbury, CT 06033.
Deluxe Specialties Mfg. Co	do	P.O. Box 979, R.R. #2, Hutchinson, KS 67501.
Dent Spring Service, Inc	do	2590 East Sharon, Cincinnati, OH 45241.
Devon Coal Co	Pennsylvania	P.O. Box 963, Valley Forge, PA 19482.
Devonshire Corp	Delaware	2625 Concord Pike, Box 7139, Wilmington, DE 19803.
The Drug House, Inc	Division	1011 W. Butler Street, Philadelphia, PA 19140.
Duff Brothers, Inc	do	209 North Holly Street, P.O. Box 31, Chattanooga,TN 37401.

Company Name	State of Incorporation	Address
E. A. B., Inc	do	9050 Bank Street, Valley View, OH 44125.
Ebeling & Ruess Co	do	1041 West Valley Road, Devon, PA 19333.
Econo-Copy of Jacksonville, Inc	do	8385 Baycenter Road, Jacksonville, FL 32216.
"500" Auto Parts	do	116 Elm Drive, Plainfield, IN 46168.
56th and Lancaster Avenue Corp	do	5600 Lancaster Avenue, Philadelphia, PA 19131.
Garrett Buchanan Co	do	7575 Brewster Avenue, Philadelphia, PA 19153.
J. & F. B. Garrett Co	do	259 West Fayette Street, Syracuse, NY 13201.
John J. Garrett, Inc	do	114 West Grand Avenue, Anderson, IN 46012.
The Geer Drug Co	do	P.O. Drawer V, Charlestown, SC 29402.
Gibson Auto Parts Corp	Indiana	Mid-Con Corp., P.O. Box 68570, Indianapolis, IN 46268.
Hampshire Corp	Delaware	2625 Concord Pike, Box 7138, Wilmington, DE 19803.
Greenwood Auto Supply	Division	325 Market Plaza, Greenwood, IN 46142.
Hardee Maintenance & Steel Fabricators, Inc	Florida	P.O. Box Drawer 1780, Plant City, FL 33566.
The Horton Company of Jacksonville	do	2525 West Beaver Street, Jacksonville, FL 32205.
Hunt Auto Supply, Inc	Division	1300 Monticello Avenue, Norfolk VA 23510.
Indiana Land Co	Delaware	1615 Concord Pike, Box 7138, Wilmington, DE 19803.
Indianapolis Spring Corp	Indiana	3140 West Morris Street, Indianapolis, IN 46241.
Information Systems, Inc	Division	1227 Bluff Road, Columbia, SC 29201.
Ipsen Industries, Inc	do	P.O. Box 6266, Rockford, IL 61125.
Jackson Products Co	do	P.O. Box 9275, Tampa, FL 33674.
K-T Corp	do	850 Elston Drive, Shelbyville, IN 46176.
Kaiser Auto Parts, Inc	Indiana	Mid-Con Corp., P.O. Box 68570, Indianapolis, IN 46268.
The Kauffman-Lattimer Co	Division	P.O. Box 870, Columbus, OH 43216.
KBM Office Products, Products and Supplies, Inc	do	157 Paxton Street, Harrisburg, PA 17104.
Kex/Copysource	do	P.O. Box 23558, Rochester, NY 14692.
Kilroy Steel, Inc	Ohio	8500 Union Avenue, Cleveland, OH 44105.
The Kilroy Structural Steel Co	do	8500 Union Avenue, Cleveland, OH 44105.
The Otto Konigslow Mfg. Co	do	13300 Coit Road, Cleveland, OH 44110.
Krispy Kake Kone Kompany	Division	P.O. Box 26338, Los Angeles, CA 90026.
L. A. Gauge Co., Inc	California	7440 San Fernando Road, Sun Valley, CA 91352.
The Lancashire Co	Delaware	2625 Concord Pike, Box 7138, Wilmington, DE 19803.
LaSalle Messinger Paper Co	Division	2601 South 25th Avenue, Broadview, IL 60153.
Ledo Dionysus, Inc	Colorado	12603 E. 38th Avenue, Denver, CO 80239.
MDR Corp	Delaware	2625 Concord Pike, Box 7138, Wilmington, DE 19803.
Merco Products, Inc	Division	1298 Bethel Drive, Eugene, OR 97402.
The Metalsource Corp	Ohio	7500 Grand Division Avenue, Cleveland, OH 44125.
Metalsource (Charlotte)	Division	7950 Pence Road, Charlotte, NC 28212.
Metalsource—R.T. Christian	do	467 Manlius Center Road, East Syracuse, NY 13057.
Metalsource—Florida	do	P.O. Box 16621, Temple Terrace, FL 33687.
Metalsource—Gary Steel	do	2980 N.W. 74th Avenue, Miami, FL 33122.
Metalsource—Good Steel Service, Inc	do	7500 Grand Division Avenue, Cleveland, OH 44125.
Metalsource—Great Western Steel	do	2310 West 58th Street, Chicago, IL 60636.
Metalsource—Pacific Division	do	11939 Woodruff Avenue, Downey, CA 90241.
Metalsource (Texas)	do	P.O. Box 3166, Irving, TX 75061.
Metalsource—Triumph Industries	do	8687 South 77th Avenue, Bridgeview, IL 60455.
Metalsource—Wheelock, Lovejoy & Co	do	7500 Grand Division Avenue, Cleveland, OH 44125.
Michigan City Auto Supply, Inc	do	1007 East Michigan Street, Michigan City, IN 46360.
Mid Con Corp	Indiana	7007 Coffman Road, P.O. Box 68570, Indianapolis, IN 46268.
Mid-Continent Paper Corp	Division	1200 Union Avenue, Kansas City, MO 64101.
Missouri Metal Shaping Co	do	9970 Page Blvd., St. Louis, MO 63132.
MLC Leasing Co	Georgia	4395 Broadway, P.O. Box 4408, Macon, GA 31208.
Modern Business Systems	Missouri	2211 St. Mary's Blvd., Jefferson City, MO 65101.
Monarch Paper Co	Division	P.O. Box 50028, Houston, TX 77250-0028.
Northwest Industries, Inc	Oregon	P.O. Box 550, 125 E. 34th Avenue, Albany, OR 97321.
Paper Corp. of the United States	Division	488 Madison Ave. at 51st St., New York, NY 10022.
Parts For Trucks, Inc	do	5725 Canal Road, Valley View, OH 44125.
Parts For Trucks II, Inc	do	3404 Superior Avenue, Cleveland, OH 44103.
Parts Warehousing Corp	do	5500 Cloverleaf Parkway, Valley View, OH 44125.
Ed. Phillips & Sons Co	Minnesota	P.O. Box 1185, Minneapolis, MN 55440.
Ed. Phillips & Sons Co	Nebraska	P.O. Box 27367, Omaha, NE 68127.
Ed. Phillips & Sons of Eau Claire, Inc	Wisconsin	P.O. Box 869, Eau Claire, WI 54702.
Ed. Phillips & Sons Co. of North Dakota	North Dakota	P.O. Box 1978, Fargo, ND 58102.
H. Phillips Co., Inc	Wisconsin	P.O. Box 808, Wausau, WI 54401.
Redco, Inc	Division	P.O. Box 1887, Wilmington, DE 19899.
Relco Financial Corp	Nebraska	1818 Leavenworth Street, Omaha, NE 68102.
Rex Precision Products	Division	14831 Maple, P.O. Box 270, Gardena, CA 90247.
Reynolds Products, Inc	Illinois	2401 North Palmer Drive, Schaumburg, IL 60196.
Riekes Container Company Midwest	Division	10950 Grandview, Overland Park, KS 66210.
Riekes Container Company Southwest	do	2540 Walnut Hill Lane, Dallas, TX 75229.
Riekes Container Company West	do	6270 Caballero Blvd., Buena Park, CA 90620-1193.
Riekes Group, Inc	do	1818 Leavenworth Street, Omaha, NE 68102.
S. Riekes & Sons, Inc	do	1818 Leavenworth Street, Omaha, NE 68102.
The Rourke-Eno Paper Company, Inc	do	P.O. Box 1952, Hartford, CT 06144.
Rita-Ann Distributors, Inc	Pennsylvania	120 East Sixth Street, Chester, PA 19013.
Safety Service Co	Tennessee	15 Fairfield Avenue, Nashville, TN 37210.
Savory Equipment Co	Division	349 Essex Road, P.O. Box 608, Neptune, NJ 07753.
Smith-Higgins Co. Inc	do	P.O. Box 3909 C. R. S., 410 Princeton Road, Johnson City, TN 37601.
Seneca Paper	do	P.O. Box 2010, Rochester, NY 14603.
Shelley Manufacturing Co	do	P.O. Box 522050, Miami, FL 33166.
San Sierra Business Systems of Oregon, Inc	Oregon	1150 Knutson Drive, Medford, OR 97501.
Spectra Office Concepts, Inc	California	4044 N. Freeway Blvd., Sacramento, CA 95834.
San Sierra Business Systems, Inc	Division	4044 N. Freeway Blvd. Sacramento, CA 95834.
San Sierra Business Systems of Eugene, Inc	do	1538 Coburg Road, Eugene, OR 97401.
San Sierra business Systems of Idaho, Inc	do	1620 River Street, Boise, ID 83501.
Southwest Distributing Co	New Mexico	P.O. Box 25025, Albuquerque, NM 87125.
Specialty Sales	Division	3107 Lafayette Road, Indianapolis, IN 46222.
Spectrum Corp	do	Great Valley Corporate Center, 282 Great Valley Parkway, Malvern, PA 19355.
Wm. T. Stover, Inc	do	7511-15 Scott Hamilton Drive, P.O. Box 431, Little Rock, AR 72203.
Strother Drug Co	do	P.O. Box 10069, Lynchburg, VA 24503.
Systems and Services, Inc	do	Thousand Oaks Blvd., Greenville, SC 29607.
Tempo Products Co	do	6200 Cochran Road, Cleveland (Solon), OH 44139.
Thunderhead Oil and Gas Co	New Mexico	3531 Second South West, Albuquerque, NM 87102.
Toscany Imports, Ltd	Division	386 Park Avenue South, New York, NY 10016.
Triangle Automotive Parts, Inc	Ohio	5500 Cloverleaf Parkway, Valley View, OH 44125.

Company Name	State of Incorporation	Address
Truckpro Truck Remanufacturing Center	Division	P.O. Box 998, King of Prussia, PA 19406.
U.S. Range Co	do	14501 S. Broadway, Gardena, CA 90248.
United Wine & Spirits Co., Inc	Wisconsin	P.O. Box 23466, 7025 W. Parkland Court, Milwaukee, WI 53223.
Universal Paper Corp	Division	1600 West Rogers Avenue, P.O. Box 537, Appleton, WI 54912.
Upshur Coals Corp	West Virginia	P.O. Box 789, Buckhannon, WV 26201.
Wyomissing Corp	Division	Seventh and Reading Avenues, West Reading, PA 19611.

1. Parent corporation, address of principal office and State of incorporation: ConAgra, Inc., ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (a Delaware corporation).

2. Wholly-owned subsidiaries which will participate in the operations, addresses of their respective principal offices and State of incorporation:

1. Ag Chem, Inc., Box 67, Girdletree, MD 21829 (a Maryland corporation).

2. Agrichem, Inc., P.O. Box 506, Burlington, WA 98233 (a Washington corporation).

3. Armour Food Company, 111 W. Clarendon Station 1017, Phoenix, AZ 85077 (a Delaware corporation).

4. Armour Food Express Company, 222 S. 72nd Street, Omaha, NE 68114, (a Delaware corporation).

5. Atwood Commodities, Inc., 876 Grain Exchange Bldg., Minneapolis, MN 55415 (a Nebraska corporation).

6. Atwood-Larson Company, 876 Grain Exchange Bldg., Minneapolis, MN 55415 (a Minnesota corporation).

7 Balcom Chemicals, Inc., P.O. Box 1286, Greeley, CO 80631 (a Colorado corporation).

8. Banquet Foods Corporation, One Banquet Place, 13515 Barrett Parkway Drive, Ballwin, MO 63011 (a Delaware corporation).

9. Banquet Foods International, Inc., One Banquet Place, 13515 Barrett Parkway Drive, Ballwin, MO 63011 (a Missouri corporation).

10. Bayshore Foods, Inc., 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (a Maryland corporation).

11. Bayshore Foods Limited, Inc., 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (a United Kingdom corporation).

12. CAG Company, ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (an Oklahoma corporation).

13. CAG Leasing Company, 2001 Reliance Pkwy #A, P.O. 179, Bedford, TX 76021 (a Texas corporation).

14. CAG Subsidiaries, Inc., One Central Park Plaza, Omaha, NE 68102 (an Ohio corporation).

15. Caribbean Basic Foods Company, GPO Box G–1960, San Juan, Puerto Rico, 00936 (a Nebraska corporation).

16. Central Valley Chemicals, Inc., P.O. Box 446, Weslaco, TX 78596 (a Texas corporation).

17 ConAgra Export Company, ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (a Nebraska corporation).

18. ConAgra de Puerto Rico, Inc., ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (a Nebraska corporation).

19. ConAgra Pet Products Company, 3902 Leavenworth Street, Omaha, NE 68105 (a Delaware corporation).

20. ConAgra Transportation, Inc., 5301 West Channel Rd., Catoosa, OK 74105 (an Oklahoma corporation).

21. Country Poultry, Inc., 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (a Delaware corporation).

22. Country Pride Foods, Inc., 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (an Arizona corporation).

23. C-Poultry Company Limited, 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (a United Kingdom corporation).

24. Delmarva Division of Country Pride Foods, Inc., 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (a Maryland corporation).

25. Dixie Ag Supply, Inc., 1801 Old Montgomery Rd., Selma, AL 36701 (an Alabama corporation).

26. Florida Feed Mills, Inc., P.O. Box 2550, Jacksonville, FL 32203 (a Georgia corporation).

27 GA AG Chem, Inc., Empire Expressway, P.O. Box 1260, Swainsboro, GA 30401 (a Georgia corporation).

28. Geldermann/Peavey, Inc., 730 Second Avenue South, Minneapolis, MN 55402 (an Illinois corporation).

29. Grower Service Corp. (NY), 16713 Industrial Parkway, P.O. Box 18037, Lansing, MI 48901 (a New York corporation).

30. Hess & Clark, Inc., 7th and Orange Streets, Ashland, OH 44805 (an Ohio corporation).

31. K–M Properties No. 1, Inc., 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (a Maryland corporation).

32. K–M Properties No. 2, Inc., 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (a Maryland corporation).

33. Loveland Industries, Inc., 2307 West 8th Street, Loveland, CO 80537 (a Colorado corporation).

34. Lynn Transportation Co., Inc., 422 N. Washington, P.O. Box 1997, El Dorado, AR 71730 (an Iowa corporation).

35. MHC, Inc., ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (an Oregon corporation).

36. Mid Valley Chemicals, Inc., P.O. Box 446, Weslaco, TX 78596 (a Texas corporation).

37. Midwest Agriculture Warehouse Co., 725 South Schneider Street, Fremont, NE 68025 (a Nebraska corporation).

38. Molinos de Puerto Rico, Inc., GPO Box G–1960, San Juan, Puerto Rico 00936 (a Nebraska corporation).

39. M&R Distributing Company, P.O. Box E, West Highway 30, Grand Island, NE 68801 (a Minnesota corporation).

40. Northwest Chemical Corp., 4560 Ridge Road, N.W., Salem, OR 97303 (an Oregon corporation).

41. Nutri Basics Company, 3801 N. Hawthorne, Chattanooga, TN 37405 (a Tennessee corporation).

42. Occident Insurance Co., Ltd., 730 Second Avenue South, Minneapolis, MN 55402 (a Bermuda corporation).

43. Omavac, Inc., 3030 L Street, Omaha, NE 68107 (a Nebraska corporation).

44. Ostlund Chemical Co., 1330 Northwest 40th, Fargo, ND 58102 (a North Dakota corporation).

45. Peavey Company, 730 Second Avenue South, Minneapolis, MN 55402 (a Minnesota corporation).

46. Peavey Futures Management Corporation, 730 Second Avenue South, Minneapolis, MN 55402 (an Illinois corporation).

47. Peavey Industries Limited, 730 Second Avenue South, Minneapolis, MN 55402 (a Canada corporation).

48. Peavey International Inc., 730 Second Avenue South, Minneapolis, MN 55402 (an Illinois corporation).

49. Peavey Marts, Incorporated, 730 Second Avenue South, Minneapolis, MN 55402 (a Minneapolis corporation).

50. Peavey Securities, Inc., 730 Second Avenue South, Minneapolis, MN 55402 (a Minnesota corporation).

51. Platte Chemical Co., 150 South Main, Fremont, NE 68025 (a Nebraska corporation).

52. Public Grain Elevator of New Orleans, Inc., 730 Second Avenue, South, Minneapolis, MN 55402 (a Louisiana corporation).

53. Pueblo Chemical & Supply Co., P.O. Box 1279, Garden City, KS 67846 (a Colorado corporation).

54. Sea Alaska International, Inc., 150 Nickerson Street, Suite 300, Seattle, WA 98109 (a Washington corporation).

55. Singleton Seafood Company, 5024 Uceta Road, P.O. Box 2819, Tampa, FL 33619 (a Florida corporation).

56. Snake River Chemicals, Inc., P.O. Box 1196, Caldwell, ID 83650 (an Idaho corporation).

57. Speciality Feed Products Company, 730 Second Avenue, South, Minneapolis, MN 55402 (a Minnesota corporation).

58. Taco Plaza, Inc., 2001 Reliance Parkway, Suite A, Bedford, TX 76021 (a Texas corporation).

59. To-Ricos, Inc., P.O. Box 646, Aibonito, Puerto Rico 00609 (a Nebraska corporation).

60. Trans Agra International, Inc., 1525 Lockwood Road, Billings, MT 59101 (a Wyoming corporation).

61. Transbas, Inc., 1525 Lockwood Road, Billings, MT 59101 (a Tennessee corporation).

62. Tri River Chemical Company, Inc., P.O. Box 2641, Pasco, WA 99302 (a Washington corporation).

63. Tri State Chemicals, Inc., P.O. Box 1206, Hereford, TX 79045 (a Texas corporation).

64. Tri State Delta Chemicals, Inc., P.O. Box 369, Clarksdale, MS 38614 (a Mississippi corporation).

65. Trompi Import Company, 5024 Uceta Road, P.O. Box 2819, Tampa, FL 33619 (a Florida corporation).

66. United Agri Products Financial Services, Inc., P.O. Box 1286, Greeley, CO 80631 (a Colorado corporation).

67 United Agri Products, Inc., 725 South Schneider St., Fremont, NE 68025 (a Delaware corporation).

68. United Agri Products, Special Products, Inc., 13808 "F" Street, Omaha, NE 68137 (a Nebraska corporation).

69. VKG Commodities, Inc., 141 W. Jackson Blvd., Suite 2120A, Chicago, IL 60604 (an Illinois corporation).

70. Westchem Agriculture Chemicals, Inc., 1525 Lockwood Rd., Billings, MT 59101 (a Montana corporation).

71. YVC Corp., 1525 Lockwood Rd., Billings, MT 59101 (a Montana corporation).

1. Parent corporation and address of principal office: Diversey World Holdings, Inc., 6th Floor, 200 West 9th Street, Wilmington, DE 19801.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Diversey Wyandotte Corporation (Delaware)

(ii) Oxford Chemicals, Inc. (Delaware)

(iii) Perolin—IWC, Inc. (Delaware)

(iv) Olympic Manufacturing, Inc. (Delaware)

(v) Beta Technology Incorporated (Delaware)

(vi) Diversey Wyandotte Latin America, Inc. (Delaware)

(1) Parent corporation and address of principal office: EMSCO Industries, Inc., 617 East 7th Street, Sioux Falls, South Dakota 57102.

(2) Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(A) Unilabs, Inc., State of South Dakota.

(B) Molded Plastics, Inc., State of South Dakota.

1. Parent corporation and address of principal office: Mervis Industries, Inc., 2313 Cannon Street, Danville, IL 61832.

2. Wholly-owned subsidiaries which will participate in the operations and States of incorporation:

(a) Danville Steel Warehouse, Division of Mervis Industries, Inc.—Illinois.

(b) General Steel and Metals, Inc.—Illinois.

(c) Circle Iron and Metal Division of Mervis Industries, Inc.—Illinois.

(d) Mervis Steel Division of Mervis Industries, Inc.—Kokomo, Indiana.

(e) Mervis and Sons Division of Mervis Industries, Inc.—Kokomo, Indiana.

(f) Mervis Iron and Metal Division of Mervis Industries, Inc.—Illinois.

(g) Mervis and Sons—Carter Street Division of Mervis Industries, Inc.—Indiana.

(h) Marco Steel Supply Division of Mervis Industries, Inc.—Illinois.

1. Parent corporation and address of principal office: Penn Central Energy Group, Inc., P.O. Box 3478, Galleria Tower 1, 7130 South Lewis Avenue, Tulsa, Oklahoma 74101.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

Buckeye Gas Products Company, Delaware

Gulf Energy Corporation, Delaware

1. Parent corporation and address of principal office: R. J. Reynolds Industries, Inc., 1100 Reynolds Boulevard, Winston-Salem, North Carolina 27102.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Del Monte Banana Company, P.O. Box 011940, Miami, Florida 33131; Florida

(b) Del Monte Corporation, P.O. Box 3575, San Francisco, California 94119; New York

(c) Paddison Truck Lines, Inc., P.O. Box 1033, Hughson, California 95326; Washington

(d) R. J. Reynolds Tobacco Company, P.O. Box 2959, Winston-Salem, North Carolina 27102; New Jersey

(e) RJR Archer, Inc., 1100 Reynolds Boulevard, Winston-Salem, North Carolina 27102; Delaware

(f) Del Monte Frozen Foods, Inc., P.O. Box 3575, San Francisco, California 94119; Delaware

(g) Shippers Imperial, Inc., 2277 7th Street, Oakland, California 94607; California

(h) Bear Creek Corporation, P.O. Box 299, Medford, Oregon 97501; Delaware

(i) Harry and David, P.O. Box 299, Medford, Oregon 97501; Oregon

(j) Jackson & Perkins Company, P.O. Box 299, Medford, Oregon 97501; Delaware

(k) Heublein, Inc., Munson Road, Farmington, Connecticut 06032; Connecticut

(l) KFC Corporation, 1441 Gardener Lane, Louisville, Kentucky 40232; Delaware

1. Parent corporation and address of principal office: Saunders Leasing System, Inc., 201 Office Park Drive, Birmingham, Alabama 35223.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Truck Central, Inc., Alabama.

1. Parent corporation and address of principal office: Sentry Insurance a Mutual Company, 1800 N. Point Drive, Stevens Point, WI 54481. Incorporated—State of Wisconsin.

2. Wholly-owned subsidiaries which will participate in the operation and address of their respective principal offices:

a. SNE Corporation, 910 Cleveland Avenue, Wausau, WI 54401. Incorporated—State of Wisconsin

b. Harris-Crestline Corporation, 910 Cleveland Avenue, Wausau, WI 54401. Incorporated—State of Wisconsin

c. Crestline, Inc., 910 Cleveland Avenue, Wausau, WI 54401. Incorporated—State of Wisconsin

1. *Parent Corporation:* Yellow River Supply Corporation.

2. *Wholly Owned Subsidiaries,* which will participate in the operation:

(a) Barron County Readi-Mix Concrete, Inc. (Wisconsin);

(b) Yellow River Transit Corporation (Wisconsin);

(c) Osterman Sand & Gravel, Inc. (Wisconsin).

1. Parent corporation and address of principal office: Union Carbide Corporation, Old Ridgebury Road, Danbury, CT 06817

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(1) Almac Cryogenics, Inc.—California.

(2) AmCare Corporation—Florida.

(3) Amko Service Company—Ohio.

(4) Arnhem Land Mining Limited—Delaware.
(5) Australia & New Zealand Exploration Company—Delaware.
(6) Baker's Welding Supply Co.—Delaware.
(7) Bayox, Inc.—Delaware.
(8) Beaucar Minerals, Inc.—Delaware.
(9) Bentley Sales Co., Inc.—Wisconsin.
(10) Blue Creek Coal Company, Inc.—Delaware.
(11) Calidria Corporation—Delaware.
(12) Catalyst Technology, Inc.—Kentucky.
(13) Catalyst Technology, (International), Inc.—Delaware.
(14) Catalyst Technology (Midwest), Inc.—Kentucky.
(15) Catalyst Technology (Northeast), Inc.—New Jersey.
(16) Catalyst Technology (Southeast), Inc.—Louisiana.
(17) Catalyst Technology (Southwest), Inc., Texas.
(18) Catalyst Technology, (West Coast), Inc.—California.
(19) CG Acquistion Company, Inc.—Delaware.
(20) Chemicals Marine Fleet, Inc.—Delaware.
(21) Columbia Welding Products, Inc.—Oregon.
(22) Cryogenic Equipment and Service Corporation—Delaware.
(23) Dexter Realty Corporation—Ohio.
(24) Eveready Batteries Ltd.—Delaware.
(25) Global Industrial Corporation—New York.
(26) Hampton Roads Welders Supply Company, Incorporated—Virginia.
(27) Harvey Company—Pennsylvania.
(28) International Cryogenic Equipment Corporation—Delaware.
(29) Iweco, Inc.—Delaware.
(30) Karba Minerals, Inc.—Delaware.
(31) KSC Liquidating, Inc.—Delaware.
(32) KTI Chemicals, Inc.—Delaware.
(33) Linde Homecare Medical Systems, Inc.—Connecticut.
(34) Linox Welding Supply Co.—Illinois.
(35) London Chemical Company, Inc.—Delaware.
(36) R.S. McCracken, Inc.—Pennsylvania.
(37) Merritt-Holland Company—North Carolina.
(38) Mobile Welding Supply Co., Inc.—Alabama.
(39) Mon-Arc Welding Supply, Inc.—Delware.
(40) Paulsboro Packaging, Inc.—New Jersey.
(41) Phoenix Research Corporation—Delaware.
(42) Polysak, Inc.—Connecticut.
(43) Ponce Construction Corporation—Puerto Rico.
(44) Prentiss Glycol Company—Delaware.
(45) Presto Hartford, Inc.—Connecticut.
(46) Presto Welding Supplies, Inc.—Oklahoma.
(47) Seadrift Pipeline Corporation—Delaware.
(48) Societe Miniere Union Carbide du Niger—Delaware.
(49) Soilserv, Inc.—California.
(50) South Charleston Sewage Treatment Company—West Virginia.
(51) Ucar Capital Corporation—Delaware.
(52) Ucar Energy Services Corporation—Delaware.
(53) Ucar Interam, Inc.—Delaware.
(54) Ucar Louisiana Pipeline Company—Delaware.
(55) Ucar Minerals Corporation—Delaware.
(56) Ucar Pipeline Incorporated—Delaware.
(57) Ucore Limited—Delaware.
(58) Umetco Minerals Corporation—Delaware.
(59) Unigas, Inc.—New York.
(60) Union Carbide Africa and Middle East, Inc.—Delaware.
(61) Union Carbide Agrichemicals, Inc.—Delaware.
(62) Union Carbide Agricultural Products Company, Inc.—Pennsylvania.
(63) Union Carbide Caribe Inc.—Delaware.
(64) Union Carbide Communications Company, Inc.—Delaware.
(65) Union Carbide Eastern, Inc.—Delaware.
(66) Union Carbide Engineering and Hydrocarbons Service Company, Inc.—Delaware.
(67) Union Carbide Engineering and Technology Services (Africa and Middle East), Inc.—Delaware.
(68) Union Carbide Ethylene Oxide/Glyol Company—Delaware.
(69) Union Carbide Europe, Inc.—Delaware.
(70) Union Carbide Exploration Corporation—Delaware.
(71) Union Carbide Films—Packaging, Inc.—New York.
(72) Union Carbide Films—Packaging, Ltd.—Delaware.
(73) Union Carbide Grafito, Inc.—New York.
(74) Union Carbide Imaging Systems, Inc.—Delaware.
(75) Union Carbide Industrial Products Africa, Ltd.—Delaware.
(76) Union Carbide Industrial Services Company—Texas.
(77) Union Carbide Inter-America, Inc.—Delaware.
(78) Union Carbide International Capital Corporation—New York.
(79) Union Carbide International Sales Corporation—Delaware.
(80) Union Carbide Middle East—Limited—Delaware.
(81) Union Carbide Pan America, Inc.—Delaware.
(82) Union Carbide Polyolefins Development Company, Inc.—Delaware.
(83) Union Carbide Puerto Rico, Inc.—Puerto Rico.
(84) Union Carbide Southern Africa (USA), Inc.—Delaware.
(85) Union Carbide Subsidiary B, Inc.—Delaware.
(86) Union Carbide Susidiary C, Inc.—Delaware.
(87) Union Carbide Turkey, Inc.—Delaware.
(88) Welders Service Center of Nebraska, Inc.—Nebraska.
(89) Welders Service Center of New Jersey, Inc.—New Jersey.
(90) Welding and Cutting Supply Company—Ohio.

James H. Bayne,
Secretary.

[FR Doc. 84-21837 Filed 8-16-84; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-10)]

Intrastate Rail Rate Authority—Kansas

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Decision.

SUMMARY: The Commission extends the provisional certification of the Kansas Corporation Commission under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, pending submission of revised standards and procedures as noted in the full decision.

DATE: Kansas' provisional certification will expire October 16, 1984, unless prior to that date Kansas files the required standards and procedures.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc. Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: August 3, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,
Secretary.

[FR Doc. 84-21836 Filed 8-16-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of forms under review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advice members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics
Employee Benefits Survey Questionnaire
BLS 31111
Annually
Businesses or other for profit; Non-profit institutions
1,500 responses; 2,250 hours; 1 form

The Employee Benefits Survey is the only statistically valid source of information on detailed provisions of employee benefits. It is used to determine policy directly affecting benefits of Federal employees and indirectly affecting benefits of all workers; also by private sector in benefits administration, union negotiations, and research.

Signed at Washington, D.C., this 14th day of August 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84-21961 Filed 8-16-84; 8:45]

BILLING CODE 4510-23-M

Employment and Training Administration

[TA-W-15.061]

Philadelphia Steel & Wire Corp., Philadelphia, PA; Affirmative Determination Regarding Application for Reconsideration

By an application dated July 5, 1984, a company official requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers at the Philadelphia Steel & Wire Corporation, Philadelphia, Pennsylvania. The determination was published in the Federal Register on June 5, 1984 (49 FR 23254).

The application asked that import data be confirmed to lockwashers specifically and not to washers in general. It also asked that the Department's customers survey focus on distribution of lockwashers who frequently import fasters in bulk and repackage them for distribution to retail outlets. It claims the retail outlet customers could not ordinarily identify the article as imported.

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore, granted.

August 1, 1984.

Robert A. Schaerfl,

Director, Office of Program Management, UIS.

[FR Doc. 84-21963 Filed 8-16-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,055]

Weyerhaeuser Co., Columbia River Lumber Corporation; Longview, WA; Termination of Administrative Reconsideration

On June 25, 1984, the Department affirmed a request from counsel for the International Woodworkers of America for administrative reconsideration of its denial of trade adjustment assistance to workers of Weyerhaeuser Company, Columbia River Lumber Corporation, Longview, Washington. The request claimed, among other things, that the mill closed in May 1984 and that the petitioning workers now meet all three group eligibility criteria of section 222 of the Trade Act of 1974.

The Department's denial was based on increased company sales and production in the first ten months of 1983 compared to the same period in 1982 and seasonality of worker layoffs in this industry. Facts presented by counsel in the request for reconsideration pertained largely to conditions that existed and events that occurred subsequent to the Department's factfinding conducted in response to the worker petition on which the decision was based. Because of these facts, the Department requested and counsel agreed to have a new petition submitted on behalf of workers of Columbia River Lumber Corporation.

A new petition, TA-W-15,407, dated July 24, 1984 was received by the Department on August 3, 1984. A factfinding investigation was initiated on August 7, 1984 in response to the petition. Accordingly, the Department is terminating its reconsideration action of the decision on the petition TA-W-15,055 and directing its efforts to complete the factfinding and issue a decision in response to the new petition.

Signed at Washington, D.C. this 9th day of August 1984.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, UIS.

[FR Doc. 84-21962 Filed 8-16-84; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Weyerhaeuser Co., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separation began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 27, 1984.

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 August 27, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 13th day of August 1984.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

	Location	Date received	Date of petition	Petition No.	Articles produced
Petitioner (Union/workers of former workers of:)					
Weyerhaeuser Co., Columbia River Lumber Corp. (IWA).	Longview, WA	Aug. 7, 1984	July 24, 1984	TA-W-15, 407	Cedar lumber post for fencing.
AT & T Technologies, Inc. (workers)	Kearny, NJ	July 6, 1984	June 21, 1984	TA-W-15, 408	Telephones, printed circuit boards and electronic components.
Bata Shoe Co., Inc. (workers)	Elkins, WV	July 29, 1984	July 28, 1984	TA-W-15, 409	Shoes—men, women and children.
Burlington Industries, Textured Woven Div., Volunteer Plant (company).	Bristol, TN	Aug. 6, 1984	Aug. 1, 1984	TA-W-15, 410	Fabrics—polyester.
Capri Beachwear, Inc. (ILGWU)	Farmingdale, NY	do	July 31, 1984	TA-W-15, 411	Swimwear—women.
Christina Fashions (ILGWU)	Rockaway, NJ	June 25, 1984	June 18, 1984	TA-W-15, 412	Dresses—ladies.
Cleveland Crane & Engineering (USWA)	Wickliffe, OH	Aug. 3, 1984	July 31, 1984	TA-W-15, 413	Cranes, shears, presses.
General Electric Co. (workers)	Linton, IN	Aug. 7, 1984	Aug. 1, 1984	TA-W-15, 414	Motors, electric, horse power, fractional.
(The) Hanover Shoe, Inc. (workers)	Middletown, MD	Aug. 6, 1984	Aug. 2, 1984	TA-W-15, 415	Shoe uppers.
Hamischfeger Corp., Hydraulic Equip. Div. (Tool & Die Makers).	Schiller Park, IL	do	Aug. 1, 1984	TA-W-15, 416	Parts, component for construction equipment.
Purolator Products, Inc. (Employees Union, Inc. of Puralotor).	Rahway, NJ	July 17, 1984	July 11, 1984	TA-W-15, 417	Filters—oil, air, gas.
Sjoblom Shake & Shingle Mill (workers)	Winlock, WA	July 29, 1984	July 18, 1984	TA-W-15, 418	Shakes & shingles—roofing.
Tobin-Hamilton Shoe Co. (wkrs)	Birch Tree, MO	Aug. 3, 1984	Aug. 1, 1984	TA-W-15, 419	Shoes—childrens.
Willapa Bay Fisheries (CO.)	South Bend, WA	July 24, 1984	July 7, 1984	TA-W-15, 420	Shrimpmeat & bottom fish frozen for the institutional market.

[FR Doc. 84-21964 Filed 8-16-84; 8:45 am]
BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-458]

Gulf States Utilities Co. and Cajun Electric Power Cooperative; Availability of the Draft Environmental Statement for River Bend Station

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-1073) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the River Bend Station located on the Mississippi River in West Feliciana Parish, Louisiana. The Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic impacts associated with normal station operation. Station accidents are addressed in Section 5.9 of this statement.

Copies of NUREG-1073 are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555, and at the Louisiana State University, Government Document Department, Baton Rouge, Louisiana 70803.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES. Other local agencies may obtain these documents upon request.

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Louisiana State University. Comments are due by October 1, 1984. After consideration of the comments submitted on the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the Federal Register.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 9th day of August 1984.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 84-21851 Filed 8-16-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-410]

Niagara Mohawk Power Corp., Availability of the Draft Environmental Statement for Nine Mile Point Nuclear Station, Unit 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-1085) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Nine Mile Point Nuclear Station, Unit 2 located on the southeast shore of Lake Ontario in Scriba, Oswego County, New York. The Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic impacts associated with normal station operation. Station accidents, their likelihood of occurrence and their consequences, including severe accidents, are addressed in Section 5.9 of this statement.

Copies of NUREG-1085 are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555, and at the Pennfield Library, State University College, Oswego, New York 13126. The document is also being made available at the State Clearinghouse, New York State Division of the Budget, State Capitol, Albany, New York 12224. A free single copy of Draft NUREG-1085, to the extent of supply, may be requested for public comment by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES. Other local agencies may obtain these documents upon request.

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Pennfield Library, State University College, Oswego, New York. Comments are due by October 1, 1984. After consideration of the comments submitted on the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the Federal Register.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 9th day of August 1984.

For the Nuclear Regulatory Commission.

Albert Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 84-21850 Filed 8-16-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Co. et. al., Availability of Safety Evaluation Report for the Millstone Nuclear Power Station, Unit No. 3

The Office of Nuclear Reactor Regulation has published its Safety Evaluation Report related to the proposed operation of the Millstone Nuclear Power Station, Unit No. 3, located in the Town of Waterford, New London County, Connecticut. Notice of receipt of the Northeast Nuclear Energy Company's application for a facility license for the Millstone Nuclear Power Station, Unit No. 3 was publish in the Federal Register on March 4, 1983 (48 FR 9408).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385 for inspection and copying. Copies of NUREG-1031 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. GPO Deposit Account holders may charge their order by calling (301) 492-9530.

Dated at Bethesda, Maryland, this 13th day of August, 1984.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 84-21952 Filed 8-16-84; 8:45]

BILLING CODE 7590-01-M

Application for License To Import Nuclear Material

Pursuant to 10 CFR 110.70 (b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following application for an import license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the Federal Register. Any request for hearing or petition for leave to intervene shall be served by the requestor of petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

The table below lists the new major application.

Dated this 10th day of August 1984 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NRC IMPORT APPLICATION

Name of Applicant; date of Application; dated Received; Application No.	Material type (percent)	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Westinghouse Electric; 8-7-84; 8-8-84; ISNM84007.	4.1	27,830	1,141	In exchange for material exported under XSNM02165 to Eurodif.	From France.

[FR Doc. 84-21950 Filed 8-16-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Combined Subcommittees on Reactor Radiological Effects and Humboldt Bay Nuclear Power Plant, Unit No. 3; Meeting

The ACRS Subcommittees on Reactor Radiological Effects and Humboldt Bay Project will hold a joint meeting on September 10, 1984, at the Eureka Inn, Eureka, CA. The Subcommittees will review plans by the Pacific Gas and Electric Company (PG&E) for decommissioning the Humboldt Bay Nuclear Power Plant, Unit No. 3.

In accordance with the procedures outlined in the Federal Register on September 28, 1983 (48 FR 44291), 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 Subcommittees, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Officer 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.

The agenda for subject meeting shall be as follows:

Monday, September 10, 1984—1:00 p.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittees, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of PG&E, the NRC Staff, Subcommittee consultants, and other interested persons.

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 Officer, Mr. John C. McKinley (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. EDT.

Dated: August 14, 1984.

Morton W. Libarkin,
Assistant Executive Director for Project Review.

[FR Doc. 84-21951 Filed 8-16-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-13225]

Application and Opportunity for Hearing; American Airlines, Inc.

August 13, 1984.

Notice is hereby given that American Airlines, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeships of Manufacturers Hanover Trust Company ("MHTC") under a 1983 indenture which was qualified under the Act and a new indenture which has not been qualified under the Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest of for the protection of investors to disqualify MHTC from acting as trustee under either of the two indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Sebsection (1) of this section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture under which any other securities of the same obligor are outstanding. However, pursuant to clause (ii) sof subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for a hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Applicant alleges that:

1. On July 21, 1983, the Applicant filed a Registration Statement (Registration No. 2-84905), covering $95,683,000 principal amount of Secured Equipment Certificates, Series A, of varying interest rates and dates of maturity (the "Series A Certificates").

2. The Series A Certificates were issued pursuant to a Trust Indenture and Mortgage, dated as of July 1, 1983, among Wilmington Trust Company, as Owner Trustee, MHTC, as Indenture Trustee, and the Applicant, as Lessee.

3. The proceeds from the sale of the Series A Certificates were used to provide long-term financing for approximately 65% of the equipment cost of seven new McDonnell-Douglas MD-82 passenger aircraft (previously designated as DC-9-82 passenger aircraft) which are being leased to the Applicant (the "Series A Aircraft").

4. The Series A Certificates are secured by a security interest in the Series A Aircraft and the right of MHTC to receive rentals on the Series A Aircraft payable by the Applicant.

5. The Applicant is not in default in any respect under the Series A Indenture or under any other existing indenture.

6. The Applicant has filed, or is filing simultaneously, a Registration Statement on Form S-3 (the "Registration Statement") covering the proposed issuance of approximately $96,500,000 in aggregate principal amount of Secured Equipment Certificates, Series B (the "1984 Certificates").

7. The 1984 Certificates will be issued pursuant to a trust indenture securing such series, to be qualified under the Act, among Wilmington Trust Company or another banking institution, as trustee (the "Owner Trustee"), the Applicant, as Lessee and an indenture trustee. The Applicant desires to appoint MHTC as indenture trustee under such new indenture (the "1984 Indenture").

8. The proceeds from the sale of the 1984 Certificates will be used to finance a portion of the equipment cost of up to eight new McDonnell-Douglas MD-82 passenger aircraft to be leased to the Applicant (the "1984 Aircraft").

9. The 1984 Certificates will be secured by a Security interest in the 1984 Aircraft and the right of the Owner Trustee to receive rentals on the 1984 Aircraft payable by the Applicant. The 1984 Aircraft involved in this transaction are separate from, and in addition to, the seven Series A Aircraft.

10. The Series A Certificates and the 1984 Certificates (assuming the 1984 Indenture is qualified) will be secured under separate indentures by separate security interests in separate and distinct propety. Should MHTC have occasion to proceed against the security under the 1984 Indenture (assuming it is appointed indenture trustee under the 1984 Indenture), such action would not affect the security or the use of any security under the other indenture, or prejudice the rights of the holders thereunder. The proposal that MHTC serve as indenture trustee under the indentures discussed herein is analogous to the situation contemplated by Section 310(b)(1)(c) of the Act permitting the same person to act as trustee under two or more indentures which are wholly secured by separate and distinct parcels of real estate.

11. The difference in the provisions of the Series A Indenture and the 1984 Indenture are

not likely to involve MHTC in a material conflict of interest so as to make it necessary in the public interest or for the protection of investors to disqualify MHTC from acting as indenture trustee under either of such indentures.

The Applicant waives notice of hearing and waives any and all rights to specific procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than September 10, 1984, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-21903 Filed 8-16-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23393; 70-6613]

Allegheny Power System, Inc., et al.; Proposed Transactions Related to Acquisition of Additional Undivided Interests in Pumped Storage Project

August 13, 1984.

In the matter of Allegheny Power System, Inc., Allegheny Generating Company, 320 Park Avenue, New York, New York 10022; Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia 26554; The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740; and West Penn Power Company, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601.

Allegheny Power System, Inc. ("APS"), a registered holding company, and four of its subsidiary companies named above have proposed a further transaction in this filing subject to sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act").

By order in this proceeding dated April 23, 1982 (HCAR No. 22469), an interrelated series of transactions was authorized pursuant to which Allegheny Generating Company ("AGC") was to acquire certain ownership and purchase power interests in the 2,100 MW Bath County Pumped Storage Project ("Project") being constructed by Virginia Electric and Power Company ("Vepco"). As part of such authorization, AGC's purchase obligations were to be funded through equity contributions not to exceed $350 million by its parents (Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company), and up to $650 million of short-term and medium-term debt including a $225 million revolving credit and term loan agreement with a group of eleven banks. Such purchase and initial funding were consummated of April 27, 1982, at which time AGC acquired an undivided 20% ownership interest in the Project for a purchase price of $176,852,262.

Subsequent to April 27, 1982, as required by the Project Agreement, AGC has paid 20% of the continuing construction expenditures as they were made until such payments together with those included in the purchase price for the initial undivided interest aggregated $217 million (which occurred in mid-June 1984). AGC has also made an aggregate of $23,070,000 of option payments pursuant to the Project Agreement equal to the effective financing costs (the approximate equivalent of AFDC recorded by Vepco) from January 1, 1980, on $217 million less the cost of construction included in the purchase price or subsequently paid. Such option payments may be credited against either purchases of additional undivided ownership interests in the Project or capacity purchase.

AGC now proposes, subject to regulatory approval, to exercise its option to purchase additional undivided interests in the Project so that its total ownership interest in the Project will amount to not more than 40% assuming a total Project cost of $1.7 billion. AGC proposes to finance the acquisition of the additional undivided interest in the Project with an appropriate mix of equity investments by its parents (approximately 35% to 40%) and medium and long-term debt financing.

The price of additional interests in the project include reimbursement to Vepco for any income tax it incurs as a result of the sale. A sale at book cost results in a gain to Vepco because its tax basis is less than book cost since interest and certain other costs are currently deductible. Payment on ongoing construction costs to acquire an additional interest in the project involves no sale and no gain to Vepco. Therefore, in order to minimize the tax reimbursement portion of the price, AGC should pay as much of the cost of ongoing construction as it can since no taxable gain to Vepco results.

As of June 1, 1984, AGC's parents have provided $85 million of equity, and it is expected that a total of not to exceed an additional $150 million will be required for the purchase of the additional interest in the Project proposed. Until arrangements for permanent debt financing are finalized and authorized, it is proposed that the APS companies or APS will lend funds to AGC, in addition to equity funds, necessary to pay all constuction costs and, to the extent desirable, purchase undivided interest to increase its total undivided interest in the project to not in excess of 40% ownership. The aggregate principal amount of such borrowings is expected not to exceed $250 million for the entire 40% ownership. Any borrowings which AGC makes from its parents will be in proportion to their ownership of AGC, will mature in one year or less, and will bear interest at a rate equal to the applicable interest cost of its parents. The permanent non-equity financing will consist of medium and long-term debt issued to financial institutions, the APS companies, or to APS. The APS companies desire to consummate the proposed transactions in order to assure pumped storage capacity on an economic and assured basis when required in the future.

The proposal and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 10, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as now amended or as it may be further amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-21901 Filed 8-16-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 912]

United States-Spain Joint Committee for Science and Technology; Announcement of Cooperative Research Awards in Applied Science and Technology

Introduction

The United States-Spain Joint Committee for Scientific and Technological Cooperation announces the opening of the application period for cooperative research awards in applied science and technology in accordance with the provisions of Complementary Agreement Seven of the Agreement on Friendship, Defense and Cooperation between the United States of American and Spain. For the field of health and medical sciences, this program includes both basic and applied science.

Scope and Characteristics of the Program

These awards support cooperative research in applied science and technology which is relevant to the economic modernization and social well-being of the United States and Spain. Approximately 20 to 30 project awards will be made under this announcement.

Eligibility

U.S. and Spanish scientists should be affiliated with government agencies, departments, associations and foundations, or non-profit academic institutions, scientific associations and foundations. Scientists from the two countries must apply jointly. The proposal should identify the Principal Investigator in each country.

Fields of Activity

Proposals may be submitted in the following areas:

Agriculture and Forestry
Natural Resources
Oceanography and Marine Science
Environment
Industrial Technology and Industrialization
Energy
Health and Medical Sciences
Space
Transportation and Communications

With special justification, proposals in other areas of applied science may be submitted.

How to Apply

U.S. scientists may obtain application forms from Dr. Edward A. Padelford, Office of Cooperative Science and Technology Programs, Department of State, Washington, D.C. 20520, telephone (202) 632-0638. U.S. Government employees should obtain application forms from the international affairs office of their agency (see Appendix A). Spanish applicants should contact the Executive Secretariat of the United States-Spain Joint Committee for Scientific and Technological Cooperation, Cartagena 83-85, Madrid 28, Spain; telephone (91) 256-0408.

The U.S. and Spanish proposals must be submitted together as a joint proposal. The Joint proposal will be submitted by either the U.S. or Spanish scientist (not both) to the Executive Secretariat in Madrid. Proposals must be typed. An original and seven copies must be received by the Secretariat by November 30, 1984. Proposals generally should not exceed 25 pages overall.

The evaluation process will begin following that date and will last approximately three months. Selection results are expected to be announced by April 1985, and applicants will be notified accordingly by mail by the Secretariat.

Selection Criteria

Projects will be judged according to the following selection criteria:

(a) Scientific merit
(b) Clearly stated objectives and plan of work
(c) Adequate distribution and joint nature of research activities
(d) Appropriateness of budget to proposed research
(e) Interest and benefit for both countries

The Joint Committee may, in addition, consider other criteria such as the need for a representative cross-section of scientific disciplines and geographic areas.

Budget Limitations and Project Length

Project budgets should not exceed a joint total of $80,000 per year for one-year and two-year projects, or a maximum of $200,000 for three-year projects.

Reporting Requirements

Awardees will be expected to submit annual and final technical and financial reports, and semi-annual statements of expenditures. Continued funding of multi-year projects will be contingent upon the timely submission of satisfactory reports.

Dissemination of Research Results

U.S. and Spanish awardees will be expected to publish research results jointly in appropriate scientific literature.

Related Programs

Limited funding is available for two additional award programs in the applied sciences: A Visiting Scientist Program and a Program of Joint Seminars. Selection criteria are essentially the same as those listed above for cooperative research projects.

Visiting Scientists: These awards will be provided to U.S. scientists for long-term research visits (6-15 months). Evidence of acceptance by a Spanish institution and a research plan must be provided in the proposal. The award will consist of round trip air travel to Spain and a stipend/living allowance, and may include a small amount for supplies. Awards are limited to a maximum of $25,000. Awardees may wish to supplement awards with home-institution funds such as sabbatical payments. It is anticipated that between 10 and 15 visiting scientists awards will be made under this announcement.

Joint Seminars: Consideration will be given to proposals for small bilateral seminars or workshops on timely research topics of mutual interest. Sufficient expertise and interest in the subject area should exist in both countries to make a bilateral meeting mutually beneficial. Awards are limited to $20,000.

How to Apply for Visiting Scientist and Joint Seminar Awards: Scientists interested in Visiting Scientist or Joint Seminar awards may obtain application forms from Dr. Edward A. Padelford, Office of Cooperative Science and Technology Programs, Department of State, Washington, D.C. 20520, telephone (202) 632-0638. U.S. Government employees should obtain application forms from the international affairs office of their agency (see Appendix A). Spanish applicants should contact the Executive Secretariat at Cartagena 83-85, Madrid 28, telephone (91) 256-0408.

All proposals for these two award programs must be sent to the Executive Secretariat at the above address. The original and seven copies must be received by the Secretariat by November 30, 1984.

Other Joint Committee Programs

There is a separate program in the "basic sciences" involving the collaboration of the National Science Foundation. See Federal Register Vol. 49, No. 19, January 27, 1984, pages 3551–53 for details, or contact The Spain Program, Division of International Programs, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, telephone (202) 357–7554.

Dated: August 8, 1984.

Charles Horner,

Deputy Assistant Secretary for Science and Technology, Bureau of Oceans and International Environmental and Scientific Affairs.

Appendix A—Cooperating Departments and Agencies in Applied Science Program

Agriculture and Forestry

Mr. James O. Butcher (also Mr. Whetten Reed), International Research Division, Department of Agriculture, Room 4200—Auditors Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, (202) 475–4751

Energy

Dr. Moustafa Soliman, Office of International Energy Affairs, IE–121—Room 7A029, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6777

Environmental Affairs

Ms. Jane Lovelace, Office of International Activities, U.S. Environmental Protection Agency, 401 M. Street, SW., Washington, D.C. 20585, (202) 382–7394

Health and Medicine

Dr. Peter Henry, Director, Office for Europe and China, Office of International Health, Public Health Service, Department of Health and Human Services, Room 18–87 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Industrialization and Industrial Technology

Dr. P Goodman, PhD, Senior Technical Advisor, Office of the Assistant Secretary for Productivity, Department of Commerce, Room 4824, Washington, D.C. 20230, (202) 377–0825

Natural Resources—General

Mr. Robert Sturgill, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (202) 343–3101

Fish and Wildlife

Mr. Lawrence Mason, Office of International Affairs, Fish and Wildlife Service, U.S. Department of the Interior, Room 2441, Washington, D.C. 20240, (202) 343–5188

Geology

Mr. Paul Teleki, Office of International Geology, U.S. Geological Survey, U.S. Department of the Interior, 917 National Center, Reston, Virginia 22092, (703) 860–6974

National Parks

Mr. Richard J. Cook, International Affairs, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–7063

Water Resources

Ms. Marvene Sullivan O'Rouke, Bureau of Reclamation, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343–5236

Oceanography and Marine Science

Mr. William Erb, Director, Office of Marine Science and Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs—Room 5801, Department of State, Washington, D.C. 20520, (202) 632–0650

Space

Ms. Karen Kleinsorge, International Plans and Programs, International Affairs Division, National Aeronautics and Space Administration, Washington, D.C. 20546, (202) 453–8452

Transportation

Mr. Bernard A. Ramundo (also: Mr. John Eymonerie), Chief, International Cooperation Division and Secretariat, Room 10302, Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–4398

Other Areas of Mutual Interest

Archeology and Archaeometry

Ms. Jacqueline Olin, Conservation and Analytical Laboratory, Smithsonian Institution, Washington, D.C. 20560, (202) 287–3717

Housing/Urban Planning

Mr. Leo F Pozo-Ledezma, Office of International Affairs, Office of the Secretary, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–5770

Metrology and Standards

Dr. Kurt F J. Heinrich, Chief, Office of International Relations, Room A–511—Administration Building, National Bureau of Standards, Gaithersburg, Maryland 20899, (301) 921–2463

Military and Engineering

Dr. Francis Kapper, Assistant Deputy Under Secretary (Technology Transfer), Office of the UnderSecretary of Defense for Research and Engineering, Department of Defense, Washington, D.C. 20301, (202) 697–2697

Nuclear Safety

Dr. Joseph D. Lafleur, Jr., Deputy Director, Office of International Programs, Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492–7131

Questions Relating to the Overall Program

Dr. Edward Padelford, Science and Technology Program, Officer for Spain, OES/SCT—Room 4330, Department of State, Washington, D.C. 20520, (202) 632–0638

[FR Doc. 84–21894 Filed 8–16–84; 8:45 am]
BILLING CODE 4710–09–M

[CM–8/757]

UNESCO Monitoring Panel; Meeting

The UNESCO Monitoring Panel will meet on September 21, 1984, 9:00 a.m., Room 1110, 1400 Key Boulevard, Arlington, Virginia. The purpose of this meeting is to continue the process of monitoring and reporting on the activities of UNESCO during 1984.

The principal agenda items will concern:

(a) The Panel Members' July consultations in Paris.

(b) Preparations for the 120th Executive Board, including discussion of the Executive Board's Temporary Committee and the Director General's Five Working Groups.

(c) Preparation for the work of the Panel's seven task forces.

(d) The GAO report on UNESCO.

The discussion on the first three agenda items will be open to the public. The meeting will adjourn at about noon and will reconvene in the afternoon in a closed session to receive an oral briefing from a GAO representative on the congressionally mandated GAO review of UNESCO's administrative practices. This segment of the Panel's meeting has been closed pursuant to section 10(d) of

the Federal Advisory Committee Act and section 5 U.S.C.b(C)(9)(b).

The public may attend the open portion of the meeting up to the seating capacity of the room. Members of the public may submit written statements. Any oral interventions by interested members of the public will be made at the discretion of the Chairman.

For further information, call or write the Executive Secretary of the UNESCO Monitoring Panel, Mr. Lee Sanders, or Assistant Executive Secretary, Ms. Jamie Miller at: IO/CU Room 4808, Department of State, 2201 C Street, NW., Washington, DC 20010, (202) 632-2674.

Dated: August 9, 1984.

Jamie Miller,

Acting Executive Secretary, UNESCO Monitoring Panel.

[FR Doc. 84-21928 Filed 8-16-84; 8:45 am]

BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Motor Carrier Advisory Committee; Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on September 12, 1984, beginning at 9:00 a.m., in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh Street SW., Washington, D.C., Room 2230. The meeting is open to the public.

The agenda includes the following topics: A report on the highway related provisions of the Deficit Reduction Act of 1984, the national truck network, uniform State regulations, and the Motor Carrier Safety Assistance Program.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Stapleton, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC-20, Room 4224, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-0834. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on: August 15, 1984.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 84-22029 Filed 8-16-84; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 161
Friday, August 17, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Federal Reserve System	4
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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, August 28, 1984.

PLACE: 2033 K Street, NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Consideration of Chicago Mercantile Exchange proposed rule amendments relating to establishment of a Mutual Offset System with the Singapore International Monetary Exchange, Ltd.

CONTACT PERSON FOR MORE INFORMATION: Jane K. Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-21978 Filed 8-15-84; 10:44 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 30046.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11:00 a.m., Tuesday, August 21, 1984.

CHANGES IN THE MEETING: The meeting has been postponed until Tuesday, August 28, 1984, at 11:00 a.m.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-21979 Filed 8-16-84; 10:44 am]

BILLING CODE 6351-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—August 22, 1984.

PLACE: Hearing Room One—1100 L Street, NW., 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: Portion open to the public.

1. Request of North Atlantic Conferences for special permission to show geographic locations by ZIP codes.

Portions Closed to the public:

1. Activities of Arctic Gulf Marine Inc., Peninsula Shippers Association, Inc., and Southbound Shippers, Inc.
2. Docket No. 83-39: Agreement No. 10464—Review of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5724.

Francis C. Hurney,

Secretary.

[FR Doc. 84-21967 Filed 8-15-84; 8:59 am]

BILLING CODE 6730-01-M

4

FEDERAL RESERVE SYSTEM (Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, August 22, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Proposed acquisition of real property by a Federal Reserve Bank.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 14, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-22007 Filed 8-15-84; 12:29 pm]

BILLING CODE 6210-01-M

5

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, September 5, 1984.

PLACE: Board Hearing Room 8th Floor, 1425 K. Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of August, 1984.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

DATE OF NOTICE: August 14, 1984.

Rowland K. Quinn, Jr.

Executive Secretary, National Mediation Board.

[FR Doc. 84-21985 Filed 8-15-84; 11:17 pm]

BILLING CODE 7550-01-M

Federal Register

Friday
August 17, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

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.

Arkansas:	
AR84-4092	Jan. 13, 1984.
AR84-4093	Jan. 13, 1984.
Colorado: CO83-5113	July 15, 1983.
Oklahoma:	
OK84-4033	May 18, 1984.
OK84-4034	May 18, 1984.
Illinois: IL83-2052	July 1, 1983.
Indiana:	
IN83-2067	Sept. 2, 1983.
IN83-2071	Sept. 9, 1983.
IN83-2069	Sept. 2, 1983.
Louisiana: LA84-4010	Mar. 9, 1984.
New York: NY83-3018	May 20, 1983.
Ohio:	
OH83-5122	Nov. 25, 1983.
OH83-5124	Dec. 2, 1983.
OH83-5123	Dec. 2, 1983.
OH83-5125	Dec. 23, 1983.
Oh83-5127	Dec. 23, 1983.
Pennsylvania:	
PA83-3001	Aug. 19, 1983.
PA82-3012	Mar. 5, 1982.
PA83-3047	Oct. 14, 1983.
PA83-3051	Nov. 25, 1983.
PA83-3048	Oct. 7, 1983.
PA79-3020	July 20, 1979.
PA81-3068	Sept. 25, 1981.
PA81-3073	Oct. 2, 1981.
PA81-3076	Oct. 9, 1981.
PA81-3090	Dec. 18, 1981.
PA82-3010	Mar. 5, 1982.
PA82-3011	Mar. 12, 1982.
PA84-3015	June 1, 1984.
PA84-3002	Feb. 10, 1984.
PA84-3003	Feb. 10, 1984.
Texas: TX84-4005	Feb. 22, 1984.
West Virginia: WV83-3022	Nov. 18, 1983.

Cancellation of General Wage Determination Decision

The general wage decision listed below is cancelled. Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting Form SF–308. See Regulations Part 1 (29 CFR), section 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.6(c)(2)(i)(A), the incorporation of the cancelled decision

in contract specifications, the opening of bids is within ten (10) days of this notice, need not be affected.

VA82-3035—York County and the independent City of Hampton (including Langley AFB and Fort Monroe), dated December 3, 1982 in 47 FR 54747—Building and Sewer and Water Line Construction.

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

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATIONS P 1

DECISION #AR84-4092-MOD.#6 (49 FR 1846-Jan 13, 1984)	Basic Hourly Rates	Fringe Benefits
SEBASTIAN, CRAWFORD, AND WASHINGTON COUNTIES, ARKANSAS		
CHANGE:		
Sebastian and Crawford Counties:		
Bricklayers and Stonemasons	$13 00	$ 85
Marble Masons, Tile Layers, and Terrazzo Workers	13 00	85

DECISION #AR84-4093-MOD.#5 (49 FR 1847-Jan 13, 1984)	Basic Hourly Rates	Fringe Benefits
PULASKI AND JEFFERSON COUNTIES, ARKANSAS		
CHANGE:		
Marble, Tile, and Terrazzo Workers	$11 40	$ 80

DECISION #CO83-5113-MOD#4 (48 FR 32451-July 15,1983)	Basic Hourly Rates	Fringe Benefits
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado		
CHANGE:		
Carpenters:		
Area 1		
Zone 1:		
Boulder	$15 935	3 57
Remainder of Counties	15 145	3 36
Zone 2:		
Boulder	17 93	3 57
Remainder of Counties	17 04	3 36
Zone 3:		
Boulder	19 92	3 57
Remainder of Counties	18 93	3 36

DECISION #OK84-4033-MOD.#7 (49 FR 21257-May 18, 1984)	Basic Hourly Rates	Fringe Benefits
Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfusgee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner, and Washington Cos , Oklahoma		
CHANGE:		
Painters - Area 3		
Brush, Roller, Tapers, and Paperhangers	$13 02	$ 60
Spray, Steamclean, Sandblasting and Pot Tenders	13 52	60

DECISION #OK84-4034-MOD. # 7 (49 FR 21252- May 18, 1984)	Basic Hourly Rates	Fringe Benefits
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Clevoland, Comanche, Cotton, Custer, Dewey, Ellis, Grant, Greer, Grady, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Garvin, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Stephens, Tillman, Washita, Woods, and Woodward Counties, Oklahoma		
CHANGE:		
Electricians:		
Area 3:		
Zone 2	$14 05	3-1/4% + 1 30
Tile Layers, Terrazzo Workers, and Marble Masons	16 25	$1 50

MODIFICATIONS P 2

DECISION NO. IL83-2052 - Mod#8 (48 FR 30576 - July 1, 1983)	Basic Hourly Rates	Fringe Benefits
Adams, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Clinton, DeKalb, Fulton, Greene, Hancock, Henderson, Henry, Jersey, JoDaviess, Knox, LaSalle Lee, Livingston, Logan, McDonough, McLean, Macoupin, Marshall Mason, Menard, Mercer, Monroe, Montgomery, Morgan, Ogle, Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Stark, Stephenson, Warren, Washington, Whiteside, Winnebago, and Woodford Counties, Ilinois		
CHANGE:		
BOILERMAKERS:		
Area 2	$18 40	4 53+5%
Area 3	18 50	3 03
BRICKLAYERS;CAULKERS;CLEANERS; POINTERS & STONEMASONS:		
Area 3	16 69	3 01
Area 7	16 86	2 99
Area 17	15 75	1 87
Area 18	15 11	2 97
CARPENTERS;LATHERS; MILLWRIGHTS PILEDRIVERMEN & SOFT FLOOR LAYER		
Area 4:		
Carpenters, Lathers, Pile-Drivermen & Soft Floor Layer	15 80	3 85
Millwrights	18 72	2 49
Area 5:		
Carpenters; Lathers & Soft Floor Layers	15 605	2 94
Millwrights	16 105	2 94
Area 7:		
Carpenters, Soft Floor Layer	14 90	2 60
Area 11:		
Carpenters, Millwrights, Pile Drivermen & Soft Floor Layer	16 785	2 90
Area 17:		
Carpenters, Lathers, Soft Floor Layers	15 97	2 54
Millwrights, Piledrivermen	16 47	2 54
CEMENT MASONS;PLASTERERS:		
Area 3:		
Cement Masons	15 42	3 95
Plasterers	15 44	2 51
Area 4	16 10	1 65
Area 5:		
Cement Masons	15 13	3 70
Plasterers	15 07	3 70

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Area 1	17 12	$2 05+ 3.75%
Area 4	17 20	2 25+3¾%
Area 5	18 23	2 45+3 6'
Area 8:		
Electricians	16 34	1 66+8%
Cable Splicers	17 34	1 66+8%
MARBLE SETTERS; TERRAZZO WORKERS & TILE SETTERS:		
Area 10	15 75	1 87
Area 11	14 10	2 75
PAINTERS:		
Area 2:		
Brush	15 69	1 86
Taper	15 94	1 86
Spray & Blast	16 69	1 86
Area 9:		
Brush	15 35	2 38
Pressure Roller, Sandblast Spray, Structural Steil	16 20	2 38
Paperhangers	15 95	2 38
Area 10:		
Brush, Drywall Taping & Finishing, Wall Covering	15 00	
Spray	16 00	
Pressure Roller, Sandblast and Structural Steel	15 50	
Area 15:		
Brush	15 80	1 75
Spray, Taper, Steel, High-Work	16 30	1 75
Bridges, Airless Spraying	16 80	1 75
PLUMBERS; PIPEFITTERS; and STEAMFITTERS:		
Area 1	16 05	2.45
Area 2	20 00	2 13+e
Area 3	18 73	2 78
Area 5	16 50	3 70
Area 6	17 23	2 58
Area 7	17 60	2 60
Area 9	17 65	3 05
Area 10	16 89	3 50
Area 13	16 55	4 83
ROOFERS:		
Area 9	14 25	2 00
SHEETMETAL WORKERS:		
Area 3	17 13	3 25
Area 4	17 12	2 48 + f
Area 5	16 45	2 51 + f
Area 7	16 75	2 61 + f

MODIFICATIONS P 3

DECISION NO IL83-2052 (cont'd)

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
Area 1:		
Unskilled	$13 89	$1 70
Semi-skilled	14 09	1 70
Skilled	14 24	1 70
Area 2:		
Unskilled	13 59	2 00
Semi skilled	13 79	2 00
Skilled	13 94	2 00
Area 3:		
Unskilled	14 15	1 95
Semi-skilled	14 35	1 95
Skilled	14.50	1 95
Area 4:		
Unskilled	14 10	2.50
Semi-skilled	14 30	2.50
Skilled	14 45	2 50
Area 24:		
Group 1	13 44	3 51[illegible]
Group 2	13 69	3 51[illegible]
Area 25:		
Group 1	13 39	3 51[illegible]
Group 2	13 64	3 51[illegible]
Area 26:		
Group 1	14 84	2 11[illegible]
Group 2	15 09	2 11[illegible]
Area 34:		
Unskilled	14.03	2 55
Semi-skilled	14 23	2.55
Skilled	14 43	2 55
POWER EQUIPMENT OPERATORS:		
Area 1:		
Group 1	16 75	1.83
Group 2	15 10	1 83
Group 3	13 20	1 83
Area 4:		
Group 1	17 04	2 55
Group 2	16 31	2 55
Group 3	15 08	2 55
TRUCK DRIVERS:		
Area 1:		
Group 1	14 27[illegible]	1 90+a
Group 2	14 67[illegible]	1 90+a
Group 3	14 87[illegible]	1 90+a
Group 4	15 12[illegible]	1.90+a
Area 2:		
Group 1	14.87[illegible]	1.90+a
Group 2	15 27[illegible]	1 90+a
Group 3	15 47[illegible]	1.90+a
Group 4	15 72[illegible]	1 90+a
Area 3:		
2-3 Axles	14 87	4.00
4 Axles	15 02	4 00
5 Axles	15.22	4.00
6 Axles	15.42	4 00

DECISION NO. IN83-2067
Mod. #2
(48 FR 40064 - September 2, 1983)
BROWN, CLARK, . , WAYNE COS , INDIANA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLASTERERS:		
Area 4	$16 25	$2 73

DECISION NO. IN83-2071
Mod. #4
(48 FR 40823 - September 9, 1983)
ADAMS, ALLEN, . , & WHITLEY COS , INDIANA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; CAULKERS; POINTERS; CLEANERS & STONEMASONS:		
Area 2	$14.80	$2.02
Area 3	15 47	2 57
Area 4	14 35	3 16
IRONWORKERS:		
Area 3	14 54	4 87
PLASTERERS:		
Area 4	14 85	1 36
ROOFERS:		
Area 1	16.10	50
Area 2		
Composition	15 25	2 50
Slate & Tile	15 50	2 50
PAINTERS:		
Area 1:		
Brush, Roller, Taping and Paperhangers	12.75	2.27
Spray & Sandblasting	13.75	2.27

MODIFICATIONS P 4

DECISION NO. LA84-4010 - MOD. #9
(49 FR 9064 - 3/9/84)
Statewide Louisiana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayer & stonemason: Zone 1	$12 50	2 26

DECISION NO. IN83-2069
Mod. #2
(48 FR 40069 - September 2, 1983)
CLAY, DAVIESS, .. , & WARRICK COS , INDIANA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; CAULKERS; POINTERS; CLEANERS & STONEMASONS:		
Area 3	$16 33	$2 70
CEMENT MASONS:		
Area 3	15 73	2 90

MODIFICATIONS P 5

DECISION NO. NY83-3018 - MOD. #7 (48 FR 22870 - May 20 1983) Dutchess Orange, Sullivan & Ulster Counties, New York	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; STONE MASONS; CEMENT MASONS; PLASTERERS:		
Area 1:		
Building	14 45	4 77
Heavy & Highway	14 70	4 77+b
Area 2:		
Building	15 05	4 21
Heavy & Highway	15 30	4 21+c
CARPENTERS; SOFT FLOOR LAYERS; BRIDGE, DOCK & WHARF:		
Orange (Tuxedo, Woodbury Monroe, Part of Cornwall, Chester, Blooming Grove, Highlands):		
Building	14 45	5 83
Heavy & Highway	14 45	5 83+d
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; DOCK-BUILDERS:		
Ulster; Sullivan:		
Building	14 60	4 55
Heavy & Highway	15 00	4 555 +e
CARPENTERS:		
Orange (Remainder of County):		
Building	14 60	4 55
Heavy & Highway	15 00	4 555 +e
Duchess (Remainder of County):		
Building	16 62	4 50
Heavy & Highway	16 62	4 50+e
GLAZIERS	18 55	6.10
IRONWORKERS	14 70	10 27
LABORERS (BUILDING):		
ULSTER; ORANGE; SULLIVAN:		
Where total contract price exceeds $200,000:		
Class 1	13 30	3 20
Class 2	13 55	3 20
Class 3	13 95	3 20
Where total contract price does not exceed $200,000:		
Class 1	11 97	3 20
Class 2	12 20	3 20
Class 3	12 50	3 20

	Basic Hourly Rates	Fringe Benefits
LABORERS (HEAVY & HIGHWAY)		
Ulster; Orange; Sullivan:		
Group 1	14 45	3 45+i
Group 2	14 70	3 45+i
Group 3	15 10	3 45+i
PLUMBERS & STEAMFITTERS:		
Sullivan; Ulster; (Warwarsing, Shawarqurk Plattekill, Marlboro), Orange (Except Tuxedo & Monroe)	17 40	4 40
POWER EQUIPMENT OPERATORS:		
DUTCHESS (Remainder of Co):		
BUILDING:		
Class I	14 91	4 75+m
Class II	15 80	4 75+m
Class III	16 31	4 75+m
Class IV	16 50	4 75+m
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use		
Group 1	11 18	4 75+m
Group 2	11 85	4 75+m
Group 3	12 23	4 75+m
Group 4	12 38	4 75+m
POWER EQUIPMENT OPERATORS:		
Sullivan; Ulster;		
Orange:		
BUILDING CONSTRUCTION: Construction projects in which individual items of work are $200,000 or less (including clearing, and grading, excavation, for foundations, back filling, storm and sanitary sewers, sidewalks, street excavation and paving, curbing and landscaping, water and gas supply lines)	11 94	4 04+m
OTHER BUILDING CONSTRUCTION PROJECTS; HEAVY, HIGHWAY, ROAD, STREET AND SEWER PROJECTS:		
Class A	21 92	5 80+m
Class B	20 33	5 80+m
Class C	18 42	5 80+m
Class D	16 79	5 80+m
Class E	15 08	5 80+m
Class F	23 74	5 80+m

MODIFICATIONS P 6

DECISION NO. NY83-3018 CONT'D:	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Continued)		
STEEL ERECTION		
Class A	23 74	5 80+m
Class B	22 83	5 80+m
Class C	21 49	5 80+m
Class D	18 83	5 80+m
Class E	17 30	5 80+m
Class F	15 64	5 80+m
Class G	25 55	5 80+m
TANK ERECTION		
Class A	24 41	5 80+m
Class B	23 57	5 80+m
Class C	25 55	5 80+m
Class D	21 48	5 80+m
Class E	16 27	5 80+m
OILOSTATIC MAINLINESS & TRANSPORTATION PIPLELINES		
Class A	22 55	5 80+m
Class B	20 90	5 80+m
Class C	18 76	5 80+m
Class D	17 26	5 80+m
Class E	15 54	5 80+m
Class F	24 48	5 80+m
ROOFERS	14 59	7 20+n
SPRINKLER FITTERS	16 92	3 23

DECISION NO. PA83-3001 MOD. NO. 7 (48 FR 37805 - August 19, 1983) Adams, Berks, Bradford, Carbon, Columbia, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, Dauphin, Cumberland, York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS:		
STRUCTURAL, ORNAMENTAL & REINFORCING:		
Adams, Cumberland, Dauphin, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union & York Counties; Western part of Lancaster County	17 265	4 25

MODIFICATIONS P 7

DECISION NUMBER OH83-5122 - MOD. 06
(48 FR 53254 - November 25, 1983)
Statewide, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers & Stonemasons:		
Area 22	$19 47	$3 40+a
Carpenters & Piledrivermen:		
Area 3:		
Piledrivermen	18 00	5 11
Area 4:		
Piledrivermen	18 00	5 11
Area 16:		
Piledrivermen	18 00	5 11
Painters:		
Area 2	14 50	1 89
Plumbers; Steamfitters; & Pipefitters:		
Area 16	19 15	3 90

DECISION NUMBER OH83-5123 - MOD. 01
(48 FR 54419 - December 2, 1983)
Mahoning & Trumbull Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	19 54	3 38
Boilermakers	20 37	4 19
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 1	16 60	3 55
Area 2	17 05	3 10
Carpenters; Lathers:		
Commercial Building	16.20	3 80
Residential	14 53	3 80
Cement Masons:		
Area 1	17 36	2 40
Electricians:		
Family Residences, not to exceed 4 units, whether or not under the same roof & not exceeding 2 stories with the exception of a single family residence which may be more than 2 stories	13 04	3.5%+ 2.85

DECISION NUMBER OH83-5123 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Elevator Constructors:		
Mechanics	$17 64	$3.00+ b&c
Helpers	70%JR	3.00+ b&c
Helpers (Prob)	50%JR	
Glaziers:		
Area 1	16 60	3 26
Insulators:		
Residential	9 95	3 80
Ironworkers:		
Mahoning (N of Old Rte. #224) & Trumbull Counties	17 96	4.21
Mahoning (S. of Old Rte #224) County	15 73	5 66
Line Construction:		
Area 1:		
Linemen; Cable Splicers; Operator - Pole Digging Equipment	19 50	.85+ 10½%
Groundmen	15 60	.85+ 10½%
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 1	20 76	
Millwrights & Piledrivermen	17 11	3 80
Painters:		
Brush; Hydro Jet Cleaning; Paperhangers (W/o Tools); Roller; Stonecleaning; Wall Washing; & Waterproofing	16 29	3 41
Spray	16 79	3 41
Epoxy-mastic (Brush & Roller)	17 19	3 41
Drywall Taping	16.44	3 41
Open Structural Steel	16 50	3 41
Paperhanging (W/Tools)	16 54	3 41
Dipping	16 59	3 41
Plasterers:		
Area 1:		
Commercial	18 11	1 40
Roofers	16 82	3 03
Soft Floor Layers:		
Commercial	15 56	3 80
Residential	14 00	3.80

MODIFICATIONS P 8

DECISION NUMBER OH83-5123 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers:		
Group 1	$14 62	$3 00
Group 2	14 74	3 00
Group 3	14 86	3 00
Group 4	14 92	3 00
Group 5	14 94	3 00
Group 6	15.02	3 00
Group 7	14 99	3 00
Group 8	15 22	3 00
Group 9	15 12	3 00
Power Equipment Operators:		
Commercial Building:		
Group 1	17 38	4 21
Group 2	16 59	4 21
Group 3	15 83	4 21
Group 4	15 36	4 21
Group 5	15 26	4 21
Group 6	17 65	4 21
Group 7	17 88	4 21
Group 8	18 38	4.21
Residential:		
Group 1	15 47	4 21
Group 2	14 73	4 21
Group 3	14 03	4 21
Group 4	13 59	4 21
Group 5	13 97	4 21
Group 6	15 74	4 21
Group 7	13 49	4 21
Truck Drivers:		
Group 1	14.29	1 76+d
Group 2	14 51	1 76+d
Group 3	14 76	1 76+d
Group 4	14 86	1 76+d

DECISION NUMBER OH83-5124 - MOD. 02
(48 FR 54422 - December 2, 1983)
Lucas County, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	19 25	2 81
Carpenters; Lathers; Millwrights; & Piledrivermen:		
Commercial Building	19 31	2 97
Residential	11 57	2 97
Cement Masons	17.73	3.36
Ironworkers	19 19	3 84

DECISION NUMBER OH83-5124 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Soft Floor Layers:		
Commercial Building	$18 70	$3 15
Power Equipment Operators: (Except Well & Pump Work):		
Master Mechanic	18 26	3 57
Group 1	17 74	3 57
Group 2	17 58	3 57
Group 3	17 23	3 57
Group 4	16 42	3 57
Group 5	16 09	3 57
Group 6	13 38	3 57

DECISION NUMBER OH83-5125 - MOD. 02
(48 FR 56898 - December 23, 1983)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers:		
Area 1	19 53	5 00
Area 2	19 54	3 38
Boilermakers	20 37	4.19
Bricklayers; Stonemasons:		
Area 1	19 87	3 00
Area 3	19 47	3.40+a
Area 4	18 30	.81+b
Area 6	17 09	3 07
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:		
Area 1:		
Carpenters; Soft Floor Layers	18.45	4 66
Millwrights; Piledrivermen	18 60	5.11
Area 2:		
Millwrights; Piledrivermen	18 60	5 11
Area 3:		
Commercial Building:		
Millwrights; Piledrivermen	18 60	5 11
Area 4:		
Carpenters	17 18	3 32
Millwrights; Piledrivermen	17 66	3 32
Soft Floor Layers	17 01	3 32

MODIFICATIONS P 9

DECISION NUMBER OH83-5125 (Cont'd)

Change:	Basic Hourly Rates	Fringe Benefits
Cement Masons:		
Area 1	$19 87	$3 00
Area 2	20 85	3.49
Area 4	18 30	81+b
Area 5:		
Commercial Building	19 64	2 42
Residential	18 67	2 42
Electricians:		
Area 3	21 77	3%+2 83
Area 4:		
All Other Work:		
Electricians	18 43	3.75+ 3.2%
Cable Splicers	18 68	3.75+ 3 2%
Elevator Constructors:		
Area 2:		
Mechanics	21 62	3.00+ e+f
Helpers	70%JR	3 00+ e+f
Helpers (Prob)	50%JR	
Area 3:		
Mechanics	19.62	3 00+ e+f
Helpers	70%JR	3 00+ e+f
Helpers (Prob)	50%JR	
Glaziers:		
Area 2:		
Commercial Building	12 00	2 91
Line Construction:		
Area 2:		
Cable Splicers; Equipment Op.; Line Truck Driver; Linemen	18 20	3.65+ 3½%
Groundmen	15 20	3.65+ 3½%
Area 3:		
Cable Splicers; Equipment Ops.; Linemen	21 68	.85+3½%
Truck Drivers (Winch) Groundmen	14 09	.85+3½%
Traffic Signal Work:		
Linemen; Operator	18 75	.85+3½%
Groundmen	15 63	.85+3½%

DECISION NUMBER OH83-5125 (Cont'd)

Change:	Basic Hourly Rates	Fringe Benefits
Line Construction (Cont'd):		
Area 4:		
Cable Splicers	$18 68	$3.75+ 3½%
Equipment Ops ; Linemen	18 43	3.75+ 3½%
Groundmen; Truck Driver (Winch) Groundmen	11 98	3.75+ 3½%
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 1	19.87	3 00
Area 3	19 47	3.40+a
Area 4	18 30	81+b
Painters:		
Area 3:		
Brush; Roller; Waterproofing; Paperhanging (W/o tools); Wallwashing; Hydro Jet Cleaning; Steam Cleaning	16 29	3 41
Open Structural Steel	16 50	3,41
Paperhanging (W/Tools)	16 54	3,41
Spray	16 79	3 41
Epoxy-mastic (Brush or Roller)	17.19	3 41
Drywall Taping	16 44	3 41
Area 5:		
Commercial Building:		
Brush; Roller	15 42	3 46
Paperhangers	15 52	3 46
Drywall	15.82	3 46
Spray	15 92	3 46
Drywall with Machines	16 17	3 46
Residential	10.00	3.46
Pipefitters; Steamfitters:		
Area 1	20 42	4 43
Pipefitters; Plumbers & Steamfitters:		
Area 1	18 38	3 12
Area 2:		
Commercial Building	19.15	3 90
Plasterers:		
Area 1	19 87	3 00
Area 2:		
Commercial Building	21.23	3.41
Area 3	19 47	3.40+a
Area 4	18.30	.81+a
Area 5	17 36	2 41
Plumbers:		
Area 1	21 03	3 62

MODIFICATIONS P 10

DECISION NUMBER OH83-5125 (Cont'd)

Change:	Basic Hourly Rates	Fringe Benefits
Roofers:		
Area 1	$21 28	$3 30
Sprinkler Fitters:		
Area 1	20 42	4 43
Laborers:		
Area 2:		
Group 1	16 74	6 30
Group 2	16 89	6 30
Group 3	16 94	6 30
Group 4	16 99	6 30
Group 5	17 14	6 30
Group 6	17 22	6 30
Group 7	17 24	6 30
Group 8	17 39	6 30
Group 9	18 24	6 30
Area 3:		
Group 1	18 55	2.90
Group 2	18.80	2.90
Area 4:		
Group 1	13.53	3.00
Group 2	13 73	3.00
Group 3	14 13	3.00
Power Equipment Operators (Except Well & Pump Work):		
Area 1:		
Master Mechanic	20 27	3 57
Group 1	19 77	3 57
Group 2	19 62	3 57
Group 3	19 27	3 57
Group 4	18 49	3 57
Group 5	18 17	3 57
Group 6	13 74	3 57

DECISION NUMBER OH83-5125 (Cont'd)

Change:	Basic Hourly Rates	Fringe Benefits
Power Equipment Ops (Cont'd):		
Area 2:		
Master Mechanics	$18 26	$3.57
Group 1	17 74	3.57
Group 2	17 58	3 57
Group 3	17 23	3 57
Group 4	16 42	3 57
Group 5	16 09	3 57
Group 6	13 38	3 57
Truck Drivers:		
Area 1:		
Group 1	14 29	1.76+1
Group 2	14 51	1.76+1
Group 3	14 76	1 76+1
Group 4	14 86	1 76+1
Omit:		
Ironworkers:		
Areas 2, 3, & 4 wage rates & area descriptions		
Add:		
Ironworkers:		
Area 2:		
Ornamental; Reinforcing; & Structural	20 62	4 12
Sheeters	20 87	4 12
Area 3:		
Ornamental; Reinforcing; & Structural	17.96	4.12
Sheeters; Layout Man	18.96	4 12
Area 4	15 73	5 66

Area Descriptions:

Ironworkers:

Area 2: Ashtabula (NW ¼), Cuyahoga, Lake, Lorain, Portage (W of a line from Middlefield to Shalersville to Deerfield), & Summit (N. of Old Rte #224, including city limits of Barberton) Counties

Area 3: Ashtabula (S½, including E. of a line from Austinburg to where Rte #86 crosses the W County line & s. of a line from Austinburg to 2 miles south of Richmond on Rte. #7), & Portage (E of a line from Middlefield to Shalersville to Deerfield) Counties

Area 4: Portage (S. of Old Rte. #224), Stark, & Summit (S of Old Rte #224, excluding city limits of Barberton) Counties

MODIFICATIONS P 11

DECISION NUMBER OH83-5127 - MOD. 04
(48 FR 56903 - December 23, 1983)
Adams, Allen,...Wood & Wyandot Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers:		
Area 2	$17 70	$2 32
Area 5	16 92	5 65
Area 6	19 54	3 38
Area 8	19 53	5 00
Area 9	19 25	2 81
Area 10	19 15	2 78
Boilermakers:		
Area 1	16 05	5 52
Area 4	20 37	4 19
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 1	17 88	.55
Area 3	16 63	3 44
Area 6	17 09	3 07
Area 8	15 00	1 75
Area 10	16 60	3 55
Area 13	14 25	3 10
Area 15	16 18	3 43
Area 16	17 16	1 55
Area 22	14 90	2.95
Area 26	18 30	.81+b
Area 27	16 25	2 45
Carpenters:		
Area 1	15 63	3 33
Area 2	14 81	3.14
Area 4	15 76	3%+3.53
Area 5	15 60	2 625
Area 6	17 18	3 32
Area 7	15.50	3 70
Area 10	18 45	4 66
Area 11	15 57	2 89
Cement Masons:		
Area 2	15 60	2 55
Area 3	14 10	2 70
Area 4	16 53	1.45
Area 6	17.09	3.07
Area 8	17 36	2 40
Area 9	17 73	3 30
Area 10	14 50	2 70
Area 11	16 18	3 43
Area 12	17.73	3 36
Area 16	14 90	2.95
Area 18	18 30	.81+b
Area 19	19 64	2 42

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 2	$16 90	3%+2 37 +w
Area 16	17 33	3.2%+ 1 85
Area 17:		
Electricians	16 80	3%+2 81
Cable Splicers	18 06	3%+2 81
Area 19	21 77	3%+2 83
Area 21:		
Electricians	18 43	3.2%+ 3.75
Cable Splicers	18 68	3.2%+ 3 75
Elevator Constructors:		
Area 1:		
Elevator Constructors	17 665	3 00 +e&f
Helpers	70%JR	3 00 +e&f
Helpers (Prob)	50%JR	
Area 3:		
Elevator Constructors	17 60	3 00 +e&f
Helpers	70%JR	3 00 +e&f
Helpers (Prob)	50%JR	
Area 4:		
Elevator Constructors	16 42	3 29 +e&f
Helpers	70%JR	3 29 +e&f
Helpers (Prob)	50%JR	
Area 5:		
Elevator Constructors	17 64	3 00 +e&f
Helpers	70%JR	3 00 +e&f
Helpers (Prob)	50%JR	
Area 6:		
Elevator Constructors	21.62	3 00 +e&f
Helpers	70%JR	3 00 +e&f
Helpers (Prob)	50%JR	
Area 9:		
Elevator Constructors	19 62	3 00 +e&f
Helpers	70%JR	3 00 +e&f
Helpers (Prob)	50%JR	

MODIFICATIONS P 12

DECISION NUMBER OH83-5127 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Glaziers:		
Area 4	$12 30	$2 62
Area 6	12 00	2 91
Area 7	16 60	3 26
Ironworkers:		
Area 2:		
Ornamental; Structural Fence Erectors	16 03	4 33
	14 43	4 33
Area 6	15 52	2 70
Area 7	16 40	4 68
Area 9	17 96	4 21
Area 10	19 19	3 84
Area 11	16 30	4 68
Area 12	16 15	4 68
Area 13	16 38	4 32
Lathers:		
Area 2	15 76	3%+3 53
Area 4	15 50	3 70
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 1	17 88	.55
Area 3	16 63	3 44
Area 4:		
Marble Setters	16 635	1 97
Terrazzo Workers & Tile Setters	16 585	1 97
Area 8	20 76	
Area 11:		
Marble Setters	14.25	3 10
Area 13	16 18	3 43
Area 19	14 90	2.95
Area 23	18.30	81+b
Area 24:		
Marble Setters & Tile Setters	16 25	2 45
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:		
Area 8	12 94	3 43
Millwrights:		
Area 1	18 11	2 03
Area 2	15 46	3 14
Area 3	18 00	5.11
Area 4	16.32	25%+ 1.59
Area 6	17 66	3 32
Area 8	19 31	2 97
Area 9	19 20	2 36

	Basic Hourly Rates	Fringe Benefits
Change:		
Painters:		
Area 1:		
Brush; Rollers; Paper or Wall Covering; Taping Floor Sanding; Power Tools; & Swing Stage Sandblasting; Spray & Steamcleaning	$13 30	$2 54
	14 30	2 54
Area 2:		
Brush; Drywall Taping; & Rollers	13 30	1 89
Wall Covering; Paperhanging	13 55	1 89
Sandblasting; Spray; & Steamcleaning	13 80	1 89
Area 3:		
Brush; Cleaner; Roller; & Washer	14 45	95
Drywall; Paperhanger; Pot Tender; Spray & Wall Coverer	15 20	95
Area 7:		
Brush; Rollers	15 42	3 46
Paperhangers	15 52	3 46
Drywalls	15 82	3 46
Spray	15 92	3 46
Area 10:		
Brush; Hydro-jet Cleaning; Paperhanging w/o Tools; Rollers; Steamcleaning; Wallwashing; & Waterproofing	16 29	3 41
Drywall Taping	16 44	3 41
Open Structural Steel	16 50	3 41
Paperhanging w/Tools	16 54	3 41
Spray	16 79	3 41
Piledrivermen:		
Area 1	16 02	3 33
Area 2	15 46	3 14
Area 3	18 00	5.11
Area 4	16 50	3%+3.53
Area 5	15 00	2 625
Area 6	17 66	3 32
Area 8	15 50	3.70
Area 9	19.31	2 97
Area 10	15 87	2 89

MODIFICATIONS P 13

DECISION NUMBER OH83-5127 (Cont'd)

Change:	Basic Hourly Rates	Fringe Benefits
Pipefitters; Plumbers; & Steamfitters:		
Area 1:		
Within 10 mi radius of Portsmouth	$17 45	$3 35
Over 10 & within 20 mi radius of Portsmouth	17 70	3 35
Over 20 & within 35 mi radius of Portsmouth	17 80	3 35
Over 35 mi. radius of Portsmouth	18 05	3 35
Area 3	18 38	3 12
Area 5:		
Plumbers; Gas Fitters	16 05	4 32
Area 9	18 20	3 17
Area 13	19 20	3 72
Area 14	19 09	2 91
Area 15:		
Pipefitters; Steamfitters	20.42	4 43
Area 16:		
Plumbers	21.03	3 62
Area 17	19.15	3.90
Plasterers:		
Area 3	15.68	1 45
Area 5	17.09	3 07
Area 7	18.11	1 40
Area 8	16.18	3 43
Area 13	14.90	2.95
Area 15	18.30	.81+b
Area 16	17.36	2 41
Roofers:		
Area 5	18.15	1 53
Area 8	21.28	3 30
Soft Floor Layers:		
Area 1	15.63	3 33
Area 2	14.81	3.14
Area 4	15 76	3%+3.53
Area 6	17.01	3 32
Area 7	14.40	3 57
Area 8	18 70	3 15
Area 9	18.45	4 66
Area 10	15.17	2.89
Sprinkler Fitters:		
Area 1	20.42	4.43
Laborers:		
Area 1:		
Group 1	12 81	3 00
Group 2	13 06	3 00
Group 3	13 33	3 00

Change:	Basic Hourly Rates	Fringe Benefits
Laborers (Cont'd)		
Area 8:		
Group 1	$11 90	$3.00
Group 2	12 15	3 00
Group 3	12 30	3 00
Group 4	12 40	3 00
Area 9:		
Group 1	13 80	3 00
Group 2	13 97	3 00
Group 3	14 00	3 00
Area 15:		
Group 1	16 74	6 30
Group 2	16 89	6 30
Group 3	16 94	6 30
Group 4	16 99	6 30
Group 5	17 14	6 30
Group 6	17 22	6.30
Group 7	17 24	6 30
Group 8	17 39	6.30
Group 9	18.24	6 30
Area 19:		
Group 1	14 00	3 00
Group 2	14.35	3 00
Area 20:		
Group 1	11.73	3 00
Group 2	11 93	3 00
Line Construction:		
Area 2:		
Linemen	17.87	8½%+ 85
Equipment Operators	16 08	8½%+ 85
Groundmen Truck Drivers	11.75	8½%+ 85
Area 8:		
Linemen; Line Equipment Ops ; Truck Drivers	18 00	44½%
Cable Splicers	18.50	44½%
Groundmen	11 70	44½%
Area 9:		
Cable Splicers; Equipment Ops ; Linemen	21 68	3½%+ 85
Groundmen	14 09	3½%+ 85
Area 13:		
Cable Splicers; Equipment Ops ; Linemen	18.24	3½%+.85
Groundmen	10.66	3½%+.85
Area 15:		
Cable Splicers; Equipment Ops & Linemen	19.32	3½%+ 85
Groundmen	10 66	3½%+.85

MODIFICATIONS P 14

DECISION NUMBER OH83-5127 (Cont'd)

Change:	Basic Hourly Rates	Fringe Benefits
Line Construction (Cont'd):		
Area 16:		
Cable Splicers; Equipment Ops ; & Linemen	$17 33	3½%+ 1 85
Truck Drivers (Winch) Groundman; Groundmen	11 26	3½%+ 1 85
Area 17:		
Cable Splicers; Linemen; Operators; All Mechanized Equipment	17 50	3½%+ 85
Groundmen - Truck Driver	13 87	3½%+ 85
Groundmen	10 70	3½%+ 85
Area 18:		
Cable Splicers	18 06	3½%+ 2.75
Linemen; Equipment Ops	16 80	3½%+ 2.75
Truck Drivers	9.99	3½%+ 2.75
Groundmen	9 58	3½%+ 2 75
Area 19:		
Cable Splicers; Linemen	16.83	3½%+ 85
Operators	14 67	3½%+ 85
Groundmen	10.66	3½%+ 85
Area 20:		
Cable Splicers	18 68	3½%+ 3 75
Equipment Operators; Linemen	18 43	3½%+ 3.75
Truck Drivers (Winch) Groundmen; Groundman	11.98	3½%+ 3.75
Truck Drivers:		
Area 3:		
Group 1	14 60	94.80q
Group 2	14.61	94 80q
Group 3	14.65	94 80q
Group 4	14.68	94.80q
Group 5	14 70	94 80q
Group 6	14.80	94.80q
Group 7	14 88	94 80q
Group 8	14 93	94.80q
Group 9	14.96	94.80q
Group 10	15 23	94 80q
Group 11	15 30	94 80q
Group 12	15 33	94.80q

Change:	Basic Hourly Rates	Fringe Benefits
Truck Drivers (Cont'd):		
Area 6:		
Group 1	$14 29	$1.76+ 51.00q
Group 2	14 51	1.76+ 51.00q
Group 3	14 76	1.76+ 51.00q
Group 4	14 86	1.76+ 51 00q
Area 9:		
Group 1	14 31	54 00q
Group 2	14.32	54 00q
Group 3	14 355	54 00q
Group 4	14 38	54 00q
Group 5	15 075	54 00q
Group 6	14 38	54 00q
Group 7	14 88	54 00q
Group 8	14 97	54 00q
Area 10:		
Group 1	14 62	v
Group 2	14 72	v
Group 3	14 87	v
Group 4	15 02	v
Group 5	15 27	v
Group 6	15 37	v
Group 7	15 52	v
Power Equipment Operators:		
Columbiana County:		
Class I	17.38	4 21
Class II	16.59	4 21
Class III	15.83	4.21
Class IV	15 36	4.21
Class V	15 26	4.21
Class VI	17.65	4 21
Class VII	17 88	4.21
Class VIII	18.38	4 21
Zone 1:		
Master Mechanic	18 26	3 57
Group A	17 74	3 57
Group B	17 58	3 57
Group C	17 23	3 57
Group D	16 42	3 57
Group E	16 09	3.57
Group F	13.38	3.57
Zone 2:		
Master Mechanic	17.98	3 57
Group A	17 46	3 57
Group B	17 30	3.57
Group C	16 94	3 57
Group D	16 16	3 57
Group E	15.83	3.57
Group F	13 13	3 57

MODIFICATIONS P 15

DECISION NUMBER OH83-5127 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Power Equipment Operators (Cont'd):		
Zone 3:		
Master Mechanic	$20 27	$3 57
Group A	19 77	3 57
Group B	19 62	3 57
Group C	19 27	3 57
Group D	18 49	3 57
Group E	18 17	3 57
Group F	13 74	3 57
Footnote:		
v $244 84 per employee per month		
Omit:		
Carpenters:		
Areas 8 & 9 wage rates and area descriptions		
Ironworkers:		
Areas 5 & 8 wage rates and area descriptions		

	Basic Hourly Rates	Fringe Benefits
Omit:		
Lathers:		
Areas 5 & 7 wage rates and area descriptions		
Plasterers:		
Area 2 wage rate and area description		
Footnote:		
d $25 00 per year		
Add:		
Carpenters:		
Area 8	$15 45	$2 97
Area 9	19 31	2 97
Ironworkers:		
Area 5	15 73	5 66
Area 8	20 62	4 12
Lathers:		
Area 5	15 45	2 97
Area 7	19 31	2 97
Plasterers:		
Area 2	15 40	1 98
Footnote:		
w 1 paid Holiday: D		

Area Descriptions:

Carpenters:

Area 8: Defiance, Fulton, Hancock (Except city of Fostoria), Henry, Paulding & Williams Counties

Area 9: Wood (Except city of Fostoria) County

Ironworkers:

Area 5: Ashland, Carroll, Columbiana (W of a line from Damascus to Highlandtown), Coshocton (E of a line beginning at NW Co line going through Walhonding & Tunnel Hill to the south Co. line), Holmes, Huron (S of Old Rte #224), Medina (S of Old Rte #224), Richland, Tuscarawas, & Wayne Counties

Area 8: Erie (E 2/3), Geauga (W ½), Huron (E. of a line drawn from the North border through Monroeville & Willard), and Medina (N of Old Rte. #224) Counties

Lathers:

Area 5: Defiance, Fulton, Hancock, Henry, Paulding, & Williams Counties

Area 7: Ottawa, Sandusky, Seneca, & Wood Counties

Plasterers:

Area 2: Allen, Ashland, Auglaize, Crawford, Delaware, Fairfield, Fayette, Franklin, Hardin, Hocking, Knox, Licking, Logan, Madison, Marion, Mercer, Monroe, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Richland, Ross, Union, Van Wert, Washington, & Wyandot (Exclu. Tymochtee, Crawford, Ridge and Richland Twps) Counties

MODIFICATIONS P 16

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA82-3012		
MOD. NO. 11		
(47 FR 9681 - March 5, 1982)		
Columbia, Montour & Snyder County, Pennsylvania		
CHANGE:		
IRONWORKERS:		
MONTOUR & SNYDER COS	$17 265	4 25
LABORERS:		
Snyder County		
Group 1	10 45	1 53
Group 2	10 92	1 53
Group 3	9 85	1 53
Group 4	10 92	1 53
DECISION NO. PA83-3047		
MOD. NO. 2		
(48 FR 46922 - October 14, 1983)		
Luzerne County, Pennsylvania		
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Group 1	15 81	26 6%+a
Group 2	15 60	26 6%+a
Group 3	14 72	26.6%+a
Group 4	13 95	26 6%+a
Group 5	13 47	26.6%+a
Group 6	12 55	26.6%+a
Group 7	16 14	26 6%+a
Group 7-A	16 41	26 6%+a
Group 7-B	16.64	26 6%+a
DECISION NO. PA83-3051		
MOD. NO. 3		
(48 FR 53264 - November 25, 1983)		
Franklin County, Pennsylvania		
CHANGE:		
IRONWORKERS	17 265	4.25

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA83-3048		
MOD. NO. 1		
(48 FR 45917 - October 7, 1983)		
Lackawanna, Susquehanna, Wayne & Wyoming Counties, Pennsylvania		
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Group 1	15 81	26 6%+a
Group 2	15 60	26 6%+a
Group 3	14 72	26 6%+a
Group 4	13 95	26 6%+a
Group 5	13 47	26 6%+a
Group 6	12 55	26 6%+a
Group 7	16 14	26 6%+a
Group 7-A	16 41	26 6%+a
Group 7-B	16 64	26 6%+a
TRUCK DRIVERS:		
Class 1	12 77	
Class 2	12 84	
Class 3	13 33	

MODIFICATIONS P 17

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA79-3020		
MOD. NO. 15		
(44 FR 42880 - July 20, 1979)		
Carbon, Monroe County, Including Tobyhanna Army Depot, and Pike County, Pennsylvania		
CHANGE:		
Bricklayers & Stonemasons		
Zone 1	$14 95	4 02
Roofers		
Zone 3		
Composition & Kettleman	14 42	2 28
POWER EQUIPMENT OPERATORS:		
Group 1	15 81	26 6%+a
Group 2	15 60	26 6%+a
Group 3	14 72	26 6%+a
Group 4	13 95	26 6%+a
Group 5	13 47	26 6%+a
Group 6	12 55	26 6%+a
Group 7	16 14	26 6%+a
Group 7-A	16 41	26 6%+a
Group 7-B	16 64	26 6%+a
DECISION NO. PA81-3068		
MOD. NO. 16		
(46 FR 47403 - September 25, 1981)		
Lebanon County, Pennsylvania		
CHANGE:		
Ironworkers:		
Structural, Ornamental & Reinforcing	17 265	4 25
Plumbers & Steamfitters:		
East of Route 501	18 38	3 59
DECISION NO. PA81-3073		
MOD. NO. 9		
(46 FR 48853 - October 2, 1981)		
Northumberland County, Pennsylvania		
CHANGE:		
Ironworkers	17 265	4 25
LABORERS:		
South of Susquehanna River		
Group 1	10 45	1 53
Group 2	10 92	1 53
Group 3	9 85	1 53
Group 4	10 92	1 53

	Basic Hourly Rates	Fringe Benefits
DECISION NO. PA81-3076		
MOD. NO. 12		
(46 FR 50263 - October 9, 1981)		
Schuylkill County, Pennsylvania		
CHANGE:		
Ironworkers	17 40	3 75
DECISION NO. PA81-3090		
MOD. NO. 11		
(46 FR 61813 - December 18, 1981)		
Lycoming County, Pennsylvania		
CHANGE		
Ironworkers	17 265	4 25
DECISION NO. PA82-3010		
MOD. NO. 13		
(47 FR 9684 March 5, 1982)		
Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania		
CHANGE:		
Ironworkers:		
Huntingdon & Mifflin Cos	17 265	4 25
DECISION NO. PA82-3011		
MOD. NO. 9		
(47 FR 10963 - March 12, 1982)		
Bradford, Tioga & Union Counties, Pennsylvania		
CHANGE		
Ironworkers:		
Structural, Ornamental & Reinforcing		
Union County	17 265	4 25

MODIFICATIONS P 18

	Basic Hourly Rates	Fringe Benefits
DECISION #PA84-3015-Mod #2		
49FR22976-June 1, 1984		
Cumberland, Dauphin, Perry Juniata New Cumberland Depot in York County, Pennsylvania		
CHANGE:		
IRONWORKERS:		
Structural	$17 265	4 25
Ornamental	17 265	4 25
Reinforcing	17 265	4 25
DECISION #PA84-3002-Mod.#4		
49FR5295-February 10, 1984		
Adams and York Counties, Pennsylvania		
CHANGE:		
IRONWORKERS	17 265	4 25
DECISION #PA84-3003-Mod.#2		
49FR5297-February 10, 1984		
Lancaster County, Pennsylvania		
CHANGE:		
IRONWORKERS:		
Eastern part of County	17 40	3 75
Western part of County	17 265	4 25

	Basic Hourly Rates	Fringe Benefits
DECISION NO. WV83-3022 - MOD. #10		
(48 FR 52547 - November 18, 1983)		
Statewide West Virginia excluding the counties of Berkley, Jefferson, and Morgan		
CHANGE:		
IRONWORKERS:		
Area 4	15 60	3 35
PLUMBERS & PIPEFITTERS		
Area 4	16 19	5 87
SHEETMETAL WORKERS		
Area 5	16 46	3 09
POWER EQUIPMENT OPERATORS		
Group 1	17 64	3 55
Group 2	17 14	3 55
Group 3	16 64	3 55
Group 4	16 24	3 55
Group 5	15 84	3 55
Group 6	15 14	3 55
CARPENTERS:		
Area 2	14 41	3 74

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX84-4005 - MOD. #6		
(49 FR 7069 - 2/22/84)		
Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas		
CHANGE:		
Plumbers & pipefitters:		
Zone 2	$13 50	2 03

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Federal Register

Friday
August 17, 1984

Part III

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; State Petitions for Exemption From Federal Preemption of State Standards for Refrigerators and Refrigerator-Freezers, Freezers, Water Heaters, Room Air Conditioners, Central Air Conditioners, Furnaces and Kitchen Ranges and Ovens; Proposed Rulemakings and Public Hearings

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket Nos. CE-CP-SPRM-AR006, VA007, FL008, PA009, WI010, SC012, NM013, GA014, RI015, NH016, MA017, CA018, OR019, NY020, MO021, TX022, NJ023, IL024, UT025, IA026, WV027, MN028, WA029, KS030, HI031, TN032]

Energy Conservation Program for Consumer Products; State Petitions for Exemption From Federal Preemption of State Standards for Refrigerators and Refrigerator-Freezers, Freezers, Water Heaters, Room Air Conditioners, Central Air Conditioners, Furnaces and Kitchen Ranges and Ovens

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of proposed rulemakings and public hearings.

SUMMARY: The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, requires that the Department of Energy prescribe an energy efficiency standard for each of 13 major household appliances unless it determines, by rule, that a standard will not result in significant conservation of energy, is not technologically feasible, or is not economically justified.

On December 22, 1982, DOE published a final rule with respect to clothes dryers and kitchen ranges and ovens in which DOE determined that energy efficiency standards for these products would not result in a significant conservation of energy and would not be economically justified. In addition, the final rule set forth the procedures by which States may obtain exemption for State or local efficiency standards that are statutorily preempted as a result of a final rule with respect to energy efficiency standards; and procedures by which manufacturers may obtain a rule to preempt State or local efficiency standards for which there is no Federal final rule.

On August 30, 1983, DOE published a final rule with respect to refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and furnaces in which, for each of these products, except central air conditioners, DOE determined that an energy efficiency standard would not result in a significant conservation of energy and would not be economically justified. With respect to central air conditioners, DOE determined that an energy efficiency standard would result in a significant conservation of energy but would not be economically justified.

DOE has received petitions from 26 States requesting, in each case, that one or more State or local energy efficiency standards pertaining to one or more of the eight covered products be exempted from Federal preemption.[1]

The Department of Energy is today proposing to grant each State's petition. Therefor, DOE is proposing to amend Title 10, Part 430 of the Code of Federal Regulations to include a determination of exemption from Federal preemption for each State's applicable standard pertaining to the energy efficiency or energy use of refrigerators, refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners, furnaces and kitchen ranges and ovens.

The purpose of this notice of proposed rulemakings is to provide interested persons an opportunity to comment on the proposed rules and to invite interested persons to participate in the rulemaking process.

DATES: Written comments on the proposed rules must be received by the Department by November 15, 1984.

Oral views, data and arguments may be presented at any of the public hearings listed in the supplementary information section.

ADDRESSES: Written comments, statements and requests to speak at the hearings are to be submitted to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Energy Efficiency Program for Consumer Products, Docket No. CE-CP-SPRM-(appropriate State code), Mail Station 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9319.

The hearings will begin at 9 a.m., and will be held at the locations listed in the **SUPPLEMENTARY INFORMATION** section.

Copies of the State petitions, transcripts of public hearings, and public comments received may be obtained from the DOE Freedom of Information Reading Room: U.S. Department of Energy, Freedom of Information, Public Reading Room, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6020.

For more information concerning public participation in these rulemaking proceedings, see section IV "Public Comment Procedures" of this notice.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113, Room GF-217, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9127

Lona Feldman, Assistant General Counsel for Conservation and Renewable Energy, U.S. Department of Energy, Mail Station GC-33, Room 6B-144, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9507, or

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Room 6B-128, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9513

U.S. Department of Energy, Conservation and Renewable Energy, Office of Hearings and Dockets, Room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9319

SUPPLEMENTARY INFORMATION:

I. Introduction
a. Authority
b. Background
II. Discussion
a. General
b. Summary of State Petitions
III. Environmental, Regulatory Impact, and Regulatory Flexibility Reviews
a. Environmental Review
b. Regulatory Impact Review
c. Small Entity Impact Review
IV. Public Comment Procedures
a. Participation in Rulemaking
b. Written Comment Procedures
c. Public Hearings

I. Introduction

a. Authority

Part B of Title III of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619),[2] created the Energy Conservation Program for Consumer Products Other Than Automobiles. The consumer products subject to this program (referred to hereafter as "covered products") are: Refrigerators and refrigerator-freezers; freezers; dishwashers; clothes dryers; water heaters; room air conditioners; home heating equipment, not including furnaces; television sets; kitchen ranges and ovens; clothes washers; humidifiers

[1] DOE has received petitions from: Arkansas, Virginia, Florida, Pennsylvania, Wisconsin, South Carolina, New Mexico, Georgia, Rhode Island, New Hampshire, Massachusetts, California, Oregon, New York, Missouri, Texas, New Jersey, Illinois, Utah, Iowa, West Virginia, Minnesota, Washington, Kansas, Hawaii and Tennessee.

[2] Part B of Title III of EPCA, as amended by NECPA, 42 U.S.C. 6291-6309, is referred to in this notice as the "Act."

and dehumidifiers; central air conditioners; and furnaces, as well as any other consumer product classified as a covered product by the Secretary of Energy, if the product uses a specified minimum amount of energy. Section 322. The Secretary has not so classified any additional products.

Under the Act, the program consists essentially of three parts; testing, labeling, and energy efficiency standards.

For each of the covered products, DOE is required to establish energy efficiency standards that are designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Section 325 (a)(1) and (c). The Act provides, however, that no standard for a product is to be established if there is no test procedure for the product, or if DOE determines by rule either that a standard would not result in significant conservation of energy or that a standard is not technologically feasible or economically justified. Section 325(b).

Section 327 of the Act addresses the effect of federal rules concerning testing, labeling, and standards on State laws or regulations concerning such matters. Generally, all such State laws or regulations are superseded by the Federal rule. Section 327(a). A rule by DOE that an efficiency standard is not technologically feasible, economically justified, or likely to save significant amounts of energy is a rule that supersedes any State standard. Section 325(b). If, because there is no Federal rule, a State efficiency standard is not superseded, persons subject to it may petition DOE to have it superseded on the basis that there is no significant State or local interest sufficient to justify the regulation and such regulation unduly burdens interstate commerce. Section 327(b)(1). A State whose energy efficiency standard is superseded may petition the Department for a rule that it not be superseded, on the basis that there is a significant State or local interest to justify the standard and the State standard is a stricter standard. However, DOE cannot issue the requested rule if the State standard would unduly burden interstate commerce. Section 327(b)(3).

b. Background

On December 22, 1982, DOE published a final rule in which DOE determined that energy efficiency standards for clothes dryers and kitchen ranges and ovens would not result in a significant conservation of energy and would not be economically justified. 47 FR 57198. (Referred to hereafter as the December 1982 rule.) The December 1982 rule also established procedures governing petitions to DOE both by States to obtain exemption from preemption of State or local energy efficiency standards and by manufacturers to obtain exemption from State or local energy efficiency standards.

Pursuant to the procedures established in the December 1982 rule, DOE received petitions from five States requesting, in each case, that the State energy efficiency standard requiring intermittent ignition devices (IIDs) for clothes dryers and/or kitchen ranges and ovens be exempted from Federal preemption. DOE published proposed rules granting the five State Petitions on August 1, 1983. 48 FR 34858. On March 27, 1984, DOE published final rules granting each State's petition for exemption of State standards for clothes dryers and/or kitchen ranges and ovens. 48 FR 11764.[3]

On August 30, 1983, DOE published a final rule with respect to refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and furnaces. 48 FR 39376. (Referred to hereafter as the August 1983 rule.) For each product, except central air conditioners, DOE determined that a standard would not result in a significant conservation of energy and would not be economically justified. With respect to central air conditioners, DOE determined that an energy efficiency standard would result in a significant conservation of energy but would not be economically justified.

II. Discussion

a. General

Section 327(a)(2) of the Act provides that any Federal standard applicable under section 325 supersedes any non-identical State or local standard. Section 325(b) explicitly requires that a determination by DOE that no federal energy efficiency standard for a particular product is warranted would also supersede any State or local energy efficiency standard. Section 327(b)(3), however, provides that a State may petition for, and DOE may issue, a rule exempting a State or local standard from Federal supersession.

The petitions received from the 26 States generally request exemption for three generic types of energy efficiency standards: (1) State and local building code requirements pertaining to the efficiency of equipment installed in new construction or substantial renovation, (2) regulations which prohibit the sale or distribution of certain products in a State which do not meet prescribed levels of efficiency, and (3) regulations requiring intermittent ignition devices on gas appliances. For the first two types of State energy efficiency standards, i.e., building code requirements and bans on sales and distribution of low efficiency products, each State's standards for each product type consist of a prescribed minimum energy efficiency level for such product (or levels in cases where the product type is broken down into product classes and/or more than one State standard is applicable to the same product type) and a prescribed test method applicable to such product for determining whether manufactured units meet or fail to meet the minimum efficiency level(s) prescribed by the State. The third type of State energy efficiency standard is prescriptive in nature. As such, no energy efficiency levels or test methods need be specified.

Since the first two types of State energy efficiency standards consist of both prescribed minimum energy efficiency levels and test methods, DOE has, in examining each State's standards, considered the prescribed test methods as part of the State standard for which exemption from preemption is being sought. In proposing to grant the States' petitions as they pertain to State energy efficiency standards of these two types, DOE is proposing, as a condition of the grant, that only the test method prescribed in each State standard be used by the State to determine compliance with the associated minimum energy efficiency levels prescribed in that standard.

Many of the petitions submitted to DOE request exemption from preemption of State and local building codes. Most of these building codes incorporate, either directly or by reference, the equipment energy efficiency requirements specified in the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. (ASHRAE) Standard for "Energy Conservation in New Building Design," first published as ASHRAE Standard 90-75 and later updated as ASHRAE Standard 90A-1980. Both versions of this consensus standard (referred to hereafter as the ASHRAE Standards) specify energy efficiency requirements for furnaces, water heaters, room air conditioners and central air conditioners. These requirements consist of a prescribed minimum energy efficiency level for each product (or levels in cases where the product type is broken down into

[3] The five States are: California, New York, Wisconsin, Minnesota and Oregon. Each State was granted an exemption for its State standard for kitchen ranges and ovens. Wisconsin, Minnesota and Oregon also sought and were granted exemptions for their standards for clothes dryers.

product classes and/or more than one measure of energy efficiency is specified) and a prescribed test method applicable to each product for use in determining compliance with the minimum energy efficiency levels prescribed.

Each State's water heater energy efficiency standard references either the DOE water heater test procedure, ASHRAE Standard 90-75 or ASHRAE Standard 90A-1980. The ASHRAE Standard 90A-1980 energy efficiency requirements for water heaters reference the DOE water heater test procedure. However, the ASHRAE Standard 90-75 energy efficiency requirements for water heaters reference the American National Standards Institute (ANSI) Standard C72.1-72, "Household Automatic Electric Storage-Type Water Heaters" and ANSI Standard Z21.10.3-74, "Gas Water Heaters, Vol. III, Circulating Tank, Instantaneous and Large Automatic Storage Type Water Heaters" Both of these ANSI test methods differ from the DOE water heater test procedure. As discussed below, DOE is proposing to grant those petitions where the State or local water heater energy efficiency standards reference ANSI Standard C72.1.-72 or ANSI Standard Z21-10.3-74 test methods.

Each State's room air conditioner energy efficiency standard references either the DOE room air conditioner test procedure, ASHRAE Standard 90-75 or ASHRAE Standard 90A-1980. The energy efficiency requirements for room air conditioners found in both ASHRAE Standards reference American National Standards Institute/Association of Home Appliance Manufacturers (ANSI/AHAM) Standard Z234.1-1972, "Standard for Room Air Conditioners" DOE has adopted this standard by reference as the DOE room air conditioner test procedure. Therefore, all State energy efficiency standards for room air conditioners do, in effect, reference the DOE room air conditioner test procedure.

Each State's central air conditioner energy efficiency standard references either the DOE central air conditioner test procedure, ASHRAE Standard 90-75 or ASHRAE Standard 90A-1980. The ASHRAE Standard 90-75 energy efficiency requirements for central air conditioners reference Air Conditioning and Refrigeration Institute (ARI) Standard 210-75, "Standard for Unitary Air Conditioning Equipment", while the ASHRAE Standard 90A-1980 requirements are based on a more recent version of this standard, ARI Standard 210-78. The test methods of ARI Standard 210-75 and 210-78 are the same as those found in Test A of the DOE central air conditioner test procedure. As discussed below, DOE is proposing to grant those petitions where the State or local central air conditioner energy efficiency standards reference ARI Standard 210-78 or ARI Standard 210-75 test methods.

Each State's furnace energy efficiency standard references either the DOE furnace test procedure, ASHRAE Standard 90-75 or ASHRAE Standard 90A-1980. The ASHRAE Standard 90-75 energy efficiency requirements for furnaces reference ANSI Standard Z21.13-1974, "Gas-Fired Low-Pressure Steam and Hot Water Boilers"; ANSI Standard Z21.47-1971, including Addenda Z21.47a-1974, "Gas-Fired Gravity and Forced-Air Central Furnaces"; ANSI Standard Z91.1-1972, "Performance Requirements for Oil-Powered Central Furnaces"; and Hydronics Institute (HI) Standard 6.6 "Testing and Rating Standards for Cast-Iron and Steel Heating Boilers" ASHRAE Standard 90A-1980 references the DOE furnace test procedure. As discussed below, DOE is proposing to grant those petitions where the State or local furnace energy efficiency standards reference ANSI Standard Z21.13-1974; ANSI Standard Z21.47-1971, including Addenda Z21.47a-1974; ANSI Standard Z91.1-1972; or HI Standard 6.6 test methods.

Most State and local building codes incorporate the ASHRAE Standards in a two-step process. These codes are based on building codes published by one of several major building code organizations, which in turn incorporate the ASHRAE Standards. The Building Officials and Code Administrators International, Inc. (BOCA) is one such organization and is responsible for the documents entitled "The Basic Building Codes." Another is the International Conference of Building Officials (ICBO) which is responsible for the documents entitled "The Uniform Building Codes." A third is the Southern Building Code Congress International, Inc. (SBCC) which is responsible for the documents entitled "The Standard Building Codes." In 1977, BOAC, ICBO, SBCC and the National Conference of States on Building Codes and Standards (NCSBCS) jointly developed the document entitled "Code for Energy Conservation in New Building Construction" Finally, the document entitled "The Model Energy Code," which originally was jointly developed under a DOE contract by BOCA, ICBO, SBCC and NCSBCS, is now maintained and updated annually by the Council of American Building Code Officials (CABO). The equipment energy efficiency requirements found in all of these building codes—the BOCA Basic code, the ICBO Uniform code, the SBCC Standard code, the Code for Energy Conservation in New Building Construction, and the CABO Model Energy Code—are based on the ASHRAE Standards.

The second type of request submitted to DOE involves those State regulations which prohibit the sale or distribution of certain products in the State which do not meet prescribed levels of efficiency. The levels of performance prescribed in these regulations vary from state to state since they are based on each particular State's needs. In most cases, these levels are more stringent than those specified in the ASHRAE Standards.

The third type of energy efficiency standard represented in the petitions are those State regulations requiring intermittent ignition devices on gas appliances.

In the process of reviewing the 26 petitions, DOE found a number of instances where States requested exemption from preemption of State regulations which are not subject to preemption by the August 1983 rule. These requests usually involved State regulations establishing energy efficiency standards for equipment not covered by the DOE test procedures for the six covered products that are dealt with in the August 1983 rule. Any product which is not covered by a DOE test procedure, for instance, central air conditioners with cooling capacities greater than 65,000 Btu/per hour, is automatically exempt from any energy efficiency standard promulgated under the Act, including the preemptive effect of a Federal Standard. Accordingly, DOE has not considered these products in its discussions of specific State petitions.

In the December 1982 rule, DOE established the effective dates upon which supersession of State and local standards would take place and the general procedures by which States could petition for rules exempting their State or local standards for all covered products. DOE determined that State and local laws for a particular product would be superseded 180 days after Federal Register publication of a final rule governing that particular product unless within 60 days of publication of the rule, a State had filed with the Department a notice of intent to petition DOE for an exemption for that product. The full petition itself had to be filed

within 120 days of publication of the rule. When such a submission is made, the State or local rule remains in effect until DOE reaches a final determination on the State petition.

Petitions filed in response to the August 1983 final rule for six products were required to be submitted to DOE by December 28, 1983, in order for the applicable State or local standard to remain in effect until the Department reaches a final determination on the petition. However, a particular State's standards were superseded as of February 27, 1984, when the Department's standards became effective if that State had not filed a petition by December 28, 1983. The supersession of these State and local regulations will remain in effect until DOE issues a final rule granting a State's petition.

New standards for a particular covered product (or new levels of energy efficiency for a particular product enacted by States or local governments that had previously implemented standards), are also subject to the requirements of 10 CFR 430.34. The new standard would have to have been enacted within 60 days of a Federal rule for the product subject to the standard and a notice of intent to petition and the petition itself should have been filed in a timely fashion. After this period of time has expired, States may submit petitions for exemptions. However, State or local energy efficiency standards for the six products subject to the August 1983 rule were superseded as of February 27, 1984, and no new standard can be implemented until DOE grants the State's petition. Furthermore, any changes in State or local building codes which set forth energy efficiency standards for covered products are subject to Federal preemption, even if a prior standard level for the same covered product was granted an exemption from preemption. Thus, States must submit petitions to DOE for such exemptions each time a new standard level is formulated.

In its petition, a State is required to present information which would appear on its face to show that the State's regulation is more stringent than the Federal standard and that there is a significant State or local interest in the State or local regulation. However, DOE cannot issue the requested rule if the State standard would unduly burden interstate commerce. A party opposing the State's petition may present information to rebut the State's initial submission. Information presented by both the State and opposing parties would be open for comment and rebuttal.

In reviewing the petitions, DOE will evaluate and analyze all factual and legal material presented by the petitioners and all other interested parties. It is DOE's intention in applying Section 327 to determine whether a State standard unduly burdens interstate commerce by balancing the significant State interest in having a standard with the burden, if any, on interstate commerce created by the standard.

Because section 327(b)(3) of the Act requires DOE to consider each State petition individually before DOE can issue a rule exempting the State or local standard from preemption, DOE cannot issue a rule that makes a blanket determination for all 26 States.

The Department must treat such petitions as requests for rulemaking and must adhere to general rulemaking procedures. The DOE must conduct an environmental review pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, to determine whether or not the adoption of the proposed rule will be a major Federal action having a significant impact on the quality of the environment. The DOE must also consider the impact of the proposed regulation on small businesses pursuant to the Regulatory Flexibility Act, 5 U.S.C. 501 et seq. Finally, under Executive Order 12291 (46 FR 1393, February 19, 1981), DOE is required to prepare a regulatory impact analysis if DOE determines that the proposed rule is a major rule, as that term is defined in the Order.

Twenty-six States have petitioned the Department for a rule to allow the States to maintain their applicable energy efficiency standard for one or more of the six covered products as shown in Table I.[4]

Each of the States has met the filing requirements set forth in the December 1982 rule.[5] Each petition also presented information demonstrating that its regulation is more stringent than the Federal standard and that there is a significant State or local interest to justify the energy efficiency standard. Moreover, DOE has made a preliminary determination that there does not appear to be any undue burden on interstate commerce resulting from the State and local regulations and statutes. Accordingly, DOE is proposing to amend § 430.33 to permit each of the 26 States to maintain applicable appliance energy efficiency standards for kitchen ranges and ovens, refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and/or furnaces.

[4] Rhode Island also has petitioned for exemption from preemption of its standard for kitchen ranges and ovens.

[5] As mentioned above, States may submit petitions at any time. However, for State standards pertaining to one or more of the six products covered in the August 1983 rule to remain in effect until DOE issues a final rule granting a State's petition, a State would have had to file a petition by December 28, 1983.

TABLE I.—STATE PETITIONS

State	State code	Refrigerator refrigerator-freezer	Freezer	Water heater	Room air conditioner	Central air conditioner	Furnace	Ranges and ovens
Arkansas	AR006			x	x	x	x	
Virginia	VA007			x	x	x	x	
Florida	FL008			x	x	x	x	
Pennsylvania	PA009			x	x	x	x	
Wisconsin	WI010				x	x	x	
South Carolina	SC012			x		x	x	
New Mexico	NM013			x	x	x	x	
Georgia	GA014			x		x	x	
Rhode Island	RI015			x	x	x	x	x
New Hampshire	NH016			x	x	x	x	
Massachusetts	MA017			x	x	x	x	
California	CA018	x	x	x	x	x	x	
Oregon	OR019			x	x	x	x	
New York	NY020	x	x	x	x	x	x	
Missouri	MO021			x	x	x	x	
Texas	TX022			x	x	x	x	
New Jersey	NJ023			x	x	x	x	
Illinois	IL024	x	x	x	x	x	x	
Utah	UT025			x	x	x	x	
Iowa	IA026			x	x	x	x	
West Virginia	WV027			x	x	x	x	
Minnesota	MN028			x	x	x	x	
Washington	WA029			x	x	x	x	
Kansas	KS030					x		
Hawaii	HI031			x	x	x	x	
Tennessee	TN032			x	x	x	x	

b. Summary of State Petitions

ARKANSAS (AR006). The petition submitted by Arkansas seeks a rule exempting from Federal preemption Sections 503.4 and 504.2 of the 1979 Arkansas Rules and Regulations for Energy Efficiency Standards for New Building Construction as they pertain to water heaters, room air conditioners, central air conditioners and furnaces. The Arkansas law is based on ASHRAE Standard 90-75.

1. State Standard Levels

Water Heaters. Section 504.2 of Arkansas' law provides that electric storage water heaters shall have a standby loss not exceeding 4.0 watts per square foot of tank surface area. Section 504.2 of Arkansas' law provides that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater in gallons.[6]

Room Air Conditioners and Central Air Conditions. Section 503.4 of Arkansas' law provides that room air conditioners and central air conditioners with cooling capacities of 65,000 Btu per hour or less shall have an energy efficiency ratio not less than 6.1 Btu per watt-hour.[7]

Furnaces. Section 503.4 of Arkansas' law provides that gas- and oil-fired furnaces shall have a combustion efficiency not less than 75 per cent at maximum rated output.[8]

[6] Arkansas' water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of Arkansas' water heater standards for which exemption from preemption is being sought.

[7] Arkansas' room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Arkansas' central air conditioner standard references the ARI standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of Arkansas' room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[8] Arkansas' furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard Z21.47-71 test method, the ANSI Standard Z91.1-72 test method, and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of Arkansas' furnace standards for which exemption from preemption is being sought.

2. Significant State Interest

The petition states that there has been considerable building construction in Arkansas designed and built in accordance with the State's regulations since they became effective in 1979. The petition also states that Arkansas is considering revising its appliance standards to upgrade them to the requirements in ASHRAE Standard 90A-1980 to obtain additional energy savings.

3. Additional Information

The petitioner states that the State's regulations are more stringent than DOE's, that some appliances are available in the marketplace that do not comply with the State's regulations, and that interstate commerce is not adversely affected. Arkansas adds that manufacturers, distributors, and retailers have not commented that the State's regulations unduly burden interstate commerce.

4. Proposed Determination

DOE has reviewed Arkansas' petition in accordance with the requirements of Section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Arkansas has provided prima facie evidence showing that §§ 503.4 and 504.2 of the 1979 Arkansas Rules and Regulations for Energy Efficiency Standards for New Building Construction are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting §§ 503.4 and 504.2 of the Arkansas Rules and Regulations for Energy Efficiency Standards for New Building Construction from the preemptive provisions of Section 327(a)(2) of the Act.

VIRGINIA (VA007). The petition submitted by Virginia seeks a rule exempting from Federal preemption sections M-1303.2, M-1303.6, and P-1506.3.5 of the 1981 Virginia Uniform Statewide Building Code as they pertain to water heaters, room air conditioners, central air conditioners and furnaces. The Virginia law as it applies to water heaters, room air conditioners and central air conditioners is based on ASHRAE Standard 90-75. The Virginia law as it applies to furnaces is based on ASHRAE Standard 90A-1980.

1. State Standard Levels

Water Heaters. Section P-1506.3.5 of Virginia's law provides that electric storage water heaters shall have a standby loss not exceeding 4 watts per square foot of tank surface area. Gas- and oil-fired storage water heaters with input ratings of 75,000 Btu per hour or less are required to have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater in gallons.[9]

Room Air Conditioners and Central Air Conditioners. Section M-1303.2 of Virginia's law provides that room air conditioners and central air conditioners with cooling capacities of 65,000 Btu per hour or less shall have an energy efficiency ratio not less than 6.1 Btu per watt-hour.[10]

Furnaces. Section M-1303.6 of Virginia's law provides that gas- and oil-fired furnaces with input ratings of 225,000 Btu per hour or less and gas- and oil-fired boilers with input ratings of 300,000 Btu per hour or less shall have a steady state efficiency not less than 74 percent with the exception of gravity furnaces which shall have a steady state efficiency not less than 69 percent.[11]

2. Significant State Interest

In its petition, Virginia states that appliance energy efficiency standards have been a part of Virginia's Uniform Statewide Building Code since 1978 and that it intends to adopt the 1984 edition of the Building Officials and Code Administrators' (BOCA) "Basic Mechanical and Plumbing Code" in 1984.[12] The 1984 BOCA "Basic Mechanical and Plumbing Code" specifies more stringent levels for room air conditioners and central air conditioners and are based on ASHRAE Standard 90A-1980.

[9] Virginia's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of Virginia's water heater standards for which exemption from preemption is being sought.

[10] Virginia's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Virginia's central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of Virginia's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[11] Virginia's furnace standards reference the DOE furnace test procedure.

[12] No determination is proposed in today's notice regarding Virginia's use of the 1984 BOCA Code since at this time Virginia has not adopted the 1984 edition.

The petition refers to a State study of the existing and potential energy conservation requirements of Virginia's law. In the study, a review of existing voluntary energy conservation programs by private industry revealed that heating and cooling systems that were energy efficient and surpassed the minimum requirements of the building code were cost effective, and the payback period for these devices ranged from five to seven years. Further, the study found that considering the projected life-span of these devices, as opposed to the initial cost, the energy efficient devices proved to be a savings of energy and consumer capital.

3. Additional Information

The petition states that Virginia's regulations are more stringent than Federal requirements, that some appliances are available in the marketplace that do not comply with the State regulations, and that interstate commerce is not adversely affected. Virginia states that manufacturers, distributors, and retailers have not commented that the State regulations unduly burden interstate commerce.

4. Proposed Determination

DOE has reviewed Virginia's petition in accordance with the requirements of section 327 (b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Virginia has provided prima facie evidence showing the sections M-1303.2, M-1303.6 and P-1506.3.5 of the 1981 Virginia Uniform Statewide Building Code are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners, and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections M-1303.2, M-1303.6 and P1506.3.5 of the 1981 Virginia Uniform Statewide Building Code from the preemptive provisions of section 327 (a)(2) of the Act.

FLORIDA (FL008). The petition submitted by Florida seeks a rule exempting from Federal preemption sections 503.4(c), 503.4(e) 504.2(a), 901.1(e), 903.2(a), 903.8(c), 903.8(e), H903.2 and H903.8 of the 1982 Florida Model Energy Efficiency Code for Building Construction (1982 Florida Code) as they pertain to water heaters, room air conditioners, central air conditioners and furnaces. The petition also seeks a rule exempting from Federal preemption sections 503.4(c), 503.4(e), 504.2(a) 903.2(a), 903.8(c) 903.8(e) and 1002.1(b) of the 1984 Florida Model Energy Efficiency Code for Building Construction (1984 Florida Code) as they pertain to water heaters, room air conditioners, central air conditioners and furnaces. The 1984 Florida Code was adopted on December 21, 1983, to become effective on June 1, 1984.[13] The Florida Codes are based on the ASHRAE Standards 90-75 and 90A-1980.

The 1982 Florida Code has two sections that address minimum energy efficiency standards. Section 5 is a prescriptive section that sets standards for water heaters, room and central air conditioners, and furnaces. Section 9 is a residential point system method, the Energy Performance Index (EPI), which requires that the energy consumption of the entire structure not exceed a specified level. This is determined by totaling the point scores assigned to certain design features of the structure to insure that they do not exceed a certain specified value.

The 1984 Florida Code has three sections that address minimum energy efficiency standards. Section 5 is a prescriptive section and is similar to Section 5 of the 1982 Florida Code and Section 9 is similar to Section 9 of the 1982 Florida Code. The 1984 Florida Code has a new section (Section 10) that is a residential prescriptive compliance method which also specifies minimum energy efficiency standards. Section 10 of the 1984 Florida Code is for new construction of single family detached housing and for renovation of existing single family and multi-family housing. Section 10 specifies minimum energy efficiency levels for room and central air conditioners.

1. State Standard Levels

Water Heaters. Section 504.2(a) of the 1982 Florida Code provides that electric storage water heaters shall have a standby loss not exceeding 4.0 watts per square foot of tank surface area. This Section also provides that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.8+67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater in gallons.[14]

Section 903.2(a) for single family housing and Section H903.2 for multi-family housing of the 1982 Florida Code specify minimum energy efficiency standards for electric, gas-fired and oil-fired storage water heaters. These requirements are the same as those specified in 504.2(a) of the 1982 Florida Code.

Sections 504.2(a) and 903.2(a) of the 1984 Florida Code provide that electric storage water heaters shall have a standby loss not exceeding 4.0 watts per square foot of tank surface area. Sections 504.2(a) and 903.2(a) of the Florida Code also provide that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater in gallons.[15]

Room Air Conditioners and Central Air Conditioners. Section 503.4(e) of the 1982 Florida Code provides that room air conditioners and central air conditioners with cooling capacities of 65,000 Btu per hour or less shall have an energy efficiency ratio not less than 8.0 Btu per watt-hour.[16]

Sections 901.1(e), 903.8(e), and H903.8 of the 1982 Florida Code provide that room air conditioners and central air conditioners shall have an energy efficiency ratio not less than 8.0 Btu per watt-hour.[16A]

Sections 503.4(e) and 903.8(e) of the 1984 Florida Code provide that room air conditioners shall have an energy efficiency ratio not less than 7.5 Btu per watt-hour. Sections 503.4(e) and 903.8(e) of the 1984 Florida Code also provide that central air conditioners shall have a seasonal energy efficiency ratio or an energy efficiency ratio not less than 7.8 Btu per watt-hour.[16B]

[13] Since the 1984 Florida Code was not adopted until December 21, 1983, more than 60 days after publication of the Department's final rule setting forth the Federal standard, those 1984 standards cannot be exempted from preemption during the period beginning with the effective date of the Department's standards (February 27, 1984) and ending 30 days after the publication of a final rule granting the State's petition for the 1984 Florida Code. (See 10 CFR 430.34(b) and discussion at 47 FR 57214. (December 22, 1982).

[14] The water heater standards in the 1982 Florida Code reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of Florida's water heater standards for which exemption from preemption is being sought.

[15] The water heater standards in the 1984 Florida Code reference the DOE water heater test procedure.

[16] The room air conditioner standards in both the 1982 and the 1984 Florida Codes reference the DOE test procedure for room air conditioners. The central air conditioner standards in both the 1982 and the 1984 Florida Codes reference the DOE central air conditioner procedures.

[16A] Id.

[16B] Id.

The 1982 and 1984 Florida Codes divide the State into nine zones or climatic regions. Section 1002.1(b) of the 1984 Florida Code provides that room air conditioners shall have an energy efficiency ratio not less than 7.5 Btu per watt-hour. Section 1002.1(b) of the 1984 Florida Code also provides that central air conditioners shall have a seasonal energy efficiency ratio or an energy efficiency ratio not less than 7.8 Btu per watt-hour for zones 1 through 6 and not less than 8.5 Btu per watt-hour for zones 7 through 9.[16C]

Furnaces. Section 503.4(c) of the 1982 Florida Code provides that gas- and oil-fired furnaces shall have a combustion efficiency not less than 75 percent.[17]

Sections 903.8(c) and H903.8 of the 1982 Florida Code provide that gas- and oil-fired furnaces shall have a combustion efficiency not less than 74 percent.[17A]

Sections 503.4(c) and 903.8(c) of the 1984 Florida Code provide that gas- and oil-fired furnaces shall have a combustion efficiency not less than 74 percent or not less than 69 percent for gravity central furnaces.[18]

2. Significant State Interest

The petition states that the 1977 Florida Legislature passed two laws requiring local governments to adopt energy efficient building standards in response to EPCA. In effect, this precipitated the local adoption of an energy code for residential buildings for which building permits were issued after December 31, 1978. The two laws enacted by the Florida Legislature were the "Florida Thermal Efficiency Code" (Ch. 553.900, F.S.) and the "Florida Lighting Efficiency Code" (Ch. 553.908, F.S.), which were combined in 1980 as the Florida Model Energy Efficiency Code for Building Construction.

The petition states that petroleum and natural gas accounted for 50 percent of the fuel used to generate electricity for Florida in 1982. Due to a State population increase of 43.6 percent during the 1970–1980 decade, Florida expects a continually increasing demand for oil for generating electricity. To meet the growing demand for electricity, planned new generating capacity over the 1980–1990 decade is expected to be about 12,660 megawatts—a 60 percent increase over existing generating capacity. Florida also is planning three new high voltage transmission lines from Georgia to meet future electricity demands. The petition states that the rising costs of petroleum and construction of new power plants have made it imperative that the State implement energy conservation measures. In Florida, almost 25 percent of all energy is for residential use. Of that amount, about 60 percent is used for air conditioning, space heating and water heating. Therefore, the petition states, minimum energy efficiency standards for water heaters, room and central air conditioners, and furnaces are an effective means for resolving the unique energy situation in Florida.

3. Additional Information

Originally, the Florida State law referenced minimum standards for construction to meet or exceed national standards such as those of ASHRAE (e.g., ASHRAE Standard 90–75). However, nationally recognized energy codes or standards such as ASHRAE were designed primarily for climates where heating is more important than cooling. Consequently, the Florida Model Energy Efficiency Code for Building Construction was developed to be climate-specific for Florida.

The Building Code is reviewed at least biennially. As part of this review, the most cost-effective, energy-saving equipment and techniques available for buildings construction are identified. Then a determination is made whether to update the Code to incorporate such equipment and techniques. Under the continuing review process, Florida has revised its 1982 Code and published its 1984 Code. The petition includes a report recommending cost-effective minimum energy efficiency standards for room and central air conditioners.[19] These recommendations were incorporated into Florida's Code.

4. Proposed Determination

DOE has reviewed Florida's petition in accordance with the requirements of Section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Florida has provided prima facie evidence showing that sections 503.4(c), 503.4(e). 504.2(a), 901.1(e), 903.2(a), 903.8(c), 903.8(e), H903.2 and H903.8 of the 1982 Florida Model Energy Efficiency Code for Building Construction are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; and are justified by a significant State interest. DOE has determined that there does not appear to be an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 503.4(c), 503.4(e), 504.2(a), 901.1(e), 903.2(a), 903.8(c), 903.8(e), H903.2 and H903.8 of the 1982 Florida Model Energy Efficiency Code for Building Construction from the preemptive provisions of Section 327(a)(2) of the Act.

DOE was further determined that Florida has provided prima facie evidence showing the sections 503.4 (c) and (e), 504.2(a), 903.2(a), 903.8 (c) and (e) and 1002.1(b) of the 1984 Florida Model Energy Efficiency Code for Building Construction are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 503.4 (c) and (e), 504.2(a), 903:2(a), 903.8 (c) and (e) and 1002.1(b) of the 1984 Florida Model Energy Efficiency Code for Building Construction from the preemptive provisions of section 327(a)(2) of the Act. Since the 1984 Florida Code will not become effective until DOE issues a final determination on Florida's petition, the standard levels specified in the 1982 Code remain in full force and effect.

PENNSYLVANIA (PA009). The petition submitted by Pennsylvania seeks a rule exempting from Federal preemption 16 Pa. Code section 30.32(4), 16 Pa. Code section 30.32(6), 34 Pa. Code section 38.3 and 16 Pa. Code section 30.33 as they pertain to water heaters, room air conditioners, central air conditioners and furnaces.

16 Pa. Code sections 30.32 (4) and (6) establish minimum efficiency levels for water heaters and furnaces installed in new residential buildings.

34 Pa. Code section 38.3 adopts ASHRAE Standard 90A–1980 energy efficiency requirements for water heaters, room air conditioners, central air conditioners, and furnaces that are to be installed in new commercial and industrial buildings.[20]

Pennsylvania's petition also seeks a rule exempting from Federal preemption 16 Pa. Code section 30.33, a performance design alternative which does not specifically prescribe minimum

[16C] Id.

[17] The furnace standards in the 1982 Florida Code include a test method. DOE has reviewed this test method and finds that it differs from the DOE furnace test procedure. The Department is treating this test method as an integral part of Florida's furnace standards for which exemption from preemption is being sought.

[17A] Id.

[18] The furnace standards in the 1984 Florida Code reference DOE furnace test procedure.

[19] Florida Public Service Commission, *State of Florida Investor Owned Utilities recommendation for a Cost Effective Level of Residential Building Construction for Energy Conservation*, April 1983.

[20] Although EPCA, as amended, is intended to deal only with residential equipment, commercial and industrial State building codes, which include residential size equipment in their coverage, would be superseded.

efficiency levels for bulding equipment. Such type of State regulation is not superseded by the "no standard" standard determination. As such, no need exists for a determination regarding exemption from Federal preemption.

1. State Standard Levels

Water Heaters. 16 Pa. Code section 30.32(4) provides that gas- and oil-fired water heaters with input ratings under 75,000 Btu per hour shall have a recovery efficiency not less than 75 percent. Additionally, 16 Pa. Code section 30.32(4) provides that water heaters shall either have a tank with a thermal resistance of at least R=5; or have a standby loss not exceeding 4 watts per square foot of tank surface area in the case of electric storage water heaters or not exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume in gallons, in the case of gas- and oil-fired storage water heaters.[21]

34 Pa. Code section 38.3 provides that electric storage water heaters shall have a standby loss not exceeding 4 watts per square foot of tank surface area, or 43 watts, whichever is greater and gas- and oil-fired storage water heaters with input ratings less than 75,000 Btu per hour shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume in gallons. Additionally, 34 Pa. Code section 38.3 provides that oil-fired water heaters with input ratings greater than 75,000 Btu per hour, but less than 4,000 Btu per hour per gallon of rated volume, shall have a combustion efficiency not less than 80 percent and a standby loss not exceeding the quantity of 2.8 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume in gallons. Oil-fired water heaters with input ratings greater than 75,000 Btu per hour and greater than 4,000 Btu per hour per gallon of rated volume shall have a combustion efficiency not less than 80 percent.[21A]

Room Air Conditioners and Central Air Conditioners. 34 Pa. Code section 38.3 provides that room air conditioners and central air conditioners are to have an energy efficiency ratio not less than 6.8 Btu per watt hour.[22]

Furnaces. 16 Pa. Code section 30.32(6) provides that gas- and oil-fired furnaces shall have a steady state efficiency not less than 74 percent. 34 Pa. Code section 38.3 provides that gas- and oil-fired furnances shall have a steady state combustion efficiency not less than 69 percent.[23]

2. Significant State Interest

Pennsylvania's petition states that the General Assembly of the Commonwealth has determined that it is in the interest of its citizens that minimum energy conservation standards exist for newly constructed and substantially rehabilitated buildings and that energy shortages in the domestic supply present far-reaching problems that promise to persist. These energy shortages affect the continued efficient operation of the Commonwealth's economy and social structure. The Pennsylvania legislature's response to these energy shortages was to institute an energy conservation policy through regulation of building design and construction standards.

The petition states that if no standards were in existence, home buyers may purchase homes containing inefficient equipment, resulting in higher energy costs to the consumer. Because Pennsylvania is located in a relatively cold climate, significant savings of energy will result from requirements that furnaces and water heaters meet certain minimum standards. The Commonwealth estimates that the preemption of its standard by the Department of Energy's "no-standard" rule with respect to furnaces and water heaters will result in the use of at least an additional 1.2 million gallons of fuel oil a year in the Commonwealth. Because of the Commonwealth's heavy use of fossil fuel and electricity generated by fossil fuels, a need exists both to conserve such energy and to protect the environment. Pennsylvania asserts that its standards are directed toward such an objective. In 1983, the Pennsylvania Public Utility Commission (PUC) initiated a rulemaking that requires new and rehabilitated residential buildings to comply with the standards outlined in the State's regulations. The PUC stated that it desired to "improve the efficiency of energy consumption in Pennsylvania in order to reduce the utilities' future costs of supplying energy," and ultimately, to "reduce the potential burden of increasing energy costs on all consumers."

3. Additional Information

The petition states that energy efficient homes are potentially more marketable than those not built in accordance with conservation standards. Pennsylvania mortgage lenders have indicated that they view prospective home buyers as better risks when those buyers are looking to purchase homes built in accordance with Pennsylvania's energy conservation standards. Specifically, lenders will allow a buyer to assume a larger monthly mortgage payment in proportion to the buyer's income if the home is energy efficient.

The petition also states that Pennsylvania's economy stands to gain from its energy conservation standards. A recent study of appliance efficiency measures instituted in existing commercial buildings determined that Pennsylvania would spend nearly $76 million less per year on imported energy resources were those measures implemented. That study estimated savings based on measures completed in only one-half of existing commercial buildings and it is reasonable to assume that comparable savings would result should conservation standards continue to apply to new commercial buildings as well.

Finally, the petitioner suggests that the Commonwealth's energy conservation standards do not impose an undue burden on interstate commerce. At public hearings held prior to adoption of the current standards, manufacturers did not oppose implementation on the grounds that they would be unable to market their products in Pennsylvania. Further, manufacturers have met the minimum standards set forth in Pennsylvania's regulations.

4. Proposed Determination

DOE has reviewed Pennsylvania's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on this analysis, DOE has determined that Pennsylvania has provided prima facie evidence showing that 16 Pa. Code section 30.32(4), 16 Pa. Code section 30.32(6) and 34 Pa. Code section 38.3 are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting 16 Pa.

[21] Pennsylvania's water heater standards reference the DOE water heater test procedure.

[21A] Id.

[22] Pennsylvania's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Pennsylvania's central air conditioner standard references the DOE central air conditioner test procedure.

[23] Pennsylvania's furnance standards reference the DOE furnace test procedure.

Code section 30.32(4), 16 Pa. Code section 30.32(6) and 34 Pa. Code section 38.3 from the preemptive provisions of section 327(a)(2) of the Act.

WISCONSIN (WI010). The petition submitted by Wisconsin seeks a rule exempting from Federal preemption Wisconsin Statute 101.655 (1981) and Wisconsin Administrative Code: Ind 22.12, Ind 22.13, Ind 63.20 and PSC 136.04 as they pertain to room air conditioners, central air conditioners and furnaces. The petition also seeks a rule exempting from Federal preemption Wisconsin Administrative Code ILHR 63.20 as it pertains to room air conditioners, central air conditioners and furnaces. Wisconsin Administrative Code ILHR 63.20 was adopted in December 1983 to become effective on January 1, 1984 and to supersede Wisconsin Administrative Code Ind 63.20.[24] Wisconsin Statute 101.655 requires intermittent ignition devices on all new gas appliances [24A] Wisconsin Administrative Code Ind 22.12 prescribes minimum energy efficiency requirements for room air conditioners, central air conditioners, and gas- and oil-fired furnaces to be installed in one- and two-family dwellings. Administrative Code Ind 63.20 and Administrative Code ILHR 63.20 prescribe minimum energy efficiency requirements for these same types of equipment when installed in public buildings, places of employment, and buildings consisting of three or more family units.[25] Administrative Code Ind. 63.20 adopts the January 1, 1980 minimum energy efficiency requirements of ASHRAE Standard 90–75. Administrative Code ILHR 63.20 adopts the January 1, 1984 minimum energy efficiency requirements of ASHRAE Standard 90A–1980. Administrative Code Ind. 22.13 establishes energy efficiency requirements for gas- and oil-fired furnaces installed in one- and two-family dwellings. Administrative Code PSC 136.04 prohibits certain utilities from rendering natural gas service to existing residential structures converting to gas space heating service unless certain energy conservation requirements are met. One such requirement is that new central heating units shall comply with Administrative Code Ind 22.13. Administrative Code PSC 136.04 pertains only to the following investor-owned utilities: Lake Superior District Power Company; Madison Gas and Electric Company; Northern States Power Company; Superior Water, Light and Power Company; Wisconsin Fuel and Light Company; Wisconsin Gas Company; Wisconsin Service Corporation; and Wisconsin Southern Gas Company.

1. State Standard Levels

Room Air Conditioners and Central Air Conditioners. For air conditioning equipment, Administrative Code Ind 22.12 prescribes a minimum energy efficiency ratio of 6.1 Btu per watt-hour for units installed in one- and two-family dwellings.[26] Administrative Code Ind 63.20 prescribes a minimum energy efficiency ratio of 6.8 Btu per watt-hour for units installed in other structures.[26A] Administrative Code ILHR 63.20 would supercede Administrative Code Ind 63.20 to require a minimum energy efficiency ratio of 7.8 Btu per watt-hour.[27]

Furnaces. Wisconsin Statute 101.655 (1981) prohibits the sale, distribution or installation of any new gas furnace or heater requiring an electrical supply for operation that is not equipped with a State-certified intermittent ignition device. For gas- and oil-fired heating equipment, a minimum combustion efficiency of 75 percent at maximum rated output is prescribed by Administrative Code Ind 22.12.[28] Administrative Code Ind 22.13 provides that all combustion space-heating equipment to be installed in one- and two-family dwellings shall be provided with an intermittent ignition device. In addition, with the exception of sealed combustion equipment or equipment located in enclosures and provided with combustion air, all such equipment shall be provided with an automatic flue damper. Administrative Code Ind 63.20 provides that all gas- and oil-fired heating equipment shall have a combustion efficiency not less than 75 percent at maximum rated output.[28A] Administrative Code ILHR 63.20 would supersede Administrative Code Ind 63.20 to require the same level of efficiency but to reference a different test method.[29] Administrative Code PSC 136.04 implements the requirements of Administrative Code Ind 22.13 in cases where new gas-fired combustion space heating equipment is to be installed in existing residential structures coverting to gas space heating service.

2. Significant State Interest

Wisconsin states that it has a long history of supporting activities and technologies aimed at conserving natural resources. Since the State is without indigenous fossil fuels, all natural gas, oil and coal must be imported. The State's current annual fuel bill is estimated to be $8 billion with 78 percent of this expenditure leaving the State. Wisconsin cites these circumstances as causing its citizenry to be especially conscious of ways to conserve fuel, to reduce energy waste, and to provide protection from shortages which are beyond the State's control. The State asserts that its energy conservation regulations serve these interests of its citizenry. Energy and cost savings estimates were presented for three or the six regulations that are the subject of Wisconsin's petition. In the case of Wisconsin Statute 101.655 (1981) (gas furnaces), the State estimates the upper bound of total annual energy savings to be 0.215 Quads per year.[30] For Administrative Code Ind 22.13 (furnaces), the upper bound of total annual energy savings is estimated to be

[24] Since Wisconsin Administrative Code ILHR 63.20 was not adopted until December 1983, more than 60 days after publication of the Department's Final rule setting forth the Federal standard, it does not get the benefit of exemption from preemption during the period beginning with the effective date of the Department's standards (February 27, 1984) and ending 30 days after the publication of a final rule granting the State petition for Administrative Code ILHR 63.20. (See 10 CFR 430.34(b) and discussion found at 47 FR 57214, December 22, 1982.)

[24A] By notice published in the Federal Register on March 27, 1984 (49 FR 11764), DOE exempted Wisconsin Statute 101.655 as it pertains to kitchen ranges and ovens and clothes dryers from preemption from the Federal "no standard" standard for those products. Therefore, today's proposal addresses Wisconsin Statute 101.655 only as it applies to furnaces.

[25] In a telephone call to the petitioner for the purposes of clarification of the coverage of the State rules and regulations in question, it was determined that Administrative Code Ind 63.20 and Administrative Code ILHR 63.20 apply to buildings consisting of three or more family units as well as to public buildings and places of employment.

[26] Wisconsin's room air conditioner standard references the ANSI standard Z234.1–72 test method which DOE adopted as its test procedure for room air conditioners. Wisconsin's central air conditioner standard references the ARI Standard 210–75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of Wisconsin's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[26A] Id.

[27] Wisconsin's room air conditioner standard references the ANSI Standard Z234.1–72 test method which DOE adopted as its test procedure for room air conditioners. Wisconsin's central air conditioner standard references the DOE central air conditioner test procedures.

[28] Wisconsin's furnace standards reference the ANSI Standard Z21.13–74 test method, the ANSI Standard Z21.47–71 test method, the ANSI Standard Z91.1–72 test method, and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of Wisconsin's furnace standards for which exemption from preemption is being sought.

[28A] Id.

[29] Wisconsin's furnace standards reference the DOE furnace test procedure.

[30] This estimate is based on 33,000 gas space heating equipment unit sales per year and an annual energy savings of 6.5 million Btu per year per unit.

0.054 Quad per year.[31] For Administrative Code PSC 136.04 (gas furnaces), the upper bound of of total annual energy savings is estimated to be 0.11 Quad per per.[32] In the cases of Administrative Codes Ind 22.12, Ind 63.20, and ILHR 63.20, the State did not venture estimates of the energy savings attributable to these regulations. Wisconsin acknowledges that normal market mechanisms might have achieved some portion of the energy savings which the State attributes to its energy conservation regulations if the regulations had not been adopted, but finds that there is no reliable method upon which to base an estimate. Wisconsin notes that market failures exist which limit the market's ability to respond to price signals alone.

3. Additional Information

Wisconsin comments that its Statute 101.655 (1981) banning pilot lights and Administrative Code PSC 136.04 requiring intermittent ignition devices, and in many cases flue dampers, on gas space heating equipment installed in existing residential buildings that were converted to natural gas service have been in effect since 1978 and, in that time, no manufacturer has appealed to the State to reverse its ruling on the basis of loss of sales or inability to ship products across State lines. Further, public hearings held in the State in September 1980 to review alleged problems with the requirements of Administrative Code Ind 22.13 led the Wisconsin the Wisconsin Department of Industry, Labor and Human Relations to conclude that the alleged problems were unfounded, the requirement saves energy, sufficient quantities of complying furnaces were available to meet consumer needs, and manufacturers supported the regulation.

4. Proposed Determination

DOE has reviewed Wisconsin's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Wisconsin has provided prima facie evidence showing that Wisconsin Statute 101.655 (1981) and Wisconsin Administration Code: Ind 22.12, Ind 22.13, Ind 63.20 and PSC 136.04 are more stringent than DOE's rule for room air conditioners, central air conditioners, and furnaces; are justified by a significant State interest and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending Section 430.33 exempting Wisconsin Statute 101.655 (1981) and Wisconsin Administrative Code: Ind 22.12, Ind 22.13, Ind 63.20 and PSC 136.04 from the preemptive provisions of section 327(a)(2) of the Act.

DOE has further determined that Wisconsin has provided prima facie evidence showing that Wisconsin Administrative Code ILHR 63.20 is more stringent than DOE's rule for room air conditioners, central air conditioners and furnaces; is justified by a significant State interest; and does not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting Wisconsin Administrative Code ILHR 63.20 from the preemptive provisions of section 327(a)(2) of the Act. Since Wisconsin Administrative Code ILHR 63.20 will not become effective until 30 days after the publication of a final determination by DOE granting the State's petition for Administrative Code ILHR 63.20, Wisconsin Administrative Code Ind 63.20 will remain in full force and effect until such time.

SOUTH CAROLINA (SC012). The petition submitted by South Carolina seeks a rule exempting from Federal preemption sections 6–10–10, *et. seq.*, Code of Laws of South Carolina, 1976 (1982, Cum. Supp.) as they pertain to water heaters, central air conditioners and furnaces. In particular, section 6–10–30 of the South Carolina law adopts as the State standard the current edition of Appendix J (Code for Energy Conservation in New Building Construction) to the Standard Building Code of the Southern Building Code Congress International Inc. The current edition of Appendix J is the 1983 edition of the "Model Energy Code" as published by the Council of American Building Officials. The 1983 Model Energy Code is based on ASHRAE Standard 90A–1980.

The 1983 Model Energy Code presents three approaches for compliance: a systems approach (Chapter 4); a component performance approach (Chapter 5); and a specified acceptable practice approach (Chapter 6). Minimum energy efficiency standards are specified in the component performance and the specified acceptable practice approaches.

1. State Standard Levels

Water Heaters. For electric storage water heaters, Sections 504.2.1.1 and 604.1.1 of the adopted code specify a maximum standby loss of 4.0 watts per square foot of tank surface area. For gas- and oil-fired water heaters with input ratings of 75,000 Btu per hour or less, sections 504.2.1.2 and 604.1.1 of the adopted code specify a maximum standby loss of the quantity $2.3 + 67/V$, expressed in percent per hour of the stored thermal energy, where V equals the rated volume in gallons. For oil-fired water heaters with input ratings of greater than 75,000 Btu per hour, sections 504.2.1.2 and 604.1.1 specify a minimum combustion efficiency of 80 percent; and if the input rating of these oil-fired water heaters exceeds 4,000 Btu per hour per gallon of self-stored water, the standby loss shall not exceed the quantity $2.8 + 67/V$, expressed in percent per hour of the stored thermal energy, where V equals the rated volume in gallons.[33]

Central Air Conditioners. For central air conditioners, sections 503.4.5 and 603.2.1 of the adopted code specify a minimum energy efficiency ratio of 6.8 Btu per watt-hour.[34]

Furnaces. Sections 503.4.3 and 603.2.2 of the adopted code specify a minimum steady state efficiency of 74 percent of forced air furnances, low pressure steam boilers, and hot water boilers and a minimum steady state efficiency of 69 percent for gravity central furnaces.[35]

2. Significant State Interest

In its petition, South Carolina states that it is without indigenous fossil fuels and must import all its coal, oil, and natural gas, that the above mentioned appliances represent the largest energy users in most buildings; that to retrogress to a "no-standard" standard would be to waste the time, effort and money expended on energy conservation by both the public and private sectors; and that with the high cost of construction of electrical generating units, a serious setback to load management policies would result.

3. Additional Information

South Carolina asserts that since enactment, in July 1979, no manufacturer, wholesaler, or retailer has appealed to the State to amend its law based on loss of sales or inability to ship products across State lines.

[31] This estimate is based on 4,425 combustion space heating equipment unit sales per year and an annual energy savings of 12.2 million Btu per year per unit.

[32] This estimate is based on 9,000 existing residential homes converting to gas space heating equipment per year and an annual energy savings of 12.2 million Btu per year per unit.

[33] South Carolina's water heater standards reference the DOE water heater test procedure.

[34] South Carolina's central air conditioner standard references the DOE central air conditioner test procedure.

[35] South Carolina's furnace standards reference the DOE furnace test procedure.

4. Proposed Determination

DOE has reviewed South Carolina's petition in accordance with the requirements of Section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that South Carolina has provided prima facie evidence showing that sections 504.2.1.1, 504.2.1.2, 503.4.3, 503.4.5, 603.2.1, 603.2.2, and 604.1.1 of the 1983 Model Energy Code adopted by section 6-10-10 *et. seq.*, Code of Laws of South Carolina, 1976 (1982, Cum. Supp.) are more stringent than DOE's rule for water heaters, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 504.2.1.1, 504.2.1.2, 503.4.3, 503.4.5, 603.2.1, 603.2.2, and 604.1.1 of the 1983 Model Energy Code adopted by section 6-10-10 *et. seq.*, Code of Laws of South Carolina, 1976 (1982, Cum. Supp.) from the preemptive provisions of section 327(a)(2) of the Act.

NEW MEXICO (NM013). The petition submitted by New Mexico seeks a rule exempting from Federal preemption section 5301 of Chapter 53 of the 1979 Uniform Building Code adopted by the State of New Mexico on April 8, 1980, as it pertains to water heaters, room air conditioners, central air conditioners and furnaces. Section 5301(b) of the 1979 Uniform Building Code adopts the requirements of the December 1977 Code for Energy Conservation in New Building Construction. These requirements specify, among other matters, minimum energy efficiency levels for water heaters, room and central air conditioners, and furnaces. These levels are essentially identical to the requirements specified in ASHRAE Standard 90-75.

1. State Standard Levels

Water Heaters. Section 504.2(a) of the adopted Code provides that electric storage water heaters shall have a standby loss not exceeding 4 watts per square foot of tank surface area, and that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in precent per hour of the stored thermal energy, where V equals the rate volume in gallons.[36]

Room Air Conditioners and Central Air Conditioners. Section 50.34(e) of the adopted Code provides that room air conditioners and central air conditioners shall have an energy efficiency ratio not less than 6.1 Btu per watt-hour.[37]

Furnaces. Section 503.4(c) of the adopted Code provides that gas- and oil-fired furnaces shall have a combustion efficiency not less than 75 percent.[38]

2. Significant State Interest

The petition states that New Mexico's standards produce life-cycle cost savings for consumers; provides reasonable paybacks on the additional first cost of purchasing regulated products; does not degrade the performance of the products; saves substantial amounts of fossil fuels (stated to be a significant concern in New Mexico); will not lessen competition for sales of regulated products from current levels if exempted from Federal supersession; and does not create an undue burden on interstate commerce.

3. Additional Information

New Mexico asserts that the great majority of its citizens want their economic interests protected by the existing standards for water heaters, room air conditioners, central air conditioners and furnaces, and that since their initiation no written or verbal objections to the standards have been received by the New Mexico Energy and Minerals Department from consumers, manufacturers, distributors, or the building industry. The petition further states that the Code places no undue burden on interstate commerce and neither adversely affects competition nor lessens the utility or the performance of the covered products and that the overall impact of the Code is to increase dollar savings for the consumer and to conserve energy.

4. Proposed Determination

DOE has reviewed New Mexico's petition in accordance with the requirements of Section 327(b)(3) of the Act and § 430.47 of the regulation. Based on this analysis, DOE has determined that New Mexico has provided prima facie evidence showing that sections 503.4(c), 503.4(e) and 504.2(a) of the 1977 Code for Energy Conservation in New Building Construction adopted by section 5301 of Chapter 53 of the 1979 Uniform Building Code adopted by the State of New Mexico on April 8, 1980, are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 503.4(c), 503.4(e) and 504.2(a) of the 1977 Code for Energy Conservation in New Building Construction adopted by section 5301 of Chapter 53 of the 1979 Uniform building Code the State of New Mexico on April 8, 1980, as they pertain to water heaters, room air conditioners, central air conditioners and furnaces from the preemptive provisions of section 327(a)(2) of the Act.

GEORGIA (GA014). The petition submitted by Georgia seeks a rule exempting from Federal preemption the Georgia State Energy Code for Buildings, 1981, Edition, O.C.G.A. Sec. 8-2-20, *et seq*, as it pertains to water heaters, room air conditioners, central air conditioners, and furnaces. The Georgia Code is based on ASHRAE Standard 90A-1980 as of the Code's last revision, adopted on November 18, 1981.

1. State Standard Levels

Water Heaters. Section 504.2(a) of the Georgia State Energy Code for Buildings specifies the energy efficiency requirements for water heaters. Electric storage water heaters are required to have a standby loss not exceeding 4 watts per square foot of tank surface area, or 43 watts, whichever is greater. Gas- and oil-fired storage water heaters with input ratings of 75,000 Btu per hour or less are required to have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons. Oil-fired water heaters with input ratings exceeding 75,000 Btu per hour are required to have a combustion efficiency not less than 80 percent.

[36] New Mexico's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of New Mexico's water heater standards for which exemption for preemption is being sought.

[37] New Mexico's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. New Mexico's central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of New Mexico's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[38] New Mexico's furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard Z21.47-71 test method, the ANSI Standard Z91.1-72 test method, and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of New Mexico's furnace standards for which exemption from preemption is being sought.

Additionally, oil-fired water heaters with input ratings exceeding 75,000 Btu per hour but less than 4,000 Btu per hour per gallon of self-stored water are required to have a standby loss not exceeding the quantity of 2.8 + 0.002Q/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater in gallons, and Q equals the rated input of the water heater in Btu per hour.[39]

Room Air Conditioners and Central Air Conditioners. Section 503.4(e) of the Georgia State Energy Code for Buildings provides that room air conditioners and central air conditioners with cooling capacities of 65,000 Btu per hour or less shall have an energy efficiency ratio not less than 6.8 Btu per watt-hour.[40]

Furnaces. Section 503.4(c) of the Georgia State Energy Code for Buildings provides that gas- and oil-fired residential furnaces with input ratings under 225,000 Btu per hour and gas- and oil-fired residential boilers with input ratings under 300,000 Btu per hour are required to have a steady state combustion efficiency not less than 74 percent, except in the case of gravity central furnaces which are required to have a steady state combustion efficiency not less than 69 percent.[41]

2. Significant State Interest

Since its Energy Code became effective in 1978, Georgia estimates the total energy cost savings associated with the installation of new gas and oil water heaters to be $12,000,000 with electric water heaters accounting for an additional $4,750,000.[42] For central air conditioners, Georgia estimates the total energy cost savings since its Energy Code became effective to be $151,200,000.[43] For furnaces, Georgia estimates the total energy cost savings since its Energy Code became effective to be $80,000,000.[44]

3, Additional Information

George asserts that the numerous public hearings held in 1977 regarding the then proposed Georgia Energy Code produced concurrence from both manufacturers and consumers regarding the equipment energy efficiency specifications. Further, the standards have not lessened the utility or performance of water heaters, room air conditioners, central air conditioners or furnaces or the competition among manufacturers of these products. Finally, Georgia asserts that it imports 97 percent of the energy it consumes; hence, any savings in energy consumption benefits its citizens and industries by freeing capital for commitment to other purposes.

4. Proposed Determination

DOE has reviewed Georgia's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Georgia has provided prima facie evidence showing that sections 503.4 (c) and (e) and 504.2(a) of the Georgia State Energy Code for Buildings, 1981 Edition, O.C.G.A. Sec. 8-2-20. *et seq.* are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exemption sections 503.4 (c) and (e) and 504.2(a) of the Georgia State Energy Code for Buildings, 1981 Edition, O.C.G.A. Sec. 8-2-20, *et seq.* from the preemptive provisions of section 327(a)(2) of the Act.

RHODE ISLAND (RI015). The petition submitted by Rhode Island seeks a rule exempting from Federal preemption sections 503.4 (c) and (e), 504.2(a) (1) and (2), 603.2 (a) and (b), 604.1(a) and 702 of the Rhode Island State Building Code, revised as of July 1, 1983, as they pertain to water heaters, room air conditioners, central air conditioners, furnaces and kitchen ranges and ovens.[45] The Rhode Island State Building Code adopts by reference the December 1977 Code of Energy Conservation in New Building Construction. This adopted Code incorporates three alternative approaches for compliance: a systems analysis approach, a component performance design approach and an acceptable practice approach applicable to conventional residential buildings and other small buildings which meet certain requirements. The provisions of the latter two approaches found in this Code incorporate minimum energy efficiency requirements for space heating and cooling and water heating equipment based on ASHRAE Standard 90-75. Further, section 702 of the Rhode Island State Building Code requires intermittent ignition devices on certain gas appliances.

1. State Standard Levels

Water Heaters. Sections 504.2(a) (1) and (2) and 604.1(a) provide that electric storage water heaters shall have a standby loss not exceeding 4.0 watts per square foot of tank surface area and that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V is the rated volume of the water heater in gallons.[46]

Room Air Conditioners and Central Air Conditioners. Sections 503.4(e) and 603.2(a) provide that room air conditioners and central air conditioners with cooling capacities of 65,000 Btu per hour or less shall have an efficiency ratio not less than 6.1 Btu per watt-hour.[47]

Furnaces. Sections 503.4(c) and 603.2(b) provide that gas- and oil-fired furnances shall have a combustion efficiency not less than 75 percent at

[39] Georgia's water heater standards reference the DOE water heater test procedure.

[40] Georgia's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Georgia's central air conditioner standard references the DOE central air conditioner test procedure.

[41] Georgia's furnace standards reference the DOE furnace test procedure.

[42] These energy cost savings estimates are based on the assumptions that the Georgia Energy Code results in an annual energy cost savings for electric water heaters of $58 per year (the nominal annual operating cost difference between a unit with an energy factor of 0.89 and one with an energy factor of 0.77) and an annual energy cost savings for gas water heaters of $38 per year (the nominal annual operating cost difference between a unit with an energy factor of 0.53 and one with an energy factor of 0.44).

[43] This energy cost savings estimate is based on the assumption that the Georgia Energy Code results in an annual energy cost savings for central air conditioners of $126 per year (the nominal annual operating cost difference between a unit with an SEER of 7.5 and one with an SEER of 6.0) and an associated annual energy savings of 1000 kilowatt-hours per year.

[44] This energy cost savings estimate is based on an estimated 65,000 new furnace installations per year since the Georgia Energy Code became effective.

[45] Since DOE's December 1982 rule required State petitions for exemption from preemption for kitchen ranges and ovens to be submitted by April 21, 1983, Rhode Island's standard for kitchen ranges and ovens is preempted until 30 days after DOE issues a final rule with regard to the granting of the petition.

[46] Rhode Island's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of Rhode Island's water heater standards for which exemption from preemption is being sought.

[47] Rhode Island's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Rhode Island's central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of Rhode Island's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

maximum rated output.[48] In addition, the Rhode Island State Building Code, Section 702, provides that all gas furnaces manufactured after January 1, 1985, except those fueled by liquified petroleum gas, shall be installed with an intermittent ignition device.

Kitchen Ranges and Ovens. Section 702 provides that all gas kitchen ranges and ovens manufactured after January 1, 1985, except those fueled by liquified petroleum gas, shall be installed with an intermittent ignition device.

2. Significant State Interest

Rhode Island points out that a review of currently available equipment shows that there are some models of products covered by the State Building Code which do not meet the energy efficiency requirements of the Code. Without its equipment energy efficiency requirements, Rhode Island contends that energy costs to consumers and energy resource consumption within the State would be expected to increase. Rhode Island states that it is not in a position, nor has the resources to conduct a lengthy analysis of energy savings attributable to these regulations. However, an estimate of the energy cost savings, associated with its pilot light ban, of $27 per pilot light per year was made.[49] Rhode Island estimates that there are about 500,000 to 600,000 gas pilot lights operating in the State at the present time.

3. Additional Information

In its petition, Rhode Island asserts that its efficiency regulations are not a burden on interstate commerce. After reviewing the records of the State Building Commissioner's office, the State found that no manufacturer, retailer or distributor of the products covered by the Code has ever opposed the Code criteria. Thus, the State concludes that manufacturers, retailers and distributors of these products have not been adversely affected by the regulations and, therefore, the regulations are not a burden on interstate commerce.

In its petition Rhode Island also states that in 1984 it will adopt the 1984 edition of the Building Officials and Code Administrators Basic Mechanical and Plumbing Codes which contain criteria for room air conditioners and central air conditioners based on ASHRAE Standard 90A-1980 at the January 1, 1984 levels. The State will be required to submit a new petition for exemption from preemption for any changes in its regulatory standards once such changes are adopted.

4. Proposed Determination

DOE has reviewed Rhode Island's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Rhode Island has provided prima facie evidence showing that sections 503.4 (c) and (e), 504.2(a) (1) and (2), 603.2 (a) and (b), 604.1(a) and 702 of the Rhode Island State Building Code, revised as of July 1, 1983, are more stringent that DOE's rule for water heaters, room air conditioners, central air conditioners, furnaces, and kitchen ranges and ovens; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule exempting Sections 503.4 (c) and (e), 504.2(a) (1) and (2), 603.2 (a) and (b), 604.1(a) and 702 of the Rhode Island State Building Code, revised as of July 1, 1983, from the preemptive provisions of section 327(a)(2) of the Act.

NEW HAMPSHIRE (NH016). The petition submitted by New Hampshire seeks a rule exempting from Federal preemption the State Regulation RSA 155:D as it pertains to water heaters, room air conditioners, central air conditioners and furnaces.

1. State Standard Levels

Water Heaters. Section 504.2(a)(1) of New Hampshire's regulation RSA 155:D provides that electric storage water heaters shall have a standby loss not exceeding 4.0 watts per square foot of tank surface area. Part 504.2(a)(2) provides that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume in gallons.[50] These water heater provisions are identical to those of ASHRAE Standard 90-75, effective January 1, 1977

Room Air Conditioners and Central Air Conditioners. Section 503.4(c) of RSA 155:D provides that room and central air conditioners shall have an energy efficiency ratio not less than 6.8 Btu per watt-hour.[51] This provision is identical to the room and central air conditioner provision of ASHRAE Standard 90-75, effective January 1, 1980.

Furnaces. Section 503.4(c) of RSA 155:D provides that gas- and oil-fired furnaces shall have a combustion efficiency not less than 75 percent at maximum rated output.[52] This provision is identical to the furnace provisions of ASHRAE Standard 90-75, effective January 1, 1977.

2. Significant State Interest

The petitioner submits that there is significant State interest in support of the State's minimum performance standards and therefore the standards should not be superseded. Because of rising fuel costs and heavy petroleum dependence, the imposition of minimum efficiency standards represents a reasonable method of reducing energy consumption.

3. Additional Information

The petitioner states that to the best of New Hampshire's knowledge, State standards have not created any situation in which a customer or company has had to pay any additional product cost due to Code compliance. In addition, no manufacturer or retailer has reported any lessening of the utility or performance of central air conditioners, any lessening or competition between companies, or any burden on interstate commerce.

[48] Rhode Island's furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard Z21.47-71 test method, the ANSI Standard Z91.1-72 test method, and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnance test procedure. The Department is treating these test methods as an integral part of Rhode Island's furnace standards for which exemption from preemption is being sought.

[49] This cost savings estimates is based on 1982 dollars and gas prices and a typical pilot light energy consumption of 4 million Btu per year.

[50] New Hampshire's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of New Hampshire's water heater standards for which exemption from preemption is being sought.

[51] New Hampshire's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. New Hampshire's central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of New Hampshire's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[52] New Hampshire's furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard 91.1-72 test method and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of New Hampshire's furnace standards for which exemption from preemption is being sought.

4. Proposed Determination

DOE has reviewed New Hampshire's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that New Hampshire has provided prima facie evidence showing that sections 503.4 (c) and (e) and 504.2(a) (1) and (2) of New Hampshire Regulation RSA 155:D are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a final rule amending § 403.33 exempting Sections 503.4 (c) and (e) and 504.2(a) (1) and (2) of New Hampshire's Regulation RSA 155:D from the preemptive provisions of Section 327(a)(2) of the Act.

MASSACHUSETTS (MA017). The petition submitted by Massachusetts seeks a rule exempting from Federal preemption Article 17, section 2.14.8(a), and Article 20, section 2010.6.1 and 2010.6.3 of the Massachusetts State Building Code as they pertain to water heaters, room air conditioners, central air conditioners and furnaces.

1. State Standard Levels

Water Heaters. Article 17, section 2.14.8(a) of the Massachusetts State Building Code provides that electric storage water heaters shall have a standby loss not exceeding 4 watts per square foot of tank surface area and that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+ 67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume in gallons.[53]

Room Air Conditioners and Central Air Conditioners. Article 20, section 2010.6.3 of the Massachusetts State Building Code provides that room air conditioners and central air conditioners shall have a energy efficiency ratio not less than 6.1 Btu per watt-hour for units with cooling capacities under 65,000 Btu per hour.[54]

Furnaces. Section 2010.6.1 of the Massachusetts State Building Code provides that gas- and oil-fired comfort heating equipment shall have a combustion efficiency not less than 75 percent at maximum rated output.[55]

2. Significant State Interest

Massachusetts states that a review of currently available U.S. equipment shows that there are covered products manufactured that do not meet the minimum criteria of the Massachusetts State Building Code. Without such minimum criteria, the energy costs to consumers and energy resource consumption within the State would be expected to increase due to any new constuction containing less efficient products.

3. Additional Information

Massachusetts states that since these regulations became a part of the Massachusetts State Building Code in 1978, no manufacturer, retailer, or distributor of these products has indicated opposition to the Code criteria; therefore, the Code criteria are not a burden on interstate commerce and have not adversely impacted the building construction community. Massachusetts considers maintenance of the current criteria in its Code as a significant State and local interest because of the confusion that would be created if the Commonwealth had to eliminate the criteria.

4. Proposed Determination

DOE has reviewed Massachusetts' petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on this analysis, DOE has determined that Massachusetts has provided prima facie evidence showing that Article 17, section 2.14.8(a) and Article 20, section 2010.6.1 and 2010.6.3 of the Massachusetts State Building Code are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting Article 17, section 2.14.8(a) and Article 20, sections 2010.6.1 and 2010.6.3 of the Massachusetts Building Code as they pertain to water heaters, room air conditioners, central air conditioners and furnaces from the preemptive provisions of section 327(a)(2) of the Act.

CALIFORNIA (CA018). The petition submitted by California seeks a rule exempting from Federal preemption all of the State's appliance efficiency regulations regarding refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and furnaces.[56]

California seeks exemptions from Federal preemption for three different State regulations. First, California seeks exemption for Sections 1604 and 1605 of Title 20 of the California Administrative Code prohibiting the sale of low efficiency appliances by establishing minimum efficiency levels (referred to herein as "the appliance efficiency sale regulations"). Second, California seeks exemption for Sections 2-5305 (a) and (c), 2-5307(a), and 2-5337 of Part 2 of Title 24 of the California Administrative Code prohibiting the installation of low efficiency appliances in new buildings (referred to herein as "the building regulations"). Third, California seeks exemption for Sections 25960 and 25964 of the California Public Resources Code prohibiting the sale of gas appliances with pilot lights (referred to herein as the "IID regulations").

1. State Standard Levels

Refrigerators and Refrigerator-freezers, and Freezers. 1. Section 1604(a) provides that the annual energy consumption of all new refrigerators, refrigerator-freezers and freezers offered for sale in the State of California shall not exceed the values derived from the following formulas, where V is the total refrigerated volume in cubic feet and EC is the annual energy consumption in kilowatt-hours per year:[57]

[53] Massachusett's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of Massachusett's water heater standards for which exemption from preemption is being sought.

[54] Massachusett's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Massachusett's central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. DOE is treating these test methods as an integral part of Massachusett's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[55] Massachusett's furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard Z21.47-71 test method, the ANSI Standard Z91.1-72 test method, and the HI Standard 0.0. test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of Massachusett's furnace standards for which exemption from preemption is being sought.

[56] Although the title of California's petition alludes to exemption for "gas space heater" regulations, the regulations outlined in the petition have specific provisions for gas- and oil-fired furnaces. Thus, today's proposal pertains to those provisions of the California regulations regarding gas- and oil-fired furnaces.

[57] California's refrigerator, refrigerator-freezer, and freezer standards reference the DOE test procedures for refrigerators and refrigerator-freezers and for freezers, as appropriate.

(A) Refrigerators—EC=487+30.42V
(B) Refrigerator-freezers with automatic defrost systems and anti-sweat heater[58] switches—EC=487=55V
(C) Refrigerator-freezers with automatic defrost systems and without anti-sweat heater switches—EC=487+60.83V
(D) Refrigerator-freezers without automatic defrost systems—EC=487+48.67V
(E) Upright freezers with automatic defrost systems and anti-sweat heater switches—EC=460+65V
(F) Upright freezers with automatic defrost systems and without anti-sweat heater switches—EC=460+68.94V
(G) Upright freezers without automatic defrost systems—EC=460+45.96V
(H) Non-upright freezers—EC=379+37.85V

Water Heaters. i. Section 1604 (e) provides that: [59]

(A) All new electric storage water heaters offered for sale in the State of California shall have a standby loss not exceeding 4 watts per square foot of tank surface area or 35 watts whichever is greater; except for mobile home types, where 4 watts per square foot of tank surface area is the only requirement.

(B) All new gas storage water heaters offered for sale in the State of California excepting those designed expressly for use in mobile homes, must satisfy one of two alternative requirements. They must either have a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons, and a recovery efficiency not less than 76 percent; or, a standby loss not exceeding the quantity of 1.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater, in gallons, and a recovery efficiency not less than 74 percent.

(C) All new gas storage water heaters offered for sale in the State of California expressly designed for use in mobile homes shall have a recovery efficiency not less than 75 percent; and, a standby loss no greater than 7.5 percent for units with storage capacities less than 25 gallons, no greater than 7.0 percent for units with storage capacities of at least 25 gallons but less than 35 gallons; or no greater than 6.0 percent for units with storage capacities of 35 gallons or more.

ii. Section 2-5307(a) adopts by reference the energy efficiency requirements for water heaters found at section 1604(e) of Title 20 of the California Administrative Code for units installed in new buildings. Section 2-5307(a) further requires that oil-fired storage water heaters installed in new buildings shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons.[60]

Room Air Conditioners. i. Section 1604(b) provides that: [61] (A) All new room air conditioners with heating capability offered for sale in the State of California shall have a thermal efficiency not less than 90 percent.

(B) All new room air conditioners designed for operation with an electrical supply of less than 200 volts offered for sale in the State of California shall have an energy efficiency ratio not less than 8.2 Btu per watt-hour.

(C) All new room air conditioners designed for operation with an electrical supply of less than 200 volts offered for sale in the State of California shall have an energy efficiency ratio not less than 8.7 Btu per watt-hour.

(D) All new room air conditioners designed for operation with an electrical supply of at least 200 volts and which are capable of performing a heating function offered for sale in the State of California shall have an energy efficiency ratio not less than 8.3 Btu per watt-hour.

ii. Section 2-5306(a) adopts by reference the energy efficiency requirements for room air conditioners found at section 1604(b) of Title 20 of the California Code for units installed in new buildings.

Central Air Conditioners. i. Section 1604(c) provides that all new central air conditioners offered for sale in the State of California shall have a seasonal energy efficiency ratio not less than 8.0 Btu per watt-hour.[62]

ii. Section 2-5306(a) adopts by reference the energy efficiency requirements for central air conditioners found at section 1604(c) of Title 20 of the California Code for units installed in new buildings.

Furnaces. i. Section 1604(d) provides that:[63]

(A) All new gas fan-type central furnaces with input ratings less than 175,000 Btu per hour offered for sale in the State of California shall have a seasonal efficiency not less than 71 percent.

(B) All new gas fan-type central furnaces with input ratings of 175,000 Btu per hour or greater offered for sale in the State of California must satisfy one of two alternative requirements. Furnaces falling in this category must either have a seasonal efficiency not less than 71 percent; or, a steady state efficiency not less than 75 percent and a standby loss not exceeding 147 watts in the case of units designed expressly for use with liquified petroleum gases including propane, and 25 watts in all other cases. Effective December 22, 1984, this latter alternative requirement will no longer be applicable. At that time, all furnaces falling in this category will be required to have a seasonal efficiency not less than 71 percent.

(C) All new gas boilers shall have a thermal efficiency not less than 75 percent and a standby loss not exceeding 293 watts in the case of units designed expressly for use with liquified petroleum gases including propane, and 147 watts in all other cases.

ii. Section 1605 provides that no new fan-type central furnaces, other than those designed to burn only liquified petroleum gases and those designed expressly for use in mobile homes and recreational vehicles, be sold equipped with a continuously burning pilot.

iii. Section 2-5306(c) adopts by reference the energy efficiency requirements for furnaces found at Sections 1604(d) and 1605 of Title 20 of the California Administrative Code for units installed in new buildings.

iv. Section 2-5337 provides that in addition to the requirements of Section 2-5306(c), gas furnaces installed in new buildings shall have a thermal efficiency not less than 75 percent.[64] Section 2-5337 also stipulates that oil furnaces shall have a combustion efficiency not less than 75 percent at maximum rated output:[65]

[58] An anti-sweat heater is a device that prevents the accumulation of moisture on the exterior surfaces of a refrigerator, refrigerator-freezer, or freezer under conditions of high ambient humidity. The anti-sweat heater usually contains electric resistence heating elements.

[59] California's water heater standards reference the DOE water heater test procedure.

[60] California's oil-fired water heater standard references the ANSI Standard Z21.10.3-1981 test method. DOE has reviewed this test method and finds that it differs from the DOE water heater test procedure. The Department is treating this test method as an integral part of California's oil-fired water heater standard for which exemption from preemption is being sought.

[61] California's room air conditioner standards reference the DOE room air conditioner test procedure.

[62] California's central air conditioner standards reference the DOE central air conditioner test procedure.

[63] California's furnace standards reference the DOE furnace test procedure.

[64] California's gas furnace standard references the ANSI Standard Z21.47-1978 test method. DOE has reviewed this test method and finds that it differs from the DOE furnace test procedure. The Department is treating this test method as an integral part of California's gas furnace standard for which exemption from preemption is being sought.

[65] California's oil furnace standard includes a test method which differs from the DOE furnace test method. The Department is treating this test method

Continued

v. Section 25960 (IID regulation) stipulates that no new residential-type gas appliances that are being equipped with pilot lights, excluding gas water heaters, shall be sold in the State after an alternate means of ignition has been certified by the Commission. It stipulates further that this prohibition shall become operative 24 months after an intermittent ignition device has been certified by the Commission as an alternate means.

vi. Section 25964 (IID regulations) stipulates that 24 months after an intermittent ignition device has been certified by the Commission, no person shall sell or offer for sale any new gas appliances, excluding gas water heaters, in California without obtaining the proper seal of certification from the Commission unless the Commission otherwise permits such action. Section 25964 further provides that beginning at this time, no city or county, or State agency shall issue a permit for any building to be equipped with any new gas appliance (as specified above) unless such building permit shows that the gas appliance complies with this chapter.

2. Significant State Interest

The petition includes extensive analysis regarding the savings attributable to these regulations. This analysis concludes that these regulations save individual appliance users up to $200 per year, and that 800 million therms of natual gas and 4 billion kilowatt-hours of electricity will be saved annually by the end of the century. The petitioner contends that these energy savings demonstrate a significant State interest.

3. Additional Information

California asserts that: (1) Conservation is the best energy supply for Californians; (2) the regulations lower utility rates for all California; (3) the regulations increase employment and improve the climate for business in California; (4) the regulations are particularly beneficial for low-income consumers; (5) the regulations produce environmental benefits for California; and (6) if the California regulations are preempted, the free market will not produce the same benefits, and therefore should not be relied upon.

California also states that these energy regulations do not impose an undue burden on interstate commerce. Specifically, the petitioner contends that these regulations are a reasonable means to carry out the legitimate purpose of energy conservation and do not have a discriminatory motive or effect. Further, the petition states that these energy regulations do not adversely affect appliance manufacturers, do not conflict with requirements in other States, do not have an adverse extraterritorial effect, do not meaningfully restrict appliance choice in California, do not burden the instrumentalities of interstate commerce and do not conflict with any need for national uniformity. California believes its energy regulations have benefits which substantially outweigh any burden they might have on interstate commerce and that in the State's view, no acceptable alternatives exist.

4. Proposed Determination

DOE has reviewed California 's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that California has provided prima facie evidence showing that sections 1604 and 1605 of Title 20 of the California Administrative Code, and sections 2-5306 (a) and (c), 2-5307(a), and 2-5337 of Part 2 of Title 24 of the California Administrative Code and sections 25960 and 25964 of the California Public Resources Code are more stringent than DOE's rule for refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 1604 and 1605 of Title 20 of the California Administrative Code, sections 2-5306 (a) and (c), 2-5307(a) and 2-5337 of Part 2 of Title 24 of the California Administrative Code and sections 25960 and 25964 of the California Public Resources Code from the preemptive provisions of section 327(a)(2) of the Act.

OREGON (OR019). The petition submitted by Oregon seeks a rule exempting from Federal preemption the following three regulations: (1) Oregon Laws 1979, Chapter 197 (June 4, 1979); (2) Oregon Administrative Rules (OAR), section 814-21-135; and (3) State of Oregon, 1983 Edition, Structural Specialty Code and Fire and Life Safety Regulations, Sections 5304(b) 2 and 5. Oregon's 1983 Edition, Structural Specialty Code and Fire and Life Safety Regulation, Chapter 53, Energy Conservation adopts the 1982 edition of the Uniform Building Code published by ICBO. The Oregon laws pertain to water heaters, room air conditioners, central air conditioners, and furnaces.

1. State Standard Levels

Water Heaters. OAR Section 814-21-135 specifies minimum energy efficiency criteria applicable to the installation of water heaters in buildings. It provides that electric storage water heaters shall have a standby loss not exceeding 4 watts per square foot of tank surface area or 43 watts, whichever is greater, and a thermal insulation value of R-16 if the water heater is installed in an unconditioned space. The requisite thermal insulation requirement may be satisfied by means of a retrofit insulation jacket. Gas- and oil-fired storage water heaters with input rates of 75,000 Btu per hour or less shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater in gallons. Oil-fired water heaters with input ratings exceeding 75,000 Btu/per hour are required to have a combustion efficiency not less than 80 percent.

Additionally, oil-fired water heaters with input ratings exceeding 75,000 Btu per hour but less than 4,000 Btu per hour per gallon of self-stored water are required to have a standby loss percentage not exceeding the quantity 2.8+67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume in gallons.[66]

Room Air Conditioners and Central Air Conditioners. Oregon's 1983 Edition, Structural Specialty Code and Fire and Life Safety Regulation, section 5304(b)2 specifies a minimum energy efficiency ratio of 6.8 Btu per watt-hour for room and central air conditioners.[67]

Furnaces. Oregon's 1983 Edition, Structural Specialty Code and Fire and Life Safety Regulation, section 5304(b)5 specifies a minimum combustion efficiency of 75 percent for furnaces.[68]

as an integral part of California's oil furnace standard for which exemption from preemption is being sought.

[66] The water heater standards of the State of Oregon reference the DOE water heater test procedures.

[67] Oregon's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Oregon's central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of Oregon's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[68] Oregon's furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard Z21.47-71 test method, the ANSI Standard Z91.1-72 test method, and the HI Standard 6.6 test method.

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Oregon Law, Chapter 197 (June 4, 1979), prohibits the sale of forced-air space heating equipment unless such equipment is equipped with an intermittent ignition device.[69]

2. Significant State Interest

Oregon's petition asserts that conservation is the cheapest, most secure and environmentally benign source of energy for Oregon and that energy costs are a substantial drain on the State's economy; that energy conservation has a direct effect on the health of the State's (and the Nation's) economy and that conservation makes money available for alternate purchases and investments in industrial productivity. Oregon further asserts that: space and water heating account for 63.1 percent of total electrical energy use within the State, significant energy savings can be achieved by installing energy efficient equipment, Oregon's standards guarantee that only energy efficient appliances are sold in the State, and that since many appliances are purchased by homebuilders, landlords and contractors rather than actual users (where energy efficiency is not a major factor in the purchase decision for most appliances) inefficient, lower-priced appliances would likely be used in the State of Oregon if its laws and regulations are superseded.

3. Additional Information

Moreover, Oregon points out that its appliance standards benefit the State by allowing for more accurate electricity demand forecasting by the Oregon Department of Energy. Another argument put forth is that intermittent ignition devices contribute to improving indoor air quality in homes by reducing the combustion products emitted by pilot lights. Finally, Oregon notes that the appliance regulations have been in place since 1978 without any complaints from appliance manufacturers, that most manufacturers do have products available to meet the State's requirements and that any adjustments have already occurred. Thus, retaining the law should have no additional impacts.

4. Proposed Determination

DOE has reviewed Oregon's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Oregon has provided prima facie evidence showing that Oregon Laws 1979, Chapter 197 (June 4, 1979); Oregon Administrative Rules Section 814-21-135; and State of Oregon, 1983 Edition Structural Specialty Code and Fire and Life Safety Regulations, section 5304(b) 2 and 5 are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting Oregon Laws 1979, Chapter 197 (June 4, 1979); Oregon Administrative Rules, section 814-21-135; and State of Oregon, 1983 Edition, Structural Specialty Code and Fire and Life Safety Regulations, section 5304(b) 2 and 5 from the preemptive provisions of section 327(a)(2) of the Act.

NEW YORK (NY020). The petition submitted by New York seeks a rule exempting from Federal preemption section 16-108, 16-110, 16-116, and 16-118 of the New York State Energy Law (NYSEL) and sections 7813.23 and 7813.33 of Title 9 of the Official Compilation of New York Codes, Rules, and Regulations (NYCRR). The New York laws pertain to refrigerators, refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and furnaces.

1. State Standard Levels

Refrigerators, Refrigerator-freezers and Freezers. For refrigerators, refrigerator-freezers, and freezers, section 16-110 of the NYSEL prohibits the advertisement or sale of any refrigerator, refrigerator-freezer, or freezer that is not equipped with an easily accessible, manually-operated switch to control the anti-sweat heater.

Water Heaters. For water heaters, section 16-108 of the NYSEL prohibits the advertisement or sale of any electric storage water heater with a standby loss exceeding 4 watt-hours per hour per square foot of tank surface area and any gas- or oil-fired storage water heater with a recovery efficiency less than 75 percent and a standby loss exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V is the rated volume of the wate heater in gallons.[70] Section 7813.33 of Title 9 of the NYCRR stipulates energy efficiency standards for water heaters used in new construction and substantial renovation projects. These standards are identical to those found at Section 16-108 of the NYSEL with one exception: Section 7813.33 stipulates that oil-fired water heaters shall have a combustion efficiency not less than 80 percent.

Room Air Conditioners. Section 16-118 of the NYSEL prohibits the sale of any room air conditioner with an energy efficiency ratio less than: 7.5 Btu per watt-hour for units with cooling capacities less than 6,000 Btu per hour and nominal operating voltages less than 150 volts; 8.5 Btu per watt-hour for units with cooling capacities greater than or equal to 6,000 Btu per hour and nominal operating voltages less than 150 volts; and 8.2 Btu per watt-hour for all units with nominal operating voltages greater than or equal to 150 volts.[71]

Central Air Conditioners. Section 16-118 of the NYSEL also prohibits the sale or installation of any central air conditioner with a seasonal energy efficiency ratio less than 8.0 Btu per watt-hour for units manufactured after September 1, 1982, and less than 9.5 Btu per watt-hour for units manufactured after September 1, 1984.[72] DOE is addressing in this rulemaking both the current requirement for central air conditioners and the requirement that will be applicable to units manufactured after September 1, 1984.

Furnaces. For furnaces, Section 16-116 of NYSEL prohibits the sale or installation of any gas-fired furnace, excluding propane furnaces, that is not equipped with an intermittent ignition device. Section 7813.23 of title 9 of the NYCRR stipulates that all gas- and oil-fired furnaces used in new construction and substantial renovation projects shall have a combustion efficiency not less than 75 percent at maximum rated output.[73]

DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of Oregon's furnace standards for which exemption from preemption is being sought.

[69] It does not apply to gas appliances used in recreational vehicles, portable gas appliances used for outdoor recreational purposes, or gas appliances used in a structure that is not served by electrical power.

[70] New York's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of New York's water heater standards for which exemption from preemption is being sought.

[71] New York's room air conditioner standard references the DOE room air conditioner test procedure.

[72] New York's central air conditioner standard references the DOE central air conditioner test procedure.

[73] New York's furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard Z21.47-71 test method, the ANSI Standard 91.1-72 test method and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test

Continued

2. Significant State Interest

Refrigerators, Refrigerator-freezers, and Freezers—New York contends that the State standard has a minimal economic impact on manufacturers. There is an industry-wide trend to include more products with anti-sweat heater switches. The petitioner claims that the State standard reinforces the industry trend; places no new design demands on manufacturers; and expands the market for energy efficient products. Periodic field surveys conducted by the New York State Energy Office show that virtually all refrigerators and refrigerator-freezers offered for sale have anti-sweat heater switches. The petitioner further claims that the State standard resulted in virtually no lessening of competition because of the widespread use of anti-sweat heater switches throughout the country. Moreover, the petitioner contends that the State standard results in no undue burden on interstate commerce because the State found widespread compliance during the field surveys and because of the absence of significant competitive problems for manufacturers, distributors, and retailers.

The petitioner claims that the standard results in favorable economics for consumers. The anti-sweat heater switch is reported to cost $5. The resulting life cycle costs are estimated to range from $25.78 to $112.96 for various consumers in New York, with a simple payback period estimated to range from 10 months to 4.3 years.

The petitioner states that there are 8,700,000 refrigerators, refrigerator-freezers, and freezers in New York. In 1982, 86.8 percent of all refrigerators, refrigerator-freezers, and freezers sold nationwide had anti-sweat heater switches. New York estimates that its State standard affected about 13.2 percent or 1,150,000 appliances. The annual energy savings realized by the appliances are estimated to be between 554 to 833 million kilowatt-hours per year—or a savings in utility bills for the State of about $3.2 million to $4.9 million annually. Thus, New York claims that its State standard results in substantial savings at a State level as well as being economically beneficial for consumers.

Water Heaters—The petitioner claims that the State water heater standard has little economic impact on manufacturers. During 1982, 107,000 gas-fired and 70,600 electric storage water heaters were sold in New York. New York claims that few manufacturers are affected by the State standard. For example, a review of the July 1983 issue of the Gas Appliance Manufacturers Association's *Directory of Certified Water Heaters Efficiency Ratings* reveals that all manufacturers of gas-fired storage water heaters represented in the Directory have models that comply with the State standard (about 45 percent of the gas-fired storage water heaters listed in the Directory comply with the State standard). Also, all but one manufacturer of electric storage water heaters listed in the Directory had models that comply with the State standard (about 56.4 percent of the Directory's models of electric storage water heaters comply with the State standard).[74] For the single electric storage water heater manufacturer who did not comply with the State standard, the manufacturer has only 0.8 percent of the models listed in the Directory and has never contacted the New York State Energy Office, implying that New York is not a market for that manufacturer. The Directory lists only 14 models of oil-fired water heaters—noe of these models comply with the State standard. The petition states that the major manufacturer of oil-fired water heaters in the northeastern states is not listed in the Directory. The petition also states that 60 percent of the manufacturer's water heaters comply with the State standard. Therefore, New York contends that the State water heater standard has little economic impact on manufacturers. New York also claims that for gas-fired and electric storage water heaters, a broad selection of models is available and that the State standard does not appear to significantly reduce the level of competition for gas-fired or electric storage water heaters. The petitioner states that there is a shift away from oil-fired water heaters because of their significantly higher first cost.

The petitioner states that there are 2,635,000 gas-fired storage water heaters, 2,694,000 oil-fired water heaters, and 724,000 electric storage water heaters in New York. Detailed energy savings are estimated for water heaters complying with Section 16-108 of the NYSEL. The savings estimated are attributable to all replacement water heaters meeting the State standard compared to meeting the national sales-weighted energy efficiency.

For consumers, water heaters would increase in price $30 to $40. The resulting savings in life cycle costs are estimated to be between $60.57 to $154.18 for gas-fired storage water heaters, $522.94 to $1,344.82 for electric storage water heaters and $192.30 to $260.84 for oil-fired water hearters.[75] The simple payback period is estimated to be between 2.1 to 6.5 years for gas-fired storage water heaters, 3.5 months to 1.4 years for electric storage water heaters, and 1.3 to 3.1 years for oil-fired water heaters. In no case does the single payback period exceed one-half of the expected life of the water heater.

New York presents additional estimates for gas-fired storage water heaters that comply with Section 7813.33 of NYCRR as well as with Section 16.108 of the NYSEL. Water heaters would save an additional 19.7 therms annually for a total savings of 35 therms for gas-fired storage water heaters that meet both standards. The savings in life cycle costs are estimated to range from $217.05 to $381.33. The simple payback period is estimated to range from 1.2 to 2.8 years. In no case does the simple payback period exceed one-quarter of the expected life of the water heater.

At a State level, the annual savings are estimated to be 40,300,000 therms of natural gas, 50,100,000 gallons of oil, and 471,000,000 kilowatt-hours of electricity. New York estimates that the savings are equivalent to 8,000 barrels of oil per day. Thus, New York contends that its State standard for water heaters results in substantial savings at a State level, as well as being economically feasible for consumers.

Room and Central Air Conditioners—New York contends that minimum energy efficiency standards are needed for room and central air conditioners. The petitioner argues that without any standards, consumers would purchase room air conditioners on impulse. Also, central air conditioners are usually selected by a builder or a heating, ventilating, and air conditioning contractor. Under both of these market mechanisms, first cost is of primary importance—energy efficiency and life cycle cost are not valued as highly as first cost. New York argues that the free market alone is inadequate in promoting the sale of energy efficient room and central air conditioners. For room air conditioners, the shipment-weighted energy factor rose for an energy efficiency ratio of 6.22 Btu per watt-hour

methods as an integral part of New York's furnace standards for which exemption from preemption is being sought.

[74] For gas-fired storage water heaters, 87.6 percent comply with Section 16-108 of the NYSEL and 45.4 percent comply with Section 7813.33 of Title 9 of NYCRR. For electric storage water heaters, 56.4 percent comply with both Sections 16-108 of the NYSEL and Section 7813.33 of title 9 of NYCRR. Therefore, the petitioner concludes, the effect of the State standard on lessening of competition is of minor importance.

[75] The annual savings are 15.3 therms for gas-fired storage water heaters, 630 kilowatt-hour for electric storage water heaters, and 18.6 gallons for oil-fired water heaters.

in 1972 to an energy efficiency ratio of 6.72 Btu per watt-hour in 1980, a change of only 8.0 percent during a period when electrical prices increased drastically. According to New York, even less progress was made with respect to the energy efficiency of central air conditioners. From 1972 until 1980, the national shipment-weighted average energy factor for central air conditioners rose from a seasonal energy efficiency ratio of 6.66 to a seasonal energy efficiency ratio of 7.06 Btu per watt-hour, a gain of only 6.0 percent. Also, the sales-weighted energy efficiency of central air conditioners sold in New York declined by about 1.5 percent over a two-year period just before New York promulgated its standard. Such a decline in efficiency in a market with high electricity costs, at a time when electricity costs were rising still higher, was irrational. Thus, New York claims that standards are needed for room and central air conditioners in order to ensure that energy efficient models are being purchased and used by consumers.

New York claims that the State standard has placed no undue burden on manufacturers. All manufacturers of room air conditioners listed in the Association of Home Appliance Manufacturers' (AHAM) *Directory of Certified Room Air Conditioners* produce models that comply with the State standard. Also, 88.5 percent of the manufacturers of central air conditioners listed in the Air-Conditioning and Refrigeration Institute's (ARI) *Directory of Certified Unitary Air Conditioners* produce models that comply with the State's current standard.

New York states that it is very sensitive to potential adverse impacts on competition resulting from overly restrictive standards. In fact, its previous standard was so stringent that few room air conditioners (those with a cooling capacity of less than 6,000 Btu per hour and an operating voltage of less than 150 volts) would have been available. To prevent such a restriction on consumer choice and the unreasonable burden on manufacturers, New York revised its standard to its current level. New York also claims that the current standard imposes no undue burden on interstate commerce because the industry has not complained otherwise to New York.

New York contends that its present room air conditioner and central air conditioner standards are beneficial to consumers. The first cost would increase by $82.98 for room air conditioners and by $186.59 for central air conditioners. The annual energy savings due to existing standards are estimated to be about 181 kilowatt-hours for room air conditioners and about 483 kilowatt-hours for central air conditioners. The savings in life cycle costs for room air conditioners ranges from $61.15 to $358.75 and the simple payback period ranges from 2.8 years to 10.1 years. Similarly, for central air conditioners, the savings on life cycle costs ranged from $29.99 to $756.42 and the simple payback period ranges from 2.4 to 11.1 years. In all cases, the State standard results in simple payback periods that are within the expected life of the product.

According to the petitioner, there are 2,300,000 room air conditioners and 415,000 central air conditioners in New York. At the State level, the present room air conditioner and central air conditioner standards would save about 616,000,000 kilowatt-hours of electricity annually. This is equivalent to 3,480 barrels of oil per day.

New York contends that its September 1, 1984 standard for central air conditioners is beneficial to consumers. The first cost would increase between $308.34 and $527.30 for central air conditioners. The annual energy savings due to 1984 central air conditioner standards are estimated to be 1052 kilowatt-hours. The savings in life cycle costs for central air conditioners at the 1984 standard level ranges from 68.71 to $1,745.58 and the simple payback period ranges from 1.8 years to 11.1 years. In all cases, the 1984 central air conditioner standard results in simple payback periods that are within the expected life of the product.

According to the petitioner, with 415,000 central air conditioners in New York, the 1984 central air conditioner standard would save about 437,000,000 kilowatt-hours of electricity annually. This is equivalent to 2,470 barrels of oil per day.

Furnaces—The petitioner states that shortages of natural gas in the late 1970's coupled with a desire to conserve gas led to the current standard prohibiting standing pilot lights on gas furnaces (Section 16–116 NYSEL). New York contends that the State standard has placed no undue burden on manufacturers. The January 1983 edition of the American Gas Association's *Directory of Certified Appliances and Accessories* shows that 86.2 percent of the manufacturers listed for "Low-Pressure Boilers—For Alcove or Closet Installations, Part I," which manufacture models that fall within the scope of the Federal "no standard" standard, produce models with IIDs. Fully 100 percent of the manufacturers listed for "Central Furnaces—For Alcove or Closet Installations, Part I," which manufacture models that fall within the scope of the Federal "no standard" standard, produce models with IIDs. These lists include all major manufacturers and demonstrate that most manufacturers remain able to compete in New York; moreover, there is no evidence that those manufacturers who produce boilers without IIDs ever sold goods in New York prior to section 16–116's enactment.

Section 16–116 has been in effect in New York State since 1980, and according to the petition, no problems with its implementation with respect to gas boilers and furnaces have arisen since that time. Exemptions from the requirements of section 16–116 were granted for gas kitchen ranges and ovens that incorporate a separate compartment specifically designed to provide space heating and for gravity type room heaters, wall furnaces, and floor furnaces, when manufacturers pointed out the lack of available replacements incorporating IIDs. Given this demonstrated willingness to make adjustments to the requirements of section 16–116, the lack of any further contact from manufacturers suggests that they are not concerned that their sales in the State are unduly restricted.

New York contends that consumers benefit from the State standard. A November 1983 survey of plumbing and heating wholesalers conducted by the NYSEO determined that the difference in cost for an identical furnace with a pilot light and with an IID ranged from $128 to $154. The annual energy savings are estimated to be 70 therms. For consumers in New York, the savings in life cycle costs range from $706.24 to $1,298.04, based on individual gas rates. The simple payback period ranges from 1.97 to 5.49 years. The State standard results in substantial savings for consumers as well as in relatively short payback periods.

The petition states that substituting IID's for pilot lights does not affect the primary function of a furnace (space heating) or its performance. New York has few homes without electrical service—these homes are usually found in rural areas and also generally do not have natural gas service. Therefore, requiring electricity for an IID before a furnace can be installed is not perceived to be a problem.

The standard results in substantial savings at the State level. There are about 2,395,000 gas furnaces and boilers in New York. Assuming that gas pilot lights use about 70 therms of natural gas

annually, State-wide energy use for all pilot lights in gas furnaces and boilers is 3,689,000,000 terms over their 22-year lifetime. The savings attributed to the State standard is somewhat lower because, nationwide, only 33 percent of all gas furnaces and boilers sold are equipped with IID's. This percentage could be as high as 60 percent in markets dominated by retrofits, as is the case with New York. Thus, New York claims that the State standard results in a savings of about 1,467,000,000 to 2,472,000,000 therms annually, the equivalent of 3,270 to 5,480 barrels of oil daily.

Section 7813.23, Title 9 of the NYCRR specifies a minimum combustion efficiency of 75 Percent for all gas- and oil-fired furnaces. According to the petition, the minimum combustion efficiency standards represents a significant opportunity to conserve energy for the State, since in 1980 space heating energy (primarily in the form of natural gas and oil) represented 68.8 percent of all residential energy use and residential space heating with gas accounted for 38.2 percent of New York's end use of gas.

New York contends that the State standard does not appear to have created an undue burden on the manufacturers of gas- and oil-fired furnaces and boilers competing in New York since all of the manufacturers of gas-fired and oil-fired equipment listed in the January 1983 edition of the Gas Appliance Manufacturers Association's *Directory of Certified Furnace and Boiler Efficiency Ratings* produce models that comply with the State standard. Approximately 80 percent of the gas-fired furnace models listed appear to comply with the standard; an even higher percentage of oil-fired furnaces and gas- and oil-fired boilers comply.

The State standard has been in effect since January 1, 1979. The petition asserts that the construction industry appears to be complying readily with the standard; and reports of non-compliance or complaints about problems obtaining complying equipment have not been received by NYSEO. Also, no complaints have been brought to the attention of the NYSEO by manufacturers, retailers, or consumers.

New York contends that consumers benefit from the State standard. The cost difference between a furnace which complies to the standard to one which does not, is estimated to range from $0 to $73.50. The annual energy savings are estimated to be about 150 therms. For consumers in New York, the savings in life cycle costs would range from $1,904.29 to $3,055.80, based on individual gas rates. The simple payback period ranges from zero to 1.25 years.

No similar estimates of energy savings are provided in the petition for oil-fired furnaces because it was not possible to estimate from available information the total energy savings resulting from oil-fired furnaces that comply with the standards in new construction and substantial renovation. A second reason is that New York is unable to determine the energy use of all oil-fired furnaces that would be sold in the State if the State standard did not exist.

The State standard results in substantial savings at a State level. For gas-fired furnaces, the savings are estimated to be about 3,703,000 therms annually. No similar savings are estimated for oil-fired furnaces.

3. Additional Information

New York claims that the State standards for refrigerators, refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and furnaces have placed no undue burden on interstate commerce.

4. Proposed Determination

DOE has reviewed New York's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that New York has provided prima facie evidence showing that Sections 16–108, 16–110, 16–116 and 16–118 of the New York State Energy Law and sections 7813.23 and 7813.33 of Title 9 of the Official Compilation of New York Codes, Rules and Regulations are more stringent than DOE's rule for refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 16–108, 16–110, 16–116 and 16–118 of the New York State Energy Law, including the provisions which will be applicable to central air conditioners manufactured after September 1, 1984 found at section 16–118 of the New York State Energy Law, and sections 7813.23 and 7813.33 of Title 9 of the Official Compilation of New York Codes, Rules and Regualtions from the preemptive provisions of section 327(a)(2)(A) of the Act.

MISSOURI (MO021). The petition submitted by Missouri seeks a rule exempting from Federal premption the building code ordinances of 68 localities within the State, as they pertain to energy efficiency standards for water heaters, room air conditioners, central air conditioners and furnaces.

Missouri's petition included a list identifying the localities that have energy efficiency requirements incorporated into their building codes, which model building codes these are based on (BOCA, ICBO, UBC, SBCC, or other), if any, and the date that each locality adopted its building code.[76] The petition also included copies of those sections of the various model building codes referenced which pertain to household equipment energy efficiency requirements.

Today's notice proposes to grant Missouri's petition for exemption from preemption of the building codes of the localities for which Missouri has petitioned. See § 430.33(e) (14), (f)(14), (g)(15), and (h)(15) of today's proposed rule for a listing of the localities of Missouri with building code energy efficiency requirements pertaining to water heaters, room air conditioners, central air conditioners and furnaces, respectively, which DOE is proposing to exempt from Federal supersession.

1. State Standard Levels

Water Heaters. For those localities in Missouri that have adopted building codes which are based on the ASHRAE Standard 90–75, electric storage water heaters are required to have a standby

[76] For 9 of the 68 localities identified in Missouri's petition, DOE needs additional information beyond that supplied in the petition before a final determination may be made to exempt their building code requirements from preemption. The 9 localities are: Ferguson, Lee's Summit, Malden, North Kansas City, Pacific, Plattesburg, Raytown, St. Charles, and Wentzville. In the cases of Ferguson, North Kansas City, Raytown and St. Charles, the petition indicated that the adoption of a model code was pending. In the cases of Pacific and Wentzville, the petition indicated that their current building codes were in the process of being updated. In the cases of Malden and Plattesburg, the petition indicated that both had adopted BOCA model codes, but no year of adoption was provided to specifically identify the version of the BOCA model code adopted. DOE may only grant exemptions for regulations which have been formally adopted by States and localities. For the preceeding 8 localities, DOE needs information on the specific building code regulations that are in effect or have been adopted before DOE can make a final determination regarding exemption from preemption. In the case of Lee's Summit, the petition indicated that the building code adopted was something other than one of the various model building codes. However, no copy of Lee's Summit's building code was provided. DOE needs specific information regarding Lee's Summit's building code regulation before it can make a final determination regarding exemption from preemption. DOE has requested from the State of Missouri that the additional information identified above be supplied for the nine localities listed. DOE expects to receive the information requested during the comment period on this proposed rule.

loss which, for building codes adopted prior to January 1, 1977, does not exceed 4 watts per square foot of tank surface area. Gas- and oil-fired storage water heaters are required to have a recovery efficiency which, for building codes adopted prior to January 1, 1977, is not less than 70 percent and for building codes adopted thereafter, is not less than 75 percent. Gas- and oil-fired storage water heaters are also required to have a standby loss which, for building codes adopted prior to January 1, 1977, does not exceed the quantity of 4.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons and; for building codes adopted thereafter, does not exceed the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons.[77]

For those localities in Missouri that have adopted building codes which are based on the ASHRAE Standard 90A-1980, electric storage water heaters shall have a standby loss not exceeding 4 watts per square foot of tank surface, or 43 watts, which ever is greater. Gas- and oil-fired storage water heaters with input ratings of 75,000 Btu per hour or less shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the storage thermal energy, where V equals the rated volume of the water heater in gallons. Oil-fired water heaters with input ratings exceeding 75,000 Btu per hour are required to have a combustion efficiency not less than 80 percent. Additionally, oil-fired water heaters with input ratings exceeding 75,000 Btu per hour but less than 4,000 Btu per hour per gallon of self stored water are required to have a standby loss which, for building codes adopted prior to January 1, 1982 does not exceed the quantity 2.8 + 0.002Q/V and, for building codes adopted thereafter, does not exceed the quantity 2.8 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater, in gallons, and Q equals the rated input of the water heater, in Btu per hour.[78]

Room Air Conditioners and Central Air Conditioners. For those localities in Missouri that have adopted building codes which are based on the ASHRAE Standard 90-75, room and central air conditioners are required to have an energy efficiency ratio which, for building codes adopted after January 1, 1977 but before January 1, 1980, is not less than 6.1 Btu per watt-hour and; for building codes adopted thereafter, is not less than 6.8 Btu per watt-hour.[79]

For those localities in Missouri that have adopted building codes which are based on the ASHRAE Standard 90A-1980, room and central air conditioners are required to have an energy efficiency ratio not less than 6.8 Btu per watt-hour.[80]

Furnaces. For those localities in Missouri that have adopted building codes which are based on the ASHRAE Standard 90-75, furnaces shall have a combustion efficiency not less than 75 percent at maximum rated output.[81]

For those localities in Missouri that have adopted building codes which are based on the ASHRAE Standard 90A-1980, furnaces shall have a steady state combustion efficiency not less than 74 percent, except for gravity central furnaces which shall have a steady state combustion efficiency not less than 69 percent.[82]

2. Significant State Interest

On behalf of its localities, the State of Missouri states that the preemption of local regulations by a Federal "no standard" standard is disruptive to local commerce and the local power to govern. Further, Missouri's localities are of the opinion that minimum appliance efficiency standards are in the best economic interest of their citizens, that they are in the best position to make such a determination and that minimum appliance efficiency standards provide reasonable paybacks on the additional first costs.

3. Additional Information

The localities also believe that enforcement of appliance efficiency standards developed through the consensus approach is the most effective means of regulation without imposing an undue burden on interstate commerce. The State itself supports the appliance effeciency standards of its localities as being in its own best interests since 90 percent of the State's energy needs are met by imported oil, natural gas and coal.

4. Proposed Determination

DOE has reviewed Missouri's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Missouri has provided prima facie evidence showing that the building code ordinances of its localities within the State are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners, and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting the building code ordinances of its localities within the State of Missouri from the preemptive provisions of section 327(a)(2)(A) of the Act.

TEXAS (TX022). The petiton submitted by Texas seeks a rule exempting from Federal preemption the building code ordinances of 49 localities as they pertain to the energy efficiency of water heaters, room and central air conditioners and furnaces. The petition indicates that the technical basis of the appliance efficiency provisions of all 49 building codes is the ASHRAE Standard 90-75.[83] See § 430.33 (e)(15), (f)(15), (g)(16), and (h)(16) of today's proposed rule for a listing of the localities of Texas with building code energy

[77] The ASHRAE Standard 90-75 water heater standards reference the ANSI Standard C72-1-72 test method and the ANSI Standard Z21.103-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of the water heater standards of those Missouri localities for which exemption from preemption is being sought.

[78] The ASHRAE Standard 90A-1980 water heater standards reference the DOE water heater test procedure.

[79] The ASHRAE Standard 90-75 room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. The ASHRAE Standard 90-75 central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of the room air conditioner and central air conditioner standards of those Missouri localities for which exemption from preemption is being sought.

[80] The ASHRAE Standard 90A-1980 room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. The ASHRAE Standard 90A-1980 central air conditioner standard references the DOE central air conditioner test procedure.

[81] The ASHRAE Standard 90-75 furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard Z21.47-71 test method, the ANSI Standard 91.1-72 test method, and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of the furnace standards of those Missouri localities for which exemption from preemption is being sought.

[82] The ASHRAE Standard 90A-1980 furnace standards reference the DOE furnace test procedure.

[83] ASHRAE Standard 90-75 specifies two levels of performance for room and central air conditioners and water heaters. Texas has clarified, however, that all these building codes reference the most recent performance levels in the ASHRAE Standard 90-75. Specifically, the January 1, 1980, level for room and central air conditioners and the January 1, 1977, level for water heaters.

efficiency requirements pertaining to water heaters, room air conditioners, central air conditioners and furnaces, respectively, which DOE is proposing to exempt from Federal supersession.

1. State Standard Levels

Water Heaters. The building codes of the localities of Texas provide that electric storage water heaters shall have a standby loss not exceeding 4 watts per square foot of tank surface area; and that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated storage capacity in gallons.[84]

Room Air Conditions and Central Air Conditioners. The building codes of the localities of Texas provide that room air conditioners and central air conditioners shall have an energy efficiency ratio not less than 6.8 Btu per watt-hour.[85]

Furnaces. The building codes of the localities of Texas provide that furnances shall have a combustion efficiency not less than 75 percent.[86]

2. Significant State Interest

The petition states that it is in the best interest of the State to continue to utilize its resources as efficiently as possible.

3. Additional Information

The petition states that preemption of such rules is unnecessarily disruptive to local commerce and the local power to govern. The local governments believe the standards are in the best economic interest of their citizens and that enforcement of these standards is the most effective means of regulation without placing an undue burden on interstate commerce.

4. Proposed Determination

DOE has reviewed Texas' petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Texas has provided prima facie evidence showing that the building code ordinances of 49 localities within the State are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting the building code ordinances of 49 localities within Texas from the preemptive provisions of section 327(a)(2)(A) of the Act.

NEW JERSEY (NJ023). The petition submitted by New Jersey seeks a rule exempting from Federal preemption New Jersey Administrative Code section 14A:3-4.4 as readopted on July 11, 1983. Section 14A:3-4.4 of the New Jersey Code adopts by reference the BOCA Basic Energy Conservation Code of 1981, with amendments, for new construction or substantial renovation of buildings. The adopted code with its amendments contains energy efficiency requirements applicable to water heaters, room air conditioners, central air conditioners, and furnances. New Jersey also seeks a rule exempting from Federal preemption the Tariff of the New Jersey Board of Public Utilities (BPU) in Docket No. 8111-1009 as it pertains to central air conditioners.

1. State Standard Levels

Water Heaters. Section E-503.1 of the adopted code specifies that the water heaters shall conform to the energy requirements of ASHRAE Standard 90-75. These requirements are: electric storage water heaters shall have a standby loss not exceeding 4.0 watts per square foot of tank surface area and gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater in gallons.[87]

Room Air Conditioners and Central Air Conditioners. Section E-402.1.1 of the adopted code, as amended by New Jersey, provides that room air conditioners and central air conditioners with cooling capacities less than 65,000 Btu per hour shall have an energy efficiency ratio not less than 6.8 Btu per watt-hour.[88] The Tariff ordered by the New Jersey BPU permits the Atlantic City Electric Company to require that central air conditioners placed in its service territory have an energy efficiency ratio not less than 8.0 Btu per watt-hour.

Furnaces. Section E-402.1.5 of the adopted code provides that forced air furnaces, low pressure steam boilers, and hot water boilers shall have a steady state efficiency not less than 74 percent except for gravity furnaces which shall have a steady state efficency not less than 69 percent.[89]

2. Significant State Interest

In its petition, New Jersey asserts that these requirements produce substantial life cycle cost savings for the citizens of New Jersey without lessening the utility of the covered items. New Jersey states that these requirements do not lessen competition or create an undue burden on interstate commerce.

New Jersey asserts that although water heaters meeting its minimum efficiency requirements will have higher first costs, the life cycle costs are less, resulting, for a gas-fired water heater, in a saving of $51.20 or 6.4 million Btu per year for an increased cost of only $8.53 per year.[90] Although no Statewide totals are available, surveys done by New Jersey's electric and gas utilities indicate that approximately 45 percent of all water heaters use natural gas, 45 percent use electricity and the remaining 10

[84] The ASHRAE Standard 90-75 water heater standards reference the ANSI Standard Z72.1-72 test method and the ANSI Standard A21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an intergral part of the water heater standards of the localities of Texas for which exemption from preemption is being sought.

[85] The ASHRAE Standard 90-75 room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. The ASHARE Standard 90-75 central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of the room air conditioner and central air conditioner standards of the localities of Texas for which exemption from preemption is being sought.

[86] The ASHRAE Standard 90-75 furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI. Standard Z21.47-71 test method, the ANSI Standard 91.1-72 test method, and the HI Standard 6.6 test method. DOE had reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of the furnance standards of the localities of Texas for which exemption from preemption is being sought.

[87] New Jersey's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of New Jersey's water heater standards for which exemption from preemption is being sought.

[88] New Jersey's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. New Jersey's central air conditioner standard references the ARI Standard A10-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of New Jersey's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[89] New Jersey's furnace standards reference the DOE furnace test procedure.

[90] In its analysis simple life cycle cost savings were computed by New Jersey using the following assumptions: increased cost of water heater, $123; cost of natural gas for water heating only, $3.00 per million Btu; life of water heater, 15 years.

percent is made up of oil or propane units. New Jersey believes that an economic analysis of oil-fired or electric water heaters would certainly yield results comparable to those presented for gas-fired water heaters. New Jersey estimates 20,000 new housing units annually resulting in an annual saving of 128 billion Btu for residential use alone, without regard to any commerical or industrial savings which might result.

New Jersey states that in the highly competitive room air conditioner market an energy efficiency ratio of 6.8 Btu per watt-hour does not cause any price penalty since prices vary more by manufacturer and special discounts than by relatively small changes in efficiency. New Jersey estimates an annual savings of $13.90 and 139 kilowatt-hours per unit as a result of its minimum efficiency requirements with no increase in first cost.[91] New Jersey states that in the highly competitive central air conditioner market the minimum efficiencies set by the New Jersey Code and the BPU Tariff do not cause any significant price penalty, since prices vary more by manufacturer and special discount than by relatively small changes in the efficiency. New Jersey estimates that a central air conditioner meeting the New Jersey Code would save 353 kilowatt-hours annually or $35.30 per unit per year[92] and that a central air conditioner meeting the BPU Tariff would save 750 kilowatt-hour annually or $92.65 per unit per year.[93] Based on the above figures, an estimate of 10,000 new centrally air-conditioned housing units annually, and an 11,000 Btu per kilowatt-hour electric generation rate, the savings throughout the State would be in excess of 78 billion Btu annually.

New Jersey points out that it is a summer peaking State and that the room and central air conditioner requirements reduce peak load as well as total energy requirements. New Jersey states that it has seen no evidence that furnaces meeting its minimum requirements have a higher first cost than less efficient units. New Jersey estimates that its code requirements for furnaces result in an annual saving in excess of 4,200,000 Btu. Equivalent annual cost savings per unit are estimated at $29.40 for gas units and $33.60 for oil units at no additional cost to the consumer.[94] Based on the above figures and 20,000 new housing units annually, New Jersey estimates an annual saving of 84 billion Btu for residential use alone, without regard to any commercial or industrial savings which might result.

3. Additional Informaiton

New Jersey states that it has almost no indigenous energy supplies so every dollar not spent on energy can be used by consumers to support the goods and services available within the State. New Jersey also states that preemption of part of the State Construction Code would require expensive retraining of its code inspectors.

New Jersey claims that no lessening of competition has resulted from imposition of its minimum performance standards since the number of manufacturers supplying the State with each category of covered product has not changed due to Code requirements. At the time of passage, public hearings were held and no manufacturer of a covered product objected to the required levels of minimum efficiency.

4. Proposed Determination

DOE has reviewed New Jersey's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on this analysis, DOE has determined that New Jersey has provided prima facie evidence showing that sections E-402.1.1, E-402.1.5 and E-503.1 of the BOCA Basic Energy Conservation Code of 1981 as adopted with amendments by section 14A:3-4.4 of the New Jersey Administrative Code, as readopted on July 11, 1983, and the Tariff of the New Jersey Board of Public Utilities in Docket No. 8111-1009 are more stringent than DOE's rule for water heaters, room air conditioners, central conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections E-402.1.1, E-402.1.5 and E-503.1 of the BOCA Basic Energy Conservation Code of 1981 as adopted with amendments by section 14A:3-4.4 of the New Jersey Administrative Code, as readopted on July 11, 1983, and the Tariff of the New Jersey Board of Public Utilities in Docket No. 8111-1009 as they pertain to water heaters, room air conditioners, central air conditioners and furnaces from the preemptive provisions of section 327(a)(2) of the Act.

ILLINOIS (IL024). The petition submitted by Illinois seeks a rule exempting from Federal preemption the local building code standards for 177 Illinois localities as they pertain to refrigerators and refrigerator-freezers, water heaters, room air conditioners, central air conditioners and furnaces.

Illinois' petition included a separate list for each product identifying the localities that have energy efficiency requirements incorporated into their building codes that are applicable to such product, which model building codes these are based on (BOCA, Uniform Building Code, or National Building Code), if any, and the date that each locality adopted its code.[95] The petition also included copies of those sections of the various model building codes referenced which pertain to household equipment energy efficiency requirements and copies of the building code ordinances for those localities which have not adopted one of the model building codes.[96]

[91] In its analysis, New Jersey assumes a code level unit, 6.8, would be used in place of a unit with an energy efficiency ratio of 5.5, a unit size of 8,000 Btu per hour, 500 hours of operation per year, and an electricity cost of $.10 per kilowatt-hour.

[92] In its analysis, New Jersey assumes a code level unit, one with an energy efficiency ratio of 6.8 would be used in place of a unit with an energy efficiency ratio of 6.0, a unit size of 36,000 Btu per hour, 500 hours of operation per year, and an electricity cost of $.10 per kilowatt-hour.

[93] In its analysis, the BPU assumes a Tariff level unit, one an energy efficiency ratio of 8.0, would be used in place of a unit with an energy efficiency ratio of 6.0, a unit size of 36,000 Btu per hour, 500 hours of operation per year, and an electricity cost of 12.3536¢ per kilowatt-hour.

[94] New Jersey cites the 1977 "New Jersey Energy Conservation Plan: A Necessary Commitment" prepared by Resource Planning Associates and Wilbur Smith and Associates for the State Energy Office. That report estimated a 6 percent saving in fuel use would result from a 72 percent minimum efficiency level. New Jersey estimates an average fuel consumption of 70,000,000 Btu for new houses. New Jersey states that the average cost of natural gas to New Jersey consumers is $7.00 per million Btu. New Jersey estimates an oil price of $8.00 per million Btu. New Jersey argues that since its present energy efficiency standards are higher than in the 1977 report, savings would actually be greater.

[95] In some cases the same locality is listed under two different categories of building code requirements. These localities are: Carbondale City, Glen Carbon Village, Grayslake Village and Springfield City. For water heaters, central air conditioners and furnaces, Carbondale City is listed as having adopted the National Building Code and having its own local code based on ASHRAE Standard 90-75; Glen Carbon Village and Grayslake Village are listed as having adopted the 1978 version of the BOCA code and the 1981 version of the BOCA code; and Springfield City is listed as having adopted the 1978 version of the BOCA code and having its own local code based on ASHRAE Standard 9-75. Since DOE has no objections to any of the building code requirements, today's notice proposes to grant both building code requirements for each of these four localities. DOE is in formal contact with the State of Illinois to seek clarification of the building code requirements of these four localities DOE expects to receive the information requested during the comment period on the proposed rule.

[96] In the case of Oakwood Hills Village, DOE needs additional information beyond that supplied in the petition before a final determination can be made to exempt its building code requirements from preemption. Oakwood Hills Village is indicated as having a building code other than one of the model building codes with energy efficiency requirements applicable to water heaters, central air conditioners and furnaces. However, no copy of Oakwood Hills

Continued

Today's notice proposes to grant Illinois' petition for exemption from preemption of the building codes of the 117 localities for which Illinois had petitioned. See § 430.33 (e)(17), (f)(17), (g)(18), and (h)(18) of today's proposed rule for a listing of the localities of Illinois with building code energy efficiency requirements pertaining to water heaters, room air conditioners, central air conditioners and furnaces, respectively, which DOE is proposing to exempt from Federal supersession.

1. State Standard Levels

Refrigerators and Refrigerator-Freezers, and Freezers. The State of Illinois petitioned for an exemption from DOE standards for refrigerators, refrigerator-freezers, and freezers. DOE has reviewed the petition, including the attachments, and has found no standard for these products. However, in an amendment to the Illinois petition, the State clarified its position on this issue. Illinois believes the ASHRAE Standards for "air conditioning" equipment apply to residential freezing and refrigerating equipment. DOE has reviewed these requirements and believes that they are not applicable to residential refrigerators and freezers. Therefore, the DOE standard shall prevail in Illinois.

Water Heaters. For those localities in Illinois that have adopted building codes which are based on the ASHRAE Standard 90–75, electric storage water heaters are required to have a standby loss which, for building codes adopted prior to January 1, 1977, does not exceed 4 watts per square foot of tank surface area. Gas- and oil-fired storage water heaters are required to have a recovery efficiency which, for building codes adopted prior to January 1, 1977, is not less than 70 percent and; for building codes adopted thereafter, is not less than 75 percent. Gas- and oil-fired storage water heaters are also required to have a standby loss which, for building codes adopted prior to January 1, 1977, does not exceed the quantity of 4.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons; and for building codes adopted thereafter, does not exceed the quantity of 2.3 + 67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons.[97]

For those localities in Illinois that have adopted building codes which are based on the ASHRAE Standard 90A–1980, electric storage water heaters shall have a standby loss not exceeding 4 watts per square foot of tank surface, or 43 watts, whichever is greater. Gas- and oil-fired storage water heaters with input ratings of 75,000 Btu per hour or less shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater in gallons. Oil-fired water heaters with input ratings exceeding 75,000 Btu per hour are required to have a combustion efficiency not less than 80 percent. Additionally, oil-fired water heaters with input ratings exceeding 75,000 Btu per hour but less than 4,000 Btu per hour per gallon of self stored water are required to have a standby loss which, for building codes adopted prior to January 1, 1982, does not exceed the quantity 2.8+0.002Q/V and, for building codes adopted thereafter, does not exceed the quantity 2.8+67/V, expressed in percent per hour of the stored thermal energy, where V equals the rated volume of the water heater, in gallons, and Q equals the rated input of the water heater, in Btu per hour.[98]

Room Air Conditioners and Central Air Conditioners. For those localities in Illinois that have adopted building codes which are based on the ASHRAE Standard 90–75, room and central air conditioners are required to have an energy efficiency ratio which, for building codes adopted after January 1, 1977 but before January 1, 1980, is not less than 6.1 Btu per watt-hour; and for building codes adopted thereafter, is not less than 6.8 Btu per watt-hour.[99]

For those localities in Illinois that have adopted building codes which are based on the ASHRAE Standard 90A–1980, room and central air conditioners are required to have an energy efficiency ratio not less than 6.8 Btu per watt-hour.[100]

Furnaces. For those localities in Illinois that have adopted building codes which are based on the ASHRAE Standard 90–75, furnaces shall have a combustion efficiency not less than 75 percent at maximum rated output.[101]

For those localities in Illinois that have adopted building codes which are based on the ASHRAE Standard 90A–1980, furnaces shall h ave a steady state combustion efficiency not less than 74 percent, except for gravity central furnaces which shall have a steady state combusion efficiency not less than 69 percent.[102]

2. Significant State Interest

In its petition, Illinois states that appliance energy efficiency standards have been a part of the law of Illinois and its local jurisdictions for some time. The reasons for incorporating these standards into the local building codes include: energy prices have risen dramatically in the past 10 years, stricter environmental controls have exacerbated the dollar drain on Illinois, and the standards enable the localities to keep money within the local community, thereby creating additional employment and increasing personal income in the community.

3. Additional Information

The petition cites four additional reasons why Illinois established standards: speculative construction—most new residential construction is speculatively built for subsequent sale where the primary objective is to minimize up-front costs; rental housing—more than one-third of Illinois households live in rental housing—

Village's building code was provided. DOE needs specific information regarding Oakwood Hills Village's building code equipment energy efficiency requirements for DOE to propose to grant Illinois' petition for exemption from preemption as it applies to Oakwood Hills Village.

[97] The ASHRAE Standard 90–75 water heater standards reference the ANSI Standard C72.1–72 test method and the ANSI Standard Z21.103–74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of the water heater standards of those Illinois localities for which exemption from preemption is being sought.

[98] The ASHRAE Standard 90A–1980 water heater standards reference the DOE water heater test procedure.

[99] The ASHRAE Standard 90–75 room air conditioner standard references the ANSI Standard Z234.1–72 test method which DOE adopted as its test procedure for room air conditioners. The ASHRAE Standard 90.75 central air conditioner standard references the ARI Standard 210–75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of the room air conditioner and central air conditioner standards of those Illinois localities for which exemption from preemption is being sought.

[100] The ASHRAE Standard 90A–1980 room air conditioner standard references the ANSI Standard Z234.1–72 test method which DOE adopted as its test procedure for room air conditioners. The ASHRAE Standard 90A–1980 central air conditioner standard references the DOE central air conditioner test procedure.

[101] The ASHRAE Standard 90–75 furnace standards reference the ANSI Standard Z21.13–74 test method, the ANSI Standard Z21.47–71 test method, the ANSI Standard 91.1–72 test method, and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of the furnace standards of those Illinois localities for which exemption from preemption is being sought.

[102] The ASHRAE Standard 90A–1980 furnace standards reference the DOE furnace test procedure.

where builders and landlords are less concerned about their tenants' operating costs; absence of reliable information—consumers are well aware that energy prices have risen rapidly but are less aware of the opportunities to avoid higher prices through energy efficiency improvements; and mobile population—many households live in their home for only a few years and tend to discount the value of long term energy savings. The petition further states that a significant number of localities have considered long run energy costs and because of the long term community-wide economic impacts, their promulgated standards are justified and the State of Illinois supports the continued implementation of their standards.

4. Proposed Determination

DOE has reviewed Illinois' petition in accordance with the requirements of section 327(b) (3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Illinois has provided prima facie evidence showing that Illinois' local energy efficiency standards are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 403.33 exempting Illinois' local energy efficiency standards from the preemptive provisions of section 327(a) (2) of the Act.

UTAH (UT025). The petition submitted by Utah seeks a rule exempting from Federal preemption the 1983 Utah Model Energy Code as it pertains to water heaters, room air conditioners, central air conditioners and furnaces. Under the authority of sections 63-9-45 through 53, as enacted by Chapter 12, Laws of Utah 1976, and as amended by Chapter 178, Laws of Utah 1977, the State of Utah adopted the 1983 Model Energy Code, as published by the Council of American Building Officials, as the 1983 Utah Model Energy Code in May 1983.

1. State Standard Levels

Water Heaters. For electric storage water heaters, section 504.2.1.1 of the adopted Code specifies a maximum standby loss of 4.0 watts per square foot of tank surface area. For gas- and oil-fired storage water heaters with input ratings of 75,000 Btu per hour or less, section 504.2.1.2 specifies a minimum recovery efficiency of 75 percent and a maximum standby loss of the quantity 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons. For oil-fired water heaters an input rating of greater than 75,000 Btu per hour, section 504.2.1.2 specifies a minimum combustion efficiency of 80 percent; and if these oil-fired water heaters have an input rating that is less than 4,000 Btu per hour per gallon of self-stored water, the standby loss shall not exceed the quantity 2.8 +67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons.[103]

Room Air Conditioners and Central Air Conditioners. For room and central air conditioners, section 503.4.5 of the adopted Code specifies a minimum energy efficiency ratio of 6.8 Btu per watt-hour.[104]

Furnaces. Section 503.4.3 of the adopted Code specifies a minimum steady state efficiency or 74 percent for forced air furnaces, low pressure steam boilers, and hot water boilers and a minimum steady state efficiency of 69 percent for gravity central furnaces.[105]

2. Significant State Interest

In its petition, Utah states that no adverse comments were received when the 1983 Model Energy Code was circulated for public comment.

3. Additional Information

Utah further asserts that competition will not be lessened as a result of the imposition of standards but rather a shift to the most efficient appliances. Utah states that numerous building codes exist (e.g., Uniform Building Code, Uniform Mechanical Code, Uniform Fire Code, National Electric Code, and the Utah Plumbing Code) with no consideration of lessening of competition and what without its appliance efficiency code, Utah would become a "dumping ground" for inefficient appliances. Utah further states that its legislature has declared the need to "conserve valuable energy resources, make more efficient use of energy and control costs."

4. Proposed Determination

DOE has reviewed Utah's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Utah has provided prima facie evidence showing that sections 503.4.3, 503.4.5, 504.2.1.1 and 504.2.1.2 of the 1983 Model Energy Code, adopted under the authority of sections 63-9-45 through 53, as enacted by Chapter 12, Laws of Utah 1976, and as amended by Chapter 178, Laws of Utah 1977, are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; is justified by a significant State interest; and does not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 503.4.3, 503.4.5, 504.2.1.1 and 504.2.1.2 of the 1983 Model Energy Code, adopted under the authority of sections 63-9-45 through 53, as enacted by Chapter 12, Laws of Utah 1976, and as amended by Chapter 178, Laws of Utah 1977, from the preemptive provisions of section 327(a)(2) of the Act.

IOWA (IA026). The petition submitted by Iowa seeks a rule exempting from Federal preemption the appliance efficiency requirements in Iowa Administrative Code, section 680-16.800(3) which adopts by reference the 1983 Model Energy Code as published by the Council of American Building Officials. The 1983 Model Energy Code provides for three approaches for compliance: a systems approach (Chapter 4), a component performance approach (Chapter 5), and a specified acceptable practice approach (Chapter 6). Minimum energy efficiency requirements are specified in the component performance approach and the specified acceptable practice approach. These requirements pertain to water heaters, room air conditioners, central air conditioners and furnaces. Specifically, Iowa requests that the following sections in the 1983 Model Energy Code not be superseded: 503.4.3 and Table No. 5-5; 503.4.5 and Table No. 5-6; 503.4.6 and Table No. 5-7; 504.4.7 and Table No. 5-8; 504.2.1;[106] 603.2 and Tables No. 6-4, 6-5, 6-6, 6-7, 6-8; and 604.1.1.

1. State Standard Levels

Water Heaters. For electric storage heaters, sections 504.2.1.1 and 604.1.1 specify a maximum standby loss of 4.0 watts per square foot of tank surface

[103] Utah's water heater standards reference the DOE water heater test procedure.

[104] Utah's room air conditioner standard references the DOE room air conditioner test procedure. Utah's central air conditioner standard references the DOE central air conditioner test procedure.

[105] Utah's furnace standards reference the DOE furnace test procedure.

[106] The petition requested that section 504.2.1.2 be exempt, which applies only to gas- and oil-fired storage water heaters. Iowa is assumed to also request an exemption for section 504.2.1.1, which applies to electric storage water heaters, because this section is cited in section 604.1.1. Thus, Iowa is seeking an exemption for section 504.2.1, which covers sections 504.2.1.1 and 504.2.1.2, for electric, gas-fired, and oil-fired storage water heaters.

area. For gas- and for oil-fired storage water heaters with input ratings of 75,000 Btu per hour or less, sections 504.2.1.2 and 604.1.1 specify a minimum recovery efficiency of 75 percent and a maximum standby loss of the quantity 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons. For oil-fired water heaters with an input rating of greater than 75,000 Btu per hour, sections 504.2.1.2 and 604.1.1 specify a minimum combustion efficiency of 80 percent; and if these oil water heaters have an input rating of less than 4,000 But per gallon of self-stored water, the standby loss shall not exceed the quantity 2.8+67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons.[107]

Room Air Conditioners and Central Air Conditioners. For room air conditioners and central air conditioners, sections 503.4.5 and 603.2.1 and Tables No. 5–6 and 6–6 specify a minimum energy efficiency ratio of 6.8 Btu per watt-hour.[108]

The Department is not considering Iowa's request that sections 503.4.6 and 503.4.7 and Nos. 5–7, 5–8, 6–5, 6–7, and 6–8 (for self-contained water chillers, condenserless water chillers, compressors and condenser units over 65,000 Btu per hour and heat operated cooling equipment) also be exempt from the Federal Standard. These air conditioning units, which primarily are commercial units, are not considered in this rulemaking because they are not covered products under the Department's appliance program and no exemption is needed.

Furnaces. Sections 503.4.3 and 603.2.2 and Tables No. 5–5 and 6–4 specify a minimum steady state efficiency of 74 percent for forced air furnaces, low pressure steam boilers, and hot water boilers and a minimum steady state efficiency of 69 percent for gravity central furnaces.[109]

2. Significant State Interest

The petitioner asserts that the State's legislative actions are based upon an interest to reduce the use of energy in Iowa because 98 percent of the energy used is imported and 70 percent of every dollar spent for retail energy leaves the State and is a drain on the State's economy. Iowa's energy bill exceeds $5 billion dollars per year with $3.5 billion dollars leaving the State annually.

3. Additional Information

The petitioner further asserts that Iowa rulemaking procedures require public hearings be held regarding any adoptions or revisions of any building code; and that there were no objections or comments made either in 1977 or in 1983 when the Model Energy Code relating to efficiency requirement for the included appliances was being considered for adoption. Finally, the petitioner asserts that there is no burden on interstate commerce as manufacturers already are functioning with these state regulations in place.

4. Proposed Determination

DOE has reviewed Iowa's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Iowa has provided prima facie evidence showing the sections 503.4.3, 503.4.5, 504.2.1.1, 504.2.1.2, 603.2.1, 603.2.2, and 604.1.1 and Tables 5–5, 5–6, 6–4, and 6–6 of the 1983 Model Energy Code adopted by reference by Iowa Administrative Code section 680–16.800(3) are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 503.4.3, 503.4.5, 504.2.1.1, 504.2.1.2, 603.2.1, 603.2.2, and 604.1.1 and Table Nos. 5–5, 5–6, 6–4, and 6–6 of the 1983 Model Energy Code, adopted by reference by Iowa Administrative Code Section 680–16.800(3), from the preemption provisions of section 327(a)(2) of the Act.

WEST VIRGINIA (WV027). The petition submitted by West Virginia seeks a rule exempting from Federal preemption section 5–21–2 of the 1981 West Virginia Energy Cost Reduction Guidelines as it pertains to water heaters, room air conditioners, central air conditioners and furnaces. This State regulation adopts by reference ASHRAE Standard 90–75. The 1981 West Virginia Energy Cost Reduction Guidelines require that an energy code at least as stringent as ASHRAE Standard 90–75 be adopted and enforce throughout the state.

1. State Standard Levels

Water Heaters. Section 7.3.1 of the adopted standard provides that electric storage water heaters shall have a standby loss no greater than 4.0 watts per square foot of tank surface area and that gas- and oil-fired storage water heaters shall have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons.[110]

Room and Central Air Conditioners. section 6.3 of the adopted standard provides that all room and central air conditioners shall have an energy efficiency ratio not less than 6.8 Btu per watt-hour.[111]

Furnaces. Section 6.6 of the adopted standard provides that gas- and oil-fired furnaces shall have a combustion efficiency not less than 75 percent.[112]

2. Significant State Interest

West Virginia states that the supersession of the appliance efficiency standards cited in its petition would cause an undue administrative and enforcement burden on those municipalities already burdened with limited funding for building code inspection services.

Review of currently available U.S. equipment addressed in the petition shows that there are products manufactured that do not meet the minimum criteria of the West Virginia State Code. Without such minimum criteria, the energy costs to consumers and energy resource consumption within the State would be expected to increase as a result of new construction containing less efficient products.

[107] Iowa's water heater standards reference the DOE water heater test procedure.

[108] Iowa's room air conditioner standard references the DOE room air conditioner test procedure. Iowa's central air conditioner standard references the DOE central air conditioner test procedure.

[109] Iowa's furnace standards reference the DOE furance test procedure.

[110] West Virginia's water heater standards reference the ANSI Standard C72.1–72 test method and the ANSI Standard Z21.10.3–74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of West Virginia's water heater standards for which exemption from preemption is being sought.

[111] West Virginia's room air conditioner standard references the ANSI Standard Z234.1–72 test method which DOE adopted as its test procedure for room air conditioners. West Virginia's central air conditioner standard references the ARI Standard 210–75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of West Virginia's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[112] West Virginia's furnace standards reference the ANSI Standard Z21.13–74 test method, the ANSI Standard Z21.47–71 test method, the ANSI Standard 91.1–72 test and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of West Virginia's furnace standards for which exemption from preemption is being sought.

3. Additional Information

In its petition, West Virginia states that since the regulations for which it requests exemption became part of the West Virginia State Code in 1981, no manufacturer, retailer, or distributor of these products has indicated opposition to the Code provisions and that, therefore, the Code provisions are not a burden on interstate commerce and have not adversely impacted the building construction community.

4. Proposed Determination

DOE has reviewed West Virginia's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on this analysis, DOE has determined that West Virginia has provided prima facie evidence showing that sections 6.3, 6.6, and 7.3.1 of ASHRAE Standard 90-75, adopted by reference by section 5-21-2 of the 1981 West Virginia Energy Cost Reduction Guidelines are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting Sections 6.3, 6.6, and 7.3.1 of ASHRAE Standard 90-75, adopted by reference by Section 5-21-2 of the 1981 West Virginia Energy Cost Reduction Guidelines as they pertain to water heaters, room air conditioners, central air conditioners and furnaces from the preemptive provision of section 327(a)(2) of the Act.

MINNESOTA (MN028). The petition submitted by Minnesota seeks a rule exempting from Federal preemption Minn. Stat. 116J.19, subdivisions 8, 13, and 14 as they pertain to water heaters, room air conditioners, central air conditioners and furnaces. On September 22, 1983, Minnesota amended Minn. Stat. 116J-19 subd. 8 to incorporate, by reference, the 1983 Model Energy Code, as published by the Council of American Building Officials, subject to specific changes. Some of the changes to the 1983 Model Energy Code incorporated into the Minnesota law include stricter levels for equipment efficiences. The effective date for the amended Minn. Stat. 116J-19 subd. 8 was January 1, 1984. Previously, Minn. Stat. 116J-19 subd. 8 incorporated by reference the ASHRAE Standard 90.75.

1. State Standard Levels

Water Heaters. Minn. Stat. 116J-19 subd. 8 specifies a maximum standby loss of 4 watts per square foot of tank surface area for electric storage water heaters installed in new construction or substantial renovation.[113]

Minn. Stat. 116J-19 subd. 8 also requires gas- and oil-fired storage water heaters installed in new construction or substantial renovation to have a recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of stored thermal energy, where V equals the rated volume of the water heater expressed in gallons.[114]

Room Air Conditioners. Minn. Stat. 116J-19 subd. 13 requires that no new room air conditioners be sold, installed or transported for resale into Minnesota unless it has an energy efficiency ratio of at least 7.0 Btu per watt-hour. Additionally, Minn. Stat. 116J-19 subd. 8 specifies a minimum energy efficiency ratio of 7.8 Btu per watt-hour for all room air conditioners installed in new construction or substantial renovation.[115]

Central Air Conditioners. Minn. Stat. 116J-19 subd. 8 specifies a minimum energy efficiency ratio of 7.8 Btu per watt-hour for all central air conditioners installed in new construction or substantial renovation.[115A]

Furnaces. Minn. Stat. 116J-19 subd. 8 specifies a minimum steady state combustion efficiency of 74 percent of all furnaces and low pressure steam and hot water boilers installed in new construction or substantial renovation, except for gravity furnaces, for which the minimum steady state combustion efficiency is 69 percent.[116] Additionally, Minn. Stat. 116J-19 subd. 14 prohibits the sale and installation of any new gas-fired furnace equipped with a continuously burning pilot light.

2. Significant State Interest

Minnesota's discussion focuses on two major areas: that the State has a history of a commitment to energy efficient appliances as one component of its overall energy policy; and that there are significant energy savings that result from establishing minimum energy efficiency levels for these covered appliances. The petition maintains that as an energy-poor state, Minnesota is and has been especially vulnerable to the rapid increases in fossil fuel costs, and to the possibility of shortages. Since the State is literally at the end of the natural gas and oil distribution system, major concerns were evident in the 1970s regarding the impact shortages would have on the industrial/commercial network and the economy as a whole. Thus, major pieces of legislation were adopted to make Minnesota more energy efficient, to increase the use of alternative energy sources, and to limit the impact of rising energy costs, especially on low income families. According to the petition, that the legislative process has resulted in the development of standards is a de facto statement of the significance of standards to the State.

The petition states that Minnesota has determined that the energy savings from each of its appliance standards is significant. As indicated in the filing, Minnesota's energy policy is designed to use energy as cost-effectively as possible. In economic terms, those programs or State policies that result in energy savings with a positive net present value are determined to be of significant benefit to the State. That is, if the energy cost savings resulting from a standard outweigh the cost of implementing that standard, then the standard is appropriate and Minnesota's citizens will benefit. For each standard, Minnesota includes an analysis indicating the costs, savings and calculation of net present value resulting from the implementation of that standard.

The petitioner concludes that the net cost savings from the Minnesota State Building Code Efficiency for water heaters over the life of units purchased in 1981 is $16.4 million;[117] the net cost savings from the Minnesota minimum energy efficiency ratio of 7.0 Btu per watt-hour for room air conditioners sold in 1982 is $362,106;[118] the savings from

[113] The petition also stated that electric storage water heaters of a capacity greater than 1200 gallons are required to have a minimum of R-10 insulation. Electric water heaters with storage capacities greater than 120 gallons are not covered by the DOE test procedure for water heaters. Consequently, they are not covered by the Federal standard for water heaters. Therefore, this requirment is not subject to preemption by the Federal Standard.

[114] Minnesota's water heater standards reference the DOE water heater test procedure.

[115] Minnesota's room air conditioner standard references the DOE room air conditioner test procedure.

[115A] Minnesota's central air conditioner standard references the DOE central air conditioner test procedure.

[116] Minnesota's furnace standards reference the DOE furnace test procedure.

[117] Net present value of $16,388,513 saved was computed by Minnesota using the following assumptions: 45,500 units of electric water heaters were sold in Minnesota in 1981; the average annual energy cost savings per water heater is $52.92; the average lifetime of an electric water heater is 13 years; electricity costs will increase at the nominal rate of 5.5 percent per year; consumer credit loans are available at 13 percent per year; and the increased cost of a water heater resulting from standards are $79.38. This study was supported by data developed by Northern States Power Company.

[118] Net present value of $362,106 saved was computed using the following assumptions: 16,535

Continued

the Minnesota standard prohibiting furnace pilot lights sold in 1982 is $6.3 million;[119] and the net cost savings from Minnesota State Building Code standards for central air conditioners sold in 1982 is $743,538.[120]

The petitioner asserts that the estimates of energy savings from the ban on pilot lights is very conservative since much of the fuel consumed is discounted as the pilots produce "useful heat" for the dwelling. Since most furnaces in Minnesota are located in unconditioned or semi-conditioned spaces, the heat from the pilot lights is completely wasted. Also, pilot lights in furnaces produce heat during summer months, actually contributing to the air conditioning load. Because these pilot lights are unvented, they also contribute to air pollution of the conditioned space, leading to greater ventilation needs. It is totally unclear then, whether there is any useful contribution to residential space heating when increased ventilation is needed to maintain indoor air quality.

The petitioner points out that the products of combustion from pilot lights (and other unvented gas use) are beginning to be understood to have negative health effects, such as increased respiratory ailments and reduced lung capacity among children. These effects can be expected to be exacerbated in the future as both new and existing homes are made tighter, reducing air exchange rates from 2 to 3 to less than ½ an air change per hour. In a very tight home, health considerations alone may be sufficient to warrant pilotless ignition. At the very least, however, the unquantified health benefits resulting from eliminating pilot lights must be considered to add to the need to sustain the current ban which exists in Minnesota.

3. Additional Information

According to the petition, a preemption of Minnesota's standards by Federal rule will have negative impact on those manufacturers who re-tooled their assembly lines to produce more efficient appliances. The Minnesota Department of Energy and Economic Development has never received any complaints or notices of hardship by manufacturers of these products in complying with the State standards. However, to eliminate these minimal requirements would put those manufacturers who did re-tool at a competitive disadvantage with competitors who simply abandoned the Minnesota (and some other states) market. Those negative economic impacts should also be weighed in the decision to maintain Minnesota's standards.

Although Minnesota maintains that these appliance standards are necessary and reasonable on the merits of energy and dollars saved to the State, irrespective of that fact, Minnesota believes the Federal suppression of State energy efficiency standards is an unwarranted intrusion on a State's right to govern its own affairs. Minnesota states that this intrusion is made even more onerous by the fact that DOE chose to require a "no standard" standard which directly contravenes Minnesota's own interest, instead of a Federal efficiency standard which at least would have been supportive of the State's interests.

The petitioner concludes that there have been no complaints registered with the State concerning negative impacts on interstate commerce and that the State's interests clearly outweigh any burden on interstate commerce.

4. Proposed Determination

DOE has reviewed Minnesota's Petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on this analysis, DOE has determined that Minnesota has provided prima facie evidence showing that Minn. Stat. 116J.19 subdivisions 8, 13, and 14 are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose and undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting Minn. Stat. 116J.19 subdivisions 8, 13, and 14 as they pertain to water heaters, room air conditioners, central air conditioners and furnaces from the preemptive provisions of section 327(a)(2) of the Act.

WASHINGTON (WA029). The petition submitted by Washington seeks a rule exempting from Federal preemption sections 411(c), 411(e), 420(a), and 602(a) of the Washington State Energy Code which was enacted by section 51–12 of the Washington Administrative Code (WAC), as amended July 20, 1983, as they pertain to water heaters, room air conditioners, central air conditioners, and furnaces.[121] The Washington State Energy Code is based on ASHRAE Standard 90–75. It provides for three methods for compliance: (1) A component performance approach; (2) a system analysis approach; and (3) a prescriptive approach. Minimum energy efficiency standards are specified in the component performance approach (Section 400 of the Code) and inthe prescriptive requirement approach (Section 600 of the Code).

units of room air conditioners were sold in Minnesota in 1982; 40.5 percent of the 16,535 units or 6,697 units would have an average energy efficiency ratio of 6.6 Btu per watt-hour if there was no Minnesota minimum energy efficiency ratio of 7.0 Btu per watt-hour; the units sold would be at least 6.1 percent more efficient, representing the percentage increase from an energy efficiency ratio of 6.6 to 7.0 Btu per watt-hour; the national average consumption of a room air conditioner is 1161 kilowatt-hours per year; the average residential electricity price was $0.0576 per kilowatt-hour in 1982; electricity costs will increase at the nominal rate of 5.5 percent per year; consumer credit loans are available at 13 percent per year; the average life of a room air conditioner is 15 years; and the increase in cost due to the increase in energy efficiency ratio by 6.1 percent is $15.00.

[119] Net present value of $6,262,999 saved was computed by Minnesota using the following assumptions: 29,953 units of gas forced air furnaces were sold in Minnesota in 1982; 76.3 percent of the 29,953 units or 22,854 units would have been sold with pilot lights if there were no State standard against pilot lights; a pilot consumes 5.06 mcf of gas per year more than the same furnace without a pilot light; the price of natural gas in Minnesota was $5.02 per mcf in 1982; the average lifetime of a furnace is estimated to be 23 years; the average nominal inflation rate of natural gas used by residences is 8.56 percent per year; consumer credit loans are obtainable at the nominal rate of 13 percent per year; and the additional purchase cost of an appliance with an intermittent ignition device (IID) substituted for a pilot light is $100.

[120] Net present value of $743,538 saved was computed by Minnesota using the following assumptions: an average of 17,500 units of central air conditioners with an average rated capacity of 30,000 Btu per hour were sold in 1981 and 1982; the average energy efficiency ratio of the units sold would be 7.8 Btu per watt-hour resulting from the energy conservation provisions of the State Building Code; that this represents a 3.75 percent improvement over units that would have been sold without standards average central air conditioner usage is 450 hours per year equivalent of full averaged capacity; the savings in 1982 from the central air conditioning units affected by the State Code is equivalent to 2,596,534 kilowatt-hour; the cost of electricity in 1982 was $0.0576 per kilowatt-hour; the average life of a central air conditioner is 12 years; electricity costs will increase at the nominal rate of 5.5 percent per year; consumer credit loans are available at 13 percent per year; and the increase in costs due to the increase in EER by 3.75 percent is $25.00.

[121] The petition also requests a rule exempting from Federal preemption minimum energy efficiency standards pertaining to heat pumps, and home heating equipment (not including furnaces). These products are not considered in this rulemaking because the August 1983 rule for the six products reserved a standards decision for heat pumps, and home heating equipment (not including furnaces). The petition also requests a rule exempting from Federal preemption energy efficiency standards pertaining to the following categories of central air conditioning units: central air conditioners with a capacity greater than 65,000 Btu per hour, heat operated air conditioning units; and water chillers. These air conditioning units are not considered in this rulemaking because they are not covered products under the Department's appliance program.

1. State Standard Levels

Water Heaters. Section 420(a) of the State Energy Code prohibits the installation of gas- and oil-fired storage water heaters and electric storage water heaters that do not meet the requirements of ASHRAE Standard 90-75.[122]

Room Air Conditioners and Central Air Conditioners. Sections 411(e) and 602(a) of the State Energy Code prohibit the installation of any room or central air conditioner under a capacity of 65,000 Btu per hour with an energy efficiency ratio of less than 6.8 Btu per watt-hour.[123]

Furnaces. Sections 411(c) and 602(a) of Washington's law prohibits the installation of any gas- or oil-fired furnace with a minimum combustion efficiency of less than 75 percent.[124] Section 411(c) of Washington's law also requires all gas- and oil-fired furnaces to be equipped with approved automatic dampers in cases where conditioned air is used for combustion. Section 602(a) of Washington's law requires that all gas- and oil-fired furnaces are to be equipped with approved automatic dampers.

2. Significant State Interest

The petitioner states that its law has been in effect since 1980 and that the State Energy Code, 51-12 WAC, is actively enforced by local jurisdictions representing about 87 percent of the State's population. The petitioner states that Congress also has recognized the special need of the Northwest states to conserve energy by the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 95-501). In response to this law, the Northwest Power Planning Council has developed Model Conservation Standards (MCS) to be adopted and enforced by the Northwest States (including Washington) by January 1, 1986. The Council has determined that the minimum energy efficiency standards in the MCS are cost effective on a regional level and are economically feasible for consumers.

3. Additional Information

The petitioner states that during the past four years, consumers have benefited from the State regulations by having lower energy costs. The petitioner maintains that the State regulations are more stringent than the Federal ones, that Washington intends to adopt more stringent State regulations (Model Conservation Standards) in response to the Pacific Northwest Electric Power Planning and Conservation Act, and that the current State regulations have operated without placing an undue burden on interstate commerce.

4. Proposed Determination

DOE has reviewed Washingon's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Washington has provided prima facie evidence showing that sections 411(c), 411(e), 420(a) and 602(a) of the Washington State Energy Code, enacted by section 51-12 of the Washington Administrative Code (WAC), as amended July 20, 1983, are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting sections 411(c), 411(e), 420(a), and 602(a) of the Washington State Energy Code, enacted by section 51-12 of the Washington Administrative Code (WAC), as amended July 20, 1983, from the preemptive provisions of section 327(a)(2) of the Act.

KANSAS (KS030). The petition submitted by Kansas seeks a rule exempting from Federal preemption the Orders in Kansas Corporation Commission Docket No. 110,776-U pertaining to central air conditioners that took effect on November 1, 1979.

1. State Standard Levels

Central Air Conditioners. The Kansas Corporation Commission (KCC) is the State regulatory body statutorily mandated to supervise and control the public utilities and cooperatives doing business in Kansas. Pursuant to its authority, the KCC requires that all natural gas and electric utilities subject to the jurisdiction of the KCC and all municipally owned, non-jurisdictional natural gas and electric utilities shall not make conections or attachments to newly constructed residential dwellings and newly constructed commercial buildings unless certain requirements pertaining to the energy use of such dwellings and buildings are met. Subparagraph (e) of paragraph No. 5 of the Orders in KCC Docket No. 110,776-U[125] contains the requirement that the seasonal energy efficiency ratio of all air conditioners of 65,000 Btu per hour capacity or less shall not be less than 8.0 Btu per watt-hour.[126]

2. Significant State Interest

The KCC, in proposing its order in 1977, found that 66 percent of the electricity used in Kansas was generated by the use of natural gas and oil. Further, the reliance on the use of natural gas for home heating and for electricity generation, at a time of short supply, lent urgency to enacting conservation measures such as the energy efficiency standards for air conditioning units. The KCC notes that while the use of natural gas to produce electricity dropped from 66 percent of total electricity generated in 1977, to 22 percent in 1982, the actual amount of gas consumed in production of electricity in 1982 was 47 percent of 1977 levels of consumption. This fact, coupled with the increase in the price of natural gas from $.99 per cf in 1977 to $2.38 per cf in 1982, indicates to the KCC that Kansas is still heavily dependent upon natural gas in the production of electricity and the need for conservation measures is just as important in 1984 as it was in 1977.

3. Additional Information

Kansas stated that several companies already manufacture central air conditioners that comply with the State standards. Further, since several States already have standards, Kansas contended that its State standard does not unduly burden interstate commerce.

4. Proposed Determination

DOE has reviewed Kansas's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Kansas has provided prima facie evidence showing

[122] Washington's water heater standards reference the DOE water heater test procedure.

[123] Washington's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Washington's central air conditioner standard references DOE central air conditioner test procedure.

[124] Washington's furnace standards reference the DOE furnace test procedure.

[125] The language of the Order in KCC Docket No. 110,776-U implies that the energy efficiency requirement extends to room air conditioners as well as central air conditioners since it uses the term "all installed air conditioners" of 65,000 Btu per hour capacity or less. However, the petition itself refers to exempting the KCC rules for central air conditioners only. No mention is made of room air conditioners. DOE has, therefore, addressed this petition as it applies to central air conditioners only. Additionally, the KCC requires a minimum energy efficiency ratio of 7.5 Btu per watt-hour for air conditioners of greater than 65,000 Btu per hour capacity. However, this requirement is not subject to preemption by DOE's standard for central air conditioners since these units are not covered products under the Department's appliance program.

[126] Kansas' central air conditioner standards reference the DOE central air conditioner test procedure.

that the Orders in Kansas Corporation Commission Docket No. 11,0776-U concerning seasonal energy efficiency ratio are more stringent than DOE's rule for central air conditioners, is justified by a significant State interest and does not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting the Orders in Kansas Corporation Commission Docket No. 110,776-U from the preemptive provisions of section 327(a)(2) of the Act.

HAWAII (HI031). The petition submitted by Hawaii seeks a rule exempting from Federal preemption Article Eight of the Uniform Building Code, City and County of Honolulu, and equivalent chapters of the Uniform Building Codes of Hawaii and Kauai Counties, as they pertain to water heaters, room air conditioners, central air conditioners and furnaces. These codes are based on the ASHARAE Standlard 90-75. Hawaii also seeks a rule exempting Chapter 196-5 of the Hawaii Revised Statutes.[127]

1. State Standard Levels

Water Heaters. Section 16-8.08(e) of the Code specifies a maximum standby loss of 4.0 watts per square foot of tank surface area for electric storage water heaters. Section 16-8.08(e) also specifies that gas- and oil-fired storage water heaters shall have a minimum recovery efficiency of 75 percent and a maximum standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals the volume of the water heater in gallons.[128]

Room Air Conditioners and Central Air Conditioners. Section 16-8.04(b)(1) of the Code specifies a minimum energy efficiency ratio of 6.1 Btu per watt-hour for room air conditioners and central air conditioners and central air conditioners.[129]

Furnaces. Section 16-8.04(b)(5) of the Code specifies a minimum combustion efficiency of 75 percent at maximum rated output for gas- and oil-fired furnaces.[130] Chapter 196-5 of the Hawaii Revised Statutes prohibits the sale and installation of gas furnaces with pilot lights.

2. Significant State Interest

In its petition, Hawaii states that it is 90 percent dependent on imported oil which costs $1.5 billion dollars each year. Without appliance standards, Hawaii believes that cheap, inefficient applicances would be purchased by those unaware of the concept of lifecycle costing; by short-sighted developers; and by others who would profit by holding down initial costs and allowing others to cope with the resulting higher electricity bills. Preemption of appliance standards would seriously undermine the substantial progress that Hawaii has made in reducing the per-capita consumption of electricity.

3. Additional Information

Hawaii contends that it applicance standards do not place an undue burden on appliance manufacturers because its applicance standards are based on the ASHRAE Standard 90-75. The appliance industry itself was instrumental in formulating the ASHRAE Standard 90-75.

4. Proposed Determination

DOE has reviewed Hawaii's petition in accordance with the requirements of section 237(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Hawaii has provided prima facie evidence showing the Article Eight of the Uniform Building Code, City and County of Honolulu and the equivalent chapters of the Uniform Building Codes of Hawaii and Kauai Countries, and Chapter 196-5 of the Hawaii Revised Statutes, are more stringent than DOE's rule for water heaters, central air conditioners, room air conditioners and furnaces; are justified by a significant State interest; and do not appear to impose an undue burden on interstate commerce. Accordingly, DOE proposes to issue a rule amending § 430.33 exempting Article Eight of the Uniform Building Code, City and County of Honolulu and the equivalent chapters of the Uniform Building Codes of Hawaii and Kauai Counties, and Chapter 196-5 of the Hawaii Revised Statutes, from the preemptive provisions of section 327(a)(2) of the Act.

TENNESSEE (TN032). The petition submitted by Tennessee seeks a rule exempting from Federal preemption the Tennessee Code for Energy Conservation in New Building Construction, adopted in the Tennessee Code Annotated Section 13-19-101 through 13-19-107, Chapter 19, as it pertains to water heaters, room air conditioners, central air conditioners and furnaces.[131] The Tennessee Code incorporates three alternative approaches for compliance: A systems analysis approach, a component performance design approach and an acceptable practice approach applicable to conventional residential buildings and other small buildings which meet certain requirements. The provisions of the latter two approaches incorporate minimum energy efficiency requirements for space heating and cooling and water heating equipment based on ASHRAE Standard 90-75.

1. State Standard Levels

Water Heaters. Sections 504.2(a) and 604.1(a) of the Tennessee Code For Energy Conservation, Tennessee Code Annotated Section 13-19-101, provide that electric storage water heaters shall have a standby loss not exceeding 4.0 watts per square foot of tank surface area and that gas- and oil-fired storage water heaters shall have recovery efficiency not less than 75 percent and a standby loss not exceeding the quantity of 2.3+67/V, expressed in percent per hour of the stored thermal energy, where V equals rated volume of the water heater in gallons.[132]

[127] Hawaii is assumed also to request an exemption for Chapter 196-5 of the Hawaii Revised Statutes prohibiting the sale and the installation of gas furnaces with pilot lights. Although Hawaii did not specifically mention this regulation in its petition, a copy of the regulation was include as a appendix to the petition. DOE in therefore assuming that it is Hawaii's intent to seek exemption from preemption for chapter 196-5 of the Hawaii Revised Statutes.

[128] Hawaii's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of Hawaii's water heater standards for which exemption from preemption is being sought.

[129] Hawaii's room air conditioner standard references the ANSI Standard Z234.1-72 test method which DOE adopted as its test procedure for room air conditioners. Hawaii's central air conditioner standard references the ARI Standard 210-75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditioner test procedure. The Department is treating these test methods as an integral part of Hawaii's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[130] Hawaii's furnace standards reference the ANSI Standard Z21.13-74 test method, the ANSI Standard Z21.47-71 test method, the ANSI Standard 91.1-72 test method and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of Hawaii's furnace standards for which exemption from preemption is being sought.

[131] The petition requests exemption for positive displacement refrigerant compressors. Positive displacement refrigerant compressors are not considered in this rulemaking because they are not covered products under the Department's applicance program.

[132] Tennessee's water heater standards reference the ANSI Standard C72.1-72 test method and the ANSI Standard Z21.10.3-74 test method. DOE has reviewed these test methods and finds that they differ from the DOE water heater test procedure. The Department is treating these test methods as an integral part of Tennessee's water heater standards for which exemption from preemption is being sought.

Room Air Conditioners and Central Air Conditioner. Sections 503.4(e) and 603.2(a) of the Tennessee Code for Energy Conservation, Tennessee Code Annotated Section 13–19–101, provide that room air conditioners and central air conditioners with cooling capacities of 65,000 Btu per hour or less shall have an efficiency ratio not less than 6.1 Btu per watt-hour.[133]

Furnaces. Sections 503.4(c) and 603.2(b) of the Tennessee Code for Energy Conservation, Tennessee Code Annotated section 13–19–101, provide that gas- and oil-fired furnaces shall have a combustion efficency not less than 75 percent at maximum rated output.[134]

2. Significant State Interest

Tennessee believes that no one's interest will be served, neither public, by preempting the State's appliance standards.

3. Additional Information

Tennessee contends that its appliance standards are coterminous with the standards by which the building industry works.

4. Proposed Determination

DOE has reviewed Tennessee's petition in accordance with the requirements of section 327(b)(3) of the Act and § 430.47 of the regulation. Based on its analysis, DOE has determined that Tennessee has provided prima facie evidence showing that sections 503.4 (c) and (e), 504.2(a), 603.2 (a) and (b), and 604.1(a) of the Tennessee Code for Energy Conservation in New Building Construction, Tennessee Code Annotated section 13–19–101 through 13–19–107, Chapter 19, are more stringent than DOE's rule for water heaters, room air conditioners, central air conditioners and furnaces; and are justified by a significant State interest. DOE has determined that they do not appear to impose an undue burden on interestate commerce. Accordingly, DOE proposed to issue a rule amending section 503.4 (c) and (e), 504.2 (a) and (b), and 604.1(a) of the Tennessee Code for Energy Conservation in New Building Construction, Tennessee Code Annotated section 13–19–101 through 13–19–107, Chapter 19, from the preemptive provisions of section 327(a)(2) of the Act.

III. Environmental, Regulatory Impact, and Small Entity Impact Reviews

a. Environmental Review

In each case where DOE is requested to approve State standards, DOE conducts a National Environmental Policy Act (NEPA) review on a case-by-case basis. Currently, the 26 States have petitioned DOE regarding regulations concerning the energy use or efficiency of one or more of the products covered by the December 22, 1982 final rule or the August 30, 1983 final rule. Granting the petitions received from these States will mean that these regulations will remain in effect. The Department's proposed rule to grant these petitions will result in no change in the environmental status quo of the 26 States, and therefore, will clearly have no signficant environmental impact. No environmental assessment or environmental impact statement is required.

It should also be noted that the Department has prepared and issued an Environmental Assessment (EA) (DOE/EA–0113) on the impact of setting and implementing energy efficiency standards for all 13 types of consumer products identified in Section 322(a)(1)–(13) of the Act. A Finding of No Significant Impact and Notice of Availability of that EA were published with the June 30, 1980, proposed rule for minimum energy efficiency standards for eight of the products (45 FR 44088). Copies of that EA may be obtained from the address indicated at the beginning of this notice.

b. Regulatory Impact Review

In light of the foregoing analysis of the effect of the proposed actions, DOE has concluded that the rules are not "major rules" for purposes of Executive Order 12291 because they will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, in accordance with section 3(c)(3) of the Executive Order, which applies to rules other than major rules, the proposed rules were submitted to OMB for review without a regulatory impact analysis.

c. Small Entity Impact Review

In light of the foregoing, the Department has determined and hereby certifies pursuant to section 605(b) of the Regulatory Flexibility Act that the proposals, if promulgated, will not have a "significant economic impact on a substantial number of small entities." The impacts on small businesses which are appliance manufacturers were assessed very closely together with other relevant factors in conducting DOE's analysis of the State petitions. For purposes of assessing these impacts, the term "small business" was defined in consultation with the Small Business Administration.

IV Public Comment Procedures

a. Participation in Rulemakings

DOE encourages the maximum level of public participation in these rulemakings.

Individual consumers, representatives of consumer groups, manufacturers' associations, States or other governmental entities, utilities, retailers, distributors, manufacturers, and others are urged to submit written statements on the proposals. The Department also encourages interested persons to participate in the public hearings to be held in New York, New York; Chicago, Illinois; Atlanta, Georgia; Dallas, Texas; San Francisco, California; and Washington, D.C., at the times and places indicated at the beginning of this notice.

Copies of each State's notice of intent and petition are available for review in the DOE Freedom of Information Reading Room. Interested persons may obtain copies of any of these documents by writing to the DOE Freedom of Information Reading Room at the address specified at the beginning of this notice. Such persons are advised to contact the DOE Freedom of Information Reading Room in advance of such requests to determine if there will be any charges associated with satisfying their request.

DOE has established a comment period of 90 days following publication of this notice, for persons to submit written comments on these proposals. All written comments and transcripts of all public hearings will be available for

[133] Tennessee's room air conditioner standard references the ANSI Standard Z234.1–72 test method which DOE adopted as its test procedure for room air conditioners. Tennessee's central air conditioner standard references the ARI Standard 210–75 test method. DOE has reviewed this test method and finds that it differs from the DOE central air conditoner test procedure. The Department is treating these test methods as an integral part of Tennessee's room air conditioner and central air conditioner standards for which exemption from preemption is being sought.

[134] Tennessee's furnace standards reference the ANSI Standard Z21.13–74 test method, the ANSI Standard Z21.47–71 test method, the ANSI Standard 91.1–72 test method and the HI Standard 6.6 test method. DOE has reviewed these test methods and finds that they differ from the DOE furnace test procedure. The Department is treating these test methods as an integral part of Tennessee's furnace standards for which exemption from preemption is being sought.

review in the DOE Freedom of Information Reading Room. Interested persons may obtain copies of any of these documents by writing to the DOE Freedom of Information Reading Room at the address specified at the beginning of this notice. Such persons are advised to contact the DOE Freedom of Information Reading Room in advance of such requests to determine if there will be any charges associated with satisfying their request. Also, persons interested in obtaining copies of the transcripts from any or all of the public hearings have the option of purchasing them directly from the transcribing reporter for each public hearing. The identify of the transcribing reporter for each public hearing may be determined by contacting the person in the DOE Conservation and Renewable Energy Office of Hearings and Dockets whose address, and telephone number appear at the beginning of this notice.

b. Written Comment Procedures

Interested persons are invited to participate in this proceeding by submitting written data, views or arguments with respect to the subjects set forth in this notice. Instructions for submitting written comments are set forth at the beginning of this notice and below. Comments for each petition should be addressed separately and comments on each product should be discussed separately within each commentary. Comments on each petition should be labeled both on the envelope and on the documents "Appliances (Docket No. CE-CP-SPRM [appropriate State code])" General comments, i.e., those which are applicable to DOE's consideration of all State petitions, should be addressed separately and should be labeled both on the envelope and on the documents "Appliance (Docket No. CE-CP-SPRM)" All written comments must be received by the date specified at the beginning of this notice in order to insure full consideration. Ten (10) copies are requested to be submitted, however, this is not a requirement for the submission or written comments. Ten copies are requested to permit timely review of the comments received on this matter. All comments received by the date specified at the beginning of this notice and other relevant information will be considered by DOE before final action is taken on the proposed rules.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data which is believed to be confidential and exempt by law from public disclosure, should submit one complete copy of the document, and if possible, 10 copies from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information or data and treat it according to its determination.

Factors of interest to DOE, when evaluating requests for confidentiality include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the personal competitives injury which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) whether disclosure of the information would be in the public interest.

c. Public Hearings

1. Procedure for Submitting Requests to Speak. In order to have the benefit of a broad range of public viewpoints in these rulemakings, DOE will hold six public hearings. Listed at the beginning of this notice are the dates, addresses, and DOE contacts for these hearings. Any person who has an interest in these proceedings, or who is a representative of a group or class of persons having an interest, may submit a written request for an opportunity to make an oral presentation at the public hearing. Such requests should be labeled both on the letter and the envelope, "Appliances: Petitions for Exemption from Preemption of State Efficiency Standards (Docket No. CE-CP-SPRM)" and should be sent to the proper address and must be received by the time specified at the beginning of this notice.

The person making the request should briefly describe the interest concerned and give a telephone number where he or she may be contacted. Each person requesting an opportunity to speak should give a concise summary of the proposed oral presentation.

2. Selection of Speakers. DOE reserves the right to select the persons to be heard at these hearings, and to schedule the respective presentations. DOE will endeavor to afford all persons who request to speak an opportunity to be heard. However, in the event that more persons request to speak at a particular hearing than time permits to be heard, DOE may refuse some persons an opportunity to make a scheduled presentation. (DOE may, for example, select only one person to speak on behalf of a given group or organization for which two or more representatives have requested to speak.) The length each presentation will be limited to 20 minutes. Scheduled speakers will be so notified by DOE by the date specified at the beginning of this notice.

Speakers are requested to submit 10 copies of their statement by the date given at the beginning of this notice; however, this is not a requirement for making an oral presentation at a hearing. Ten copies are requested to be submitted in advance of the hearings in order that they may be distributed to the DOE officials who will be serving on the panel at the hearings for review prior to the hearing itself and so that they may be made available to persons attending the hearing. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance with the Office of Hearings and Dockets by so indicating in the letter requesting to make an oral presentation.

3. Conduct of Hearing. A DOE official will be designated to preside at each hearing. The hearings will not be judicial or evidentiary-type hearings, but will be conducted in accordance with 5 U.S.C. 553 and Section 336(a)(1) of the Act. Each day, at the conclusion of all initial oral statments, each person who has made an oral statement will be given the opportunity to make a rebuttal statement, subject to time limitations. The rebuttal statements will be given in the order in which the initial statements were made. The official conducting the hearing will accept additional comments or questions from those attending, as time permits. Any interested person may submit to the presiding official written questions to be asked of any person making a statement at the hearing. The presiding official will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules regarding proper conduct of the hearing will be announced by the presiding official.

4. Consolidation of Hearings. DOE may consolidate any or all of the public hearings if DOE does not receive sufficient interest concerning a particular hearing. In that event, DOE will contact each speaker and provide that person the opportunity to present testimony at any of the other hearings. However, DOE will not provide transportation or lodging for such speakers to appear at a hearing. DOE will include for the record at one of the other hearings a copy of the statement

of any person who requested to speak at a hearing that was cancelled by DOE.

Oral views, data and arguments may be presented at any of the public hearings. The length of each presentation is limited to 20 minutes. The hearings will begin at 9 a.m., and will be held at the following locations:

Public Hearing, New York, New York. A public hearing will be held in New York City on October 2, 1984; requests to speak must be received by the Department no later than 4 p.m., September 18, 1984; speakers will be notified by 4 p.m., September 20, 1984; ten copies of each speaker's statement are requested; however, at least one copy must be received by the Department no later than 4 p.m., September 28, 1984.

Public Hearing: New York, New York, Jacob Javits Federal Building, 26 Federal Plaza, Room 305B New York, NY 10278.

Public Hearing, Chicago, Illinois. A public hearing will be held in Chicago, Illinois, on October 4, 1984; requests to speak must be received by the Department no later than 4 p.m., September 18, 1984; speakers will be notified by 4 p.m., September 20, 1984; ten copies of each speaker's statement are requested; however, at least one copy must be received by the Department no later than 4 p.m., September 28, 1984.

Public Hearing: Chicago, Illinois, Everett Dirkson Federal Building, 219 South Dearborn Street, Room 1221, Chicago, IL 60604.

Public Hearing, Atlanta, Georgia. A public hearing will be held in Atlanta, Georgia, on October 10, 1984; requests to speak must be received by the Department no later than 4 p.m., September 18, 1984; speakers will be notified by 4 p.m., September 20, 1984; ten copies of each speaker's statement are requested; however, at least one copy must be received by the Department no later than 4 p.m., October 5, 1984.

Public Hearing: Atlanta, Georgia, Richard Russell Federal Building, 75 Spring Street, SW, Room 1478, Atlanta, GA 30303.

Public Hearing, Dallas, Texas. A public hearing will be held in Dallas, Texas on October 12, 1984; requests to speak must be received by the Department no later than 4 p.m., September 18, 1984; speakers will be notified by 4 p.m., September 20, 1984; ten copies of each speaker's statement are requested; however, at least one copy must be received by the Department no later than 4 p.m., October 5, 1984.

Public Hearing: Dallas, Texas, Earl Cabel Federal Building, 1100 Commerce Street, Room 5C44, Dallas, TX 75242.

Public Hearing, San Francisco, California. A public hearing will be held in San Francisco, California, on October 15, 1984; requests to speak must be received by the Department no later than 4 p.m., September 18, 1984; speakers will be notified by 4 p.m., September 20, 1984; ten copies of each speaker's statement are requested; however, at least one copy must be received by the Department no later than 4 p.m., October 5, 1984.

Public Hearing: San Francisco, California. Tishman Building, 525 Market Street, Room 2720, San Francisco, CA 94105.

Public Hearing, Washington, D.C. A public hearing will be held in Washington, D.C., on October 18, 1984; requests to speak must be received by the Department no later than 4 p.m., October 11, 1984; speakers will be notified by 4 p.m., October 12, 1984; ten copies of each speaker's statement requested; however, at least one copy must be received by the Department no later than 4 p.m., October 16, 1984.

Public Hearing: Washington, D.C., Forrestal Building, Room 1E-245, 1000 Independence Avenue, SW, Washington, DC 20585.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Authority: Sec. 323, Pub. L. 94-163, 89 Stat. 917, as amended by Pub. L. 95-619, 92 Stat. 3266 (42 U.S.C. 6293).

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., August 8, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Section 430.33 is amended by adding new paragraphs (a)(6), (c), (d), (e), (f), (g), and (h) to read as follows:

§ 430.33 Preemption of State regulations.

* * * * *

(a) Kitchen Ranges and Ovens:

* * * * *

(6) Rhode Island State Building Code, revised as of July 1, 1983, Section 702, pertaining to gas kitchen ranges and ovens that are covered products, is exempt from preemption.

* * * * *

(c) Refrigerators and refrigerator-freezers:

(1) Title 20, California Administrative Code, Section 1604(a), pertaining to refrigerators and refrigerator-freezers that are covered products, is exempt from preemption.

(2) New York State Energy Law, Section 16-110, pertaining to refrigerators and refrigerator-freezers that are covered products, is exempt from preemption.

(d) Freezers:

(1) Title 20, California Administrative Code, Section 1604(a), pertaining to freezers that are covered products, is exempt from preemption.

(2) New York State Energy Law, section 16-110, pertaining to freezers that are covered products, is exempt from preemption.

(e) Water Heaters:

(1) Arkansas Act 255 of 1979 which prescribed Rules and Regulations for Energy Efficiency Standards for New Building Construction section 504.2, pertaining to water heaters that are covered products, is exempt from preemption.

(2) The State regulation that enacted the 1981 Virginia Uniform Statewide Building Code, section P-1506.3.5, pertaining to water heaters that are covered products, is exempt from preemption.

(3) The 1982 Florida Model Energy Efficiency Code for Building Construction, section 504.2(a), 903.2(a) and H903.2, pertaining to water heaters that are covered products, are exempt from preemption. Additionally, the 1984 Florida Model Energy Efficiency Code for Building Construction, sections 504.2(a) and 903.2(a), pertaining to water heaters that are covered products, are exempt from preemption.

(4) 16 Pa. Code, section 30.32(4) and 34 Pa. Code, section 38.3 pertaining to water heaters that are covered products, are exempt from preemption.

(5) Sections 504.2.1.1, 504.2.1.2 and 604.1.1 of the 1983 Model Energy Code adopted by section 6-10-10, *et seq.*, Code of Laws of South Carolina, 1976 (1982, Cum. Supp.), pertaining to water heaters that are covered products, are exempt from preemption.

(6) Section 504.2(a) of the 1977 Code for Energy Conservation in New Building Construction adopted by section 5301 of Chapter 53 of the 1979 Uniform Building Code adopted by New Mexico's Construction Industries Committee on April 8, 1980, pertaining to

water heaters that are covered products is exempt from preemption.

(7) The State regulation that enacted section 504.2(a) of the Georgia State Energy Code for Buildings, 1981 Edition, O.C.G.A. section 8-2-20, *et seq.*, pertaining to water heaters that are covered products, is exempt from preemption.

(8) Sections 504.2(a)(1) and (2) and 604.1(a) of the Rhode Island State Building Code, prescribed July 1, 1983, by the State Building Code Standards Committee, pertaining to water heaters that are covered products, is exempt from preemption.

(9) New Hampshire State Regulation RSA 155:D, which adopts section 504.2(a)(1) and (2) of the New Hampshire Energy Code, pertaining to water heaters that are covered products, is exempt from preemption.

(10) The State regulation filed by the State Building Code Commission on December 12, 1980 which enacted Article 17, Massachusetts State Building Code, section 2.14.8(a), pertaining to water heaters that are covered products, is exempt from preemption.

(11) Title 20, California Administrative Code, section 1604(e), and Part 2, Title 24, California Administrative Code, section 2-5307 (a), pertaining to water heaters that are covered products, is exempt from preemption.

(12) Oregon Laws 1979, Chapter 197 (June 4, 1979), Oregon Administrative Rules, section 814-21-135 pertaining to water heaters that are covered products, is exempt from preemption.

(13) New York State Energy Law, section 16-108 and Title 9, Official Compilation of New York Codes, Rules and Regulations, section 7813.33, pertaining to water heaters that are covered products, are exempt from preemption.

(14) The building codes of the following localities in Missouri, pertaining to water heaters that are covered products, are exempt from preemption.

(i) Building Officials and Code Administrators International (BOCA) Basic Building Code (year adopted in parentheses)

Arnold (1980)
Ballwin (1981)
Berkley (1981)
Boonville (1978)
Breckenridge Hill Village (1979)
Brentwood (1980)
Brookfield (1979)
Butler (1973)
Clayton (1981)
Clinton (1975)
Columbia (1975)
Crestwood (1980)
Creve Coeur (1980)
Dellwood (1980)
Des Peres (1980)
Ellisville (1979)
Festus (1976)
Florissant (1980)
Fulton (1978)
Glendale (1980)
Hazelwood (1975)
Kennett (1979)
Kirkwood (1981)
Manchester (1980)
Marshall (1980)
Maryville (1979)
Mexico (1978)
Ferguson (pending)
Malden (unknown)
Pacific (updating)
Moberly (1980)
Normandy (1978)
Northwoods (1976)
Olivette (1980)
Overland (1981)
Pagedale (1980)
Perryville (1982)
Pinelawn (1978)
Richmond Heights (1980)
Rock Hill (1980)
Rolla (1981)
Springfield (1979)
St Clair (1971)
St. John (1975)
St. Joseph (1980)
St. Louis (1980)
St. Louis County
Unincorporated (1980)
Incorporated (1980)
St. Peters (1982)
Shrewsberry (1981)
Sullivan (1980)
Town and Country (1980)
University City (1981)
Webster Groves (1980)
Wellston (1980)
Wentzville (updating)
Plattesburg (unknown)
St. Charles (pending)

(ii) International Conference of Building Officials (ICBO) Uniform Building Code (year adopted in parentheses)

Aurora (1977)
Eldon (1980)
Excelsior Springs (1981)
Grandview (1979)
North Kansas City (pending)
Raytown (pending)

(iii) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90-75 (year adopted in parentheses)

Black Jack (1979)

(iv) Southern Building Code Congress International (SBCC) Standard Building Code (year adopted in parentheses)

Webb City (1981)
West Plains (1978)

(v) Other

Lee's Summit (1981)

(15) The building codes of the following localities in Texas, pertaining to water heaters that are covered products, are exempt from preemption:

(i) International Conference of Building Officials (ICBO) Uniform Building Code (edition adopted and adopting ordinance identified in parentheses)

Austin (1982 Ed., Ord. 831110A)
Cleburn (1982 Ed., Ord. 3-1984-10)
Dimmitt (1982 Ed., Ord. 405)
Edgecliff (1982 Ed., Ord. 163)
Everman (1982 Ed., Ord. 277)
Ganado (1979)
Garland (1982 Ed., Ord. 2810)
McKinney (1979 Ed., Ord. 1083)
North Richland Hills (1982 Ed., Ord. 875)
Pilot Point (1979 Ed., Ord. 254)
University Park (1982 Ed., Ord. 83-9)
West Lake Hills (1982 Ed., Ord. 56-1)

(ii) Southern Building Code Congress International (SBCC) Standard Building Code (edition adopted and adopting ordinance identified in parentheses)

Andrews (1978 Ed.)
Balcones Heights (1979 Ed., Ord. 4-81)
Brownfield (1979 Ed., Ord. 1576)
Brownwood (1979 Ed., Ord. 80-36)
Clute (1979 Ed., Ord. 82-17)
College Station (1982 Ed., Ord. 1393)
El Paso (1982 Ed., Ord. 6340)
Greenville (1982 Ed., Ord. 3008)
Harlingen (1982 Ed., Ord. 84-23)
Ingleside (1982 Ed., Ord. 356)
Jacksonville (1982 Ed., Ord. 505)
Jourdanton (1979 Ed., Ord. 158)
LaGrange (1982 Ed.)
Laredo (1979 Ed.)
Levelland (1982 Ed., Ord. 647)
Live Oak (1982 Ed., Ord. 419)
Longview (1982 Ed., Ord. 1575)
Luling (1977 Ed.)
Midland (1982 Ed., Ord. 6293)
Midlothian (1976 Ed.)
New Braunfels (1979 Ed., Ord. 8125)
Orange (1979 Ed., Ord. 1980-46)
Port Isabel (1982 Ed., Ord. 408)
Richardson (1979 Ed., Ord. 2280A)
Rosenberg (1982 Ed., Ord. 67-2)
Round Rock (1982 Ed., Ord. 2024)
Rusk (1980)
San Benito (1982 Ed., Ord. 931)
San Saba (1979)
Schertz (1982 Ed., Ord. 84-C-8)
Snyder (1982 Ed., Ord. 485)
Sonora (1982 Ed., Ord. 259)
Temple (1979 Ed., Ord. 1295)
Texarkana (1982 Ed., Ord. 294-82)
Victoria (1979 Ed., Ord. 83-10)
Wharton (1982 Ed., Ord. 1982-18)

(iii) Building Officials and Code Administrators International (BOCA) Basic Building Code (edition adopted and adopting ordinance identified in parentheses)

Pasadena (1978 Ed., Ord. 78-126)

(16) Section E-503.1 of the Building Officials and Code Administrations International (BOCA) Basic Building Code of 1981 as adopted with amendments by section 14A:3-4.4 of New Jersey Administrative Code, as readopted on July 11, 1983, pertaining to

water heaters that are covered products, is exempt from preemption.

(17) Administrative Rules and Regulations of the Illinois Department of Public Health Article I, Rule 1.12, and the building codes of the following localities in Illinois, pertaining to water heaters that are covered products, are exempt from preemption:

(i) Building Officials and Code Administrators International (BOCA), Basic Building Code (1978), Article 20:

Barrington Village
Buffalo Grove Village
Carpentersville Village
Crystal Lake City
Fairview Heights City
Fox River Grove Village
Galesbury City
Glen Carbon Village
Glencoe Village
Grayslake Village
Gurnee Village
Harvey City
Hickory Hills City
Hun Village
Jacksonville City
LaGrange Village
Lake Barrington Village
Lake in the Hills
Machesney Village
Madison City
Montgomery Village
Niles Village
Northbrook Village
O'Fallon City
Orland Park Village
Oswego Village
Palos Heights City
Parks City
Peotone Village
Richton Park Village
River Forest Village
Rochelle Village
Shorewood Village
South Barrington Village
Sterling City
Stickney City
Sycamore City
Western Springs Village

(ii) Building Officials and Code Administrators International (BOCA) Basic Building Code (1978—Modified):

Hillside Village
Libertyville Village
Marion City
Springfield City

(iii) Building Officials and Code Administrators International (BOCA) Basic Building Code (1981), Article 25:

Acton Cityu
Bellwood Village
Belnit City
Belvider Village
Bethalto Village
Bloomington City
Bolingbrook Village
Carol Stream Village
Country Club Hills City
Countryside City
Darien City
Decatur City
Deerfield Village
DeKalb City
Dixon City
Downers Grove Village
Effingham Village
Elk Grove Village
Evanston City
Flora City
Fox Lake Village
Franklin Park Village
Glen Carbon Village
Golf Village
Grayslake Village
Hanover Park Village
Harvard Village
Hazel Crest Village
Hebron Village
Hoffman Estates Village
Hooperston City
Kankakee City
Lake County
Matteson Village
Montgomery Village
Monticello City
Murphysboro City
North Aurora Village
Oak Lawn Village
Palos Park Village
Pekin City
Rock Falls City
Roselle Village
Schiller Village
Skokie Village
South Elgin Village
South Roxana Village
Spring Grove Village
Vernon Hills Village
Waukegan City
West Chicago Village
Westchester Village
Westhaven Village
Wheaton City
Wheeling Village
Wood Dale City
Woodstock City

(iv) Building Officials and Code Administrators International (BOCA) Basic Building Code (1981—Modified), Article 25: Code:

Benton City
Champaign City
Morris City
Jerseyville City
Woodbridge Village

(v) International Conference of Building Officials (ICBO) Uniform Building Code:

Canton City
Carthage City
Genesco City
Mound City
Pembroke Village
Rock Island County

(vi) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90-75

Carbondale City
Springfield City

(vii) National Building Code:

Camp Point
Carbondale City
Glen Ellyn Village
Grand Ridge Village
Mt. Sterling City
North Riverside Village
Riverdale Village

(viii) Other

Oakwood Hills Village

(18) The State regulation which enacted the 1983 Utah Model Energy Code, sections 504.2.1.1 and 504.2.1.2, pertaining to water heaters that are covered products, are exempt from preemption.

(19) Iowa Administrative Code, section 680-16.800(3) which enacted sections 504.2.1.1, 504.2.1.2 and 604.1.1 of the 1983 Model Energy Code, pertaining to water heaters that are covered products, are exempt from preemption.

(20) West Virginia Code section 5-4-2 which enacted the 1981 West Virginia Energy Cost Reduction Guidelines, pertaining to water heaters that are covered products, is exempt from preemption.

(21) Minnesota Stat. 116J.19, Subd. 8., pertaining to water heaters that are covered products, is exempt from preemption.

(22) Washington Energy Code, section 420(a), enacted by section 51-12, Washington Administrative Code, pertaining to water heaters that are covered products, is exempt from preemption.

(23) The local regulations of the City and County of Honolulu, Hawaii County and Kauai County which enacted Article Eight, section 16-8.08(e) of the Uniform Building Code, pertaining to water heaters that are covered products, are exempt from preemption.

(24) The State regulation which enacted the Tennessee Code for Energy Conservation in New Building Construction, sections 504.2(a) and 604.1(a), pertaining to water heaters that are covered products, are exempt from preemption.

(f) Room Air Conditioners:

(1) Arkansas Act 255 of 1979 which prescribed Rules and Regulations for Energy Efficiency Standards for New Building Construction, section 503.4, pertaining to room air conditioners that are covered products, is exempt from preemption.

(2) The State regulation that enacted the 1981 Virginia Uniform Statewide Building Code, section M-1303.2, pertaining to room air conditioners that are covered products, is exempt from preemption.

(3) The 1982 Florida Model Energy Efficiency Code for Building Construction, sections 503.4(e), 901.(e), 903.8(e) and H903.8, pertaining to room

air conditioners that are covered products, are exempt from preemption. Additionally, the 1984 Florida Model Energy Efficiency Code for Building Construction, sections 503.4(e), 903.8(e) and 1002.0(b), pertaining to room air conditioners that are covered products, are exempt from preemption.

(4) 34 Pa. Code, section 38.3, pertaining to room air conditioners that are covered products, is exempt from preemption.

(5) Wisconsin Administrative Code: Ind 22.12 and 63.20, pertaining to room air conditioners that are covered products, are exempt from preemption.

(6) Section 503.4(e) of the 1977 Code for Energy Conservation in New Building Construction adopted by section 5301, of Chapter 53 of the 1979 Uniform Building Code adopted by New Mexico's Construction Industries Committee on April 8, 1980, pertaining to room air conditioners that are covered products, is exempt from preemption.

(7) The State regulation that enacted section 503.4(e) of the Georgia State Energy Code for Buildings, 1981 Edition, section 8-2-20, *et seq.*, pertaining to room air conditioners that are covered products, is exempt from preemption.

(8) Sections 503.4(e) and 603.2(a) of the Rhode Island State Building Code, prescribed July 1, 1983, pertaining to room air conditioners that are covered products, by the State Building Code Standards Committee, are exempt from preemption.

(9) New Hampshire State Regulation RSA 155:D, which adopts section 503.4(e) of the New Hampshire Energy Code, pertaining to room air conditioners that are covered products, is exempt from preemption.

(10) The State regulation filed by the State Building Code Commission on May 1, 1979 which enacted Massachusetts State Building Code, section 2010.6.3, pertaining to room air conditioners that are covered products, is exempt from preemption.

(11) Title 20, California Administrative Code, section 1604(b) and Part 2, Title 24, California Administrative Code, section 5306(a) pertaining to room air conditioners that are covered products, are exempt from preemption.

(12) State of Oregon, 1983 Edition, Structural Specialty Code and Fire and Life Safety Regulations, section 5304(b) 2, pertaining to room air conditioners that are covered products, is exempt from preemption.

(13) New York State Energy Law, section 16-118, pertaining to room air conditioners that are covered products, is exempt from preemption.

(14) The building codes of the following localities in Missouri, pertaining to room air conditioners that are covered products, are exempt from preemption:

(i) Building Officials and Code Administrators Code International (BOCA) Basic Building Code (year adopted in parentheses)

Arnold (1980)
Ballwin (1981)
Berkley (1978)
Boonville (1981)
Breckenridge Hill Village (1979)
Brentwood (1980)
Brookfield (1979)
Butler (1983)
Clayton (1981)
Clinton (1975)
Columbia (1975)
Crestwood (1980)
Creve Coeur (1980)
Dellwood (1980)
Des Peres (1980)
Ellsville (1978)
Festus (1976)
Florissant (1980)
Fulton (1978)
Glendale (1980)
Hazelwood (1975)
Kennett (1979)
Kirkwood (1981)
Manchester (1980)
Marshall (1980)
Maryville (1979)
Ferguson (pending)
Malden (unknown)
Pacific (updating)
Mexico (1978)
Moberly (1980)
Normandy (1978)
Northwoods (1976)
Olivette (1980)
Overland (1981)
Pagedale (1981)
Perryville (1982)
Pine Lawn (1978)
Richmond Heights (1980)
Rockhill (1980)
Rolla (1980)
Springfield (1979)
St. Clair (1971)
St. John (1975)
St. Joseph (1980)
St. Louis (1980)
Unincorporated (1980)
Incorporated (1980)
St. Peters (1982)
Shrewsberry (1981)
Sullivan (1980)
Town and Country (1980)
University City (1981)
Webster Grove (1980)
Wellston (1980)
Plattesburg (unknown)
St. Chlarles (pending)
Wentzville (updating)

(ii) International Conference of Building Officials (ICBO) Uniform Building Code (year adopted in parentheses)

Aurora (1977)
Eldon (1980)
Excelsior Springs (1981)
Grandview (1979)
North Kansas City (pending)
Raytown (pending)

(iii) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90-75 (year adopted in parentheses)

Black Jack (1979)

(iv) Southern Building Code Congress International Code (SBCC) Standard Building Code (year adopted in parentheses)

Webb City (1981)
West Plains (1978)

(v) Other

Lee's Summit (1981)

(15) The building codes of the following localities Texas, pertaining to room air conditioners that are covered products, are exempt from preemption:

(i) International Conference of Building Officials (ICBO) Uniform Building Code (edition adopted and adopting ordinance identified in parentheses)

Austin (1982 Ed., Ord. 831110A)
Cleburen (1982 Ed., Ord. 3-1984-10)
Dimmitt (1982 Ed., Ord. 405)
Edgecliff (1982 Ed., Ord. 163)
Everman (1982 Ed., Ord. 277)
Ganado (1979)
Garland (1982 Ed., Ord. 2810)
McKinney (1979 Ed., Ord. 1083)
North Richland Hills (1982 Ed., Ord. 875)
Pilot Point (1979 Ed., Ord. 254)
University Park (1982 Ed., Ord. 83-9)
West Lake Hills (1982 Ed., Ord. 56-1)

(ii) Southern Building Code Congress International (SBCC) Standard Building Code (edition adopted and adopting ordinance identified in parentheses)

Andrews (1978 Ed.)
Balcones Heights (1979 Ed., Ord. 4-81)
Brownfield (1979 Ed., Ord. 1576)
Brownwood (1979 Ed., Ord. 80-36)
Clute (1979 Ed., Ord. 82-17)
College Station (1982 Ed., Ord. 1393)
El Paso (1982 Ed., Ord. 6340)
Greenville (1982 Ed., Ord. 3008)
Harlingen (1982 Ed., Ord. 84-23)
Ingleside (1982 Ed., Ord. 356)
Jacksonville (1982 Ed., Ord. 505)
Jourdanton (1979 Ed., Ord. 158)
LaGrange (1982 Ed.)
Laredo (1979 Ed.)
Levelland (1982 Ed., Ord. 647)
Live Oak (1982 Ed., Ord. 419)
Longview (1982 Ed., Ord. 1576)
Luling (1977 Ed.)
Midland (1982 Ed., Ord. 6293)
Midlothian (1976 Ed.)
New Braunfels (1979 Ed., Ord. 8125)
Orange (1979 Ed., Ord. 1930-46)
Port Isabel (1982 Ed., Ord. 403)
Richardson (1979 Ed., Ord. 2280A)
Rosenberg (1982 Ed., Ord. 67-2)
Round Rock (1982 Ed., Ord. 2024)
Rusk (1980)
San Benito (1982 Ed., Ord. 981)
San Saba (1979)

Schertz (1982 Ed., Ord. 84–C–8)
Snyder (1982 Ed., Ord. 485)
Sonora (1982 Ed., Ord. 259)
Temole (1979 Ed., Ord. 1295)
Texarkana (1982 Ed., Ord. 294–82)
Victoria (1979 Ed., Ord. 83–10)
Wharton (1982 Ed., Ord. 1982–18)

(iii) Building Officials and Code Administrators International (BOCA) Basic Building Code (edition adopted and adopting ordinance identified in parentheses)

Pasadena (1978 Ed., Ord. 78–126)

(16(Section E–402.1.1 of the Building Officials and Code Administrators International (BOCA) Basic Building Code of 1981 as adopted with amendments by section 14:3–4.4, New Jersey Administrative Code, as readopted on July 11, 1983, pertaining to room air conditioners that are covered products, is exempt from preemption.

(17) Administrative Rules and Regulations of the Illinois Department of Public Health, Article I, Rule 1.12, and the building codes of the following localities in Illinois, pertaining to room air conditioners that are covered products, are exempt from preemption:

(i) Buildings Officials and Code Administrators International (BOCA) Basic Building Code (1978), Article 20 and Basic Mechanical Code (1978), Article 3:

Carpentersville Village
Crystal Lake City
Fairview Heights City
Glen Carbon Village
Gurnee Village
Machesney Village
Madison City
River Forest Village
Rochelle Village
Shorewood Village
South Barrington Village

(ii) Building Officials and Code Administrators International (BOCA) Basic Building Code (1981), Article 25 and Basic Mechanical Code (1981), Article 13:

Bellwood Village
Belvidere Village
Bloomington City
Country Club Hills City
DeKalb City
Effingham Village
Elk Grove Village
Evanston City
Flora City
Hazel Crest Village
Murphysboro City
Waukegan City
Westhaven Village

(iii) Building Officials and Code Administrators International (BOCA) Basic Building Code (1981—Modified), Article 25 and Basic Mechanical Code (1981—Modified), Article 13:

Woodbridge Village

(iv) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90–75

Carbondale City

(v) International Conference of Building Officials (ICBO) Uniform Building Code

Canton City
Carthage City
Mound City
Mt. Sterling City
Pembroke Village

(18) The State regulation which enacted the 1983 Utah Model Energy Code, section 503.4.5, pertaining to room air conditioners that are covered products, is exempt from preemption.

(19) Iowa Administrative Code, Section 680–16.800(3) which enacted sections 503.4.5 and 603.2.1 and Tables No. 5–6 and 6–6 of the 1983 Model Energy Code, pertaining to room air conditioners that are covered products, are exempt from preemption.

(20) West Virginia Code section 5–4–2 which enacted the 1981 West Virginia Energy Cost Reduction Guidelines, pertaining to room air conditioners that are covered products, is exempt from preemption.

(21) Minnesota Stat. 116J.19, Sub. 8, and 13, pertaining to room air conditioners that are covered products, are exempt from preemption.

(22) Washington Energy Code, sections 411(e) and 602(a), enacted by section 51–12, Washington Administrative Code, pertaining to room air conditioners that are covered products, are exempt from preemption.

(23) The local regulations of the City and County of Honolulu and Hawaii, Hawaii County, and Kauai, County which enacted Article Eight, section 16–8.04(b)(1) of the Uniform Building Code, pertaining to room air conditioners that are covered products, are exempt from preemption.

(24) The State regulation which enacted the Tennessee Code for Energy Conservation in New Building Construction, sections 503.4(e) and 603.2(a), pertaining to room air conditioners that are covered products, are exempt from preemption.

(g) Central Air Conditioners:

(1) Arkansas Act 255 of 1979 which prescribed Rules and Regulations for Energy Efficiency Standards for New Building Construction, section 503.4, pertaining to central air conditioners that are covered products, is exempt from preemption.

(2) The State regulation that enacted the 1981 Virginia Uniform Statewide Building Code, section M–1303.2, pertaining to central air conditioners that are covered products, is exempt from preemption.

(3) The 1982 Florida Model Energy Code for Building Construction, sections 503.4(e), 901.1(e), 903.8(e) and H903.8, pertaining to central air conditioners that are covered products, are exempt from preemption. Additionally, the 1984 Florida Model Energy Efficiency Code for Building Construction, sections 503.4(e), 903.8(e) and 1002.0(b), pertaining to central air conditioners that are covered products, are exempt from preemption.

(4) 34 Pa. Code, section 38.3, pertaining to central air conditioners that are covered products, is exempt from preemption.

(5) Wisconsin Administrative Code: Ind 22.12 and 63.20, pertaining to central air conditioners that are covered products, are exempt from preemption.

(6) Sections 503.4.5 and 603.2.1 of the 1983 Model Energy Code adopted by section 6–10–10, *et. seq.*, Code of Laws of South Carolina, 1976 (1982, Cum. Supp.), pertaining to central air conditioners that are covered products, are exempt from preemption.

(7) Section 503.4(e) of the 1977 Code for Energy Conservation in New Building construction adopted by section 5301 of Chapter 53 of the 1979 Uniform Building Code adopted by New Mexico's Construction Industries Committee on April 8, 1980, pertaining to central air conditioners that are covered products, is exempt from preemption.

(8) The State regulation that enacted section 503.4(e) of the Georgia State Energy Code for Buildings, 1981 Edition, O.C.G.A., section 8–2–20, *et seq.*, pertaining to central air conditioners that are covered products, is exempt from preemption.

(9) Sections 503.4(e) and 603.2(a) of the Rhode Island State Energy Code, prescribed July 1, 1983, by the State Building Code Standards Committee, pertaining to central air conditioners that are covered products, are exempt from preemption.

(1) New Hampshire State Regulation RSA 155:D, which adoptes section 503.4(e) of the New Hampshire Energy Code, pertaining to central air conditioners that are covered products, is exempt from preemption.

(11) The state regulation filed by the State Building Code Commission on May 1, 1979 which enacted Massachusetts State Building Code, section 2010.6.3, pertaining to central air conditioners that are covered products, is exempt from preemption.

(12) Title 20, California Administrative Code, section 1604(c), and Part 2, Title 24 California Administrative Code,

section 2-5306(a) pertaining to central air conditioners that are covered products, are exempt from preemption.

(13) State of Oregon, 1983 Edition Structural Specialty Code and Fire and Life Safety Regulations, section 5304(b)(2), pertaining to central air conditioners that are covered products, is exempt from preemption.

(14) New York State Energy Law, section 16-118, including provisions in that section applicable after September 1, 1984, pertaining to central air conditioners that are coverd products, is exempt from preemption.

(15) The building codes of the following localities in Missouri, pertaining to central air conditioners that are covered products, are exempt from preemption:

(i) Building Officials and Code Administrators International (BOCA) Basic Building Code (year adopted in parentheses)

Arnold (1980)
Ballwin (1981)
Berkley (1978)
Boonville (1978)
Breckenridge Hill Village (1979)
Brentwood (1980)
Brookfield (1979)
Butler (1973)
Butler (1973)
Clayton (1975)
Clinton (1975)
Columbia (1975)
Crestwood (1980)
Creve Coeur (1980)
Dellwood (1980)
Des Peres (1980)
Ellisville (1978)
Festus (1976)
Florissant (1980)
Fulton (1978)
Glendale (1980)
Hazelwood (1975)
Kennett (1979)
Kirkwood (1981)
Manchester (1980)
Marshall (1980)
Maryville (1979)
Mexico (1978)
Ferguson (updating)
Malden (unknown)
Pacific (updating)
Moberly (1980)
Normandy (1978)
Northwoods (1976)
Olivette (1980)
Overland (1981)
Pagedale (1980)
Perryville (1982)
Pine Lawn (1978)
Richmond Heights (1980)
Rock Hill (1980)
Rolla (1981)
Springfield (1979)
St. Clair (1971)
St. John (1975)
St. Joseph (1980)
St. Louis (1980)
St. Louis County
Unincorporated (1980)
Incorporated (1980)
St. Peters (1982)
Shrewsberry (1981)
Sullivan (1980)
Town and Country (1980)
University City (1981)
Webster Groves (1980)
Wellston (1980)
Plattesburg (unknown)
St. Charles) (pending)
Wentzville (updating)

(ii) International Conference of Building Officials (ICBO) Uniform Building Code (year adopted in parenthesese)

Aurora (1977)
Eldon (1980)
Excelsior Springs (1981)
Grandview (1979)
North Kansas City (pending)
Raytown (pending)

(iii) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90-75 (year adopted in parentheses)

Black Jack (1979)

(iv) Southern Building Code Congress International (SBCC) Standard Building Code (year adopted in parentheses)

Webb City (1981)
West Plains (1978)

(v) Other

Lee's Summit (1981)

(16) The building codes of the following localities in Texas, pertaining to central air conditioners that are covered products, are exempt from preemption:

(i) International Conference of Building Officials (ICBO) Uniform Building Code (edition adopted and adopting ordinance identified in parentheses)

Austin (1982 Ed., Ord. 831110A)
Cleburne (1982 Ed., Ord. 3-1984-10)
Dimmit (1982 Ed., Ord. 405)
Edgecliff (1982 Ed., Ord. 163)
Everman (1982 Ed., Ord. 277)
Ganado (1979)
Garland (1982 Ed., Ord. 2810)
McKinney (1979 Ed., Ord. 1083)
North Richland Hills (1982 Ed., Ord. 875)
Pilot Point (1979 Ed., Ord. 254)
University Park (1982 Ed., Ord. 83-9)
West Lake Hills (1982 Ed., Ord. 56-1)

(ii) Southern Building Code Congress International (SBCC) Standard Building Code (edition adopted and adopting ordinance identified in parenthesis)

Andrews (1978 Ed.)
Balcones Heights (1979 Ed., Ord. 4-81)
Brownfield (1979 Ed., Ord. 1576)
Brownwood (1979, Ed., Ord. 80-36)
Clute (1979 Ed., Ord. 82-17)
College Station (1982 Ed., Ord. 1398)
El Paso (1982 Ed., Ord. 6340)
Greenville (1982 Ed., Ord. 3008)
Harlingen (1982 Ed., Ord. 84-23)
Ingleside (1982 Ed., Ord. 356)
Jacksonville (1982 Ed., Ord. 505)
Jourdanton (1979 Ed., Ord. 158)
LaGrange (1982 Ed.)
Laredo (1979 Ed.)
Levelland (1982 Ed., Ord. 647)
Live Oak (1982 Ed., Ord. 419)
Longview (1982 Ed., Ord. 1576)
Luling (1977 Ed.)
Midland (1982 Ed., Ord. 6293)
Midlothian (1976 Ed.)
New Braunfels (1979 Ed., Ord. 8125)
Orange (1979 Ed., Ord. 1950-46)
Port Isabel (1982 Ed., Ord. 403)
Richardson (1979 Ed., Ord. 2280A)
Rosenberg (1982 Ed., Ord. 67-2)
Round Rock (1982 Ed., Ord. 2024)
Rusk (1980)
San Benito (1982 Ed., Ord. 981)
San Saba (1979)
Schertz (1982 Ed., Ord. 84-C-8)
Snyder (1982 Ed., Ord. 485)
Sonora (1982 Ed., Ord. 259)
Temple (1982 Ed., Ord. 1295)
Texarkana (1982 Ed., Ord. 294-82)
Victoria (1979 Ed., Ord. 83-10)
Wharton (1982 Ed., Ord. 1932-18)

(iii) Building Officials and Code Administrators International (BOCA) Basic Building Code (edition adopted and adopting ordinance identified in parentheses)

Pasadena (1978 Ed., Ord. 78-126)

(17) Section E-402.1.1 of the Building Officials and Code Administrators International (BOCA) Basic Building Code of 1981 as adopted with amendments by section 14:3-4.4, New Jersey Administrative Code, as readopted on July 11, 1983, and the Tariff of the New Jersey Board of Public Utilities in Docket No. 8111-1009, pertaining to central air conditioners that are covered products, are exempt from preemption.

(18) Administrative Rules and Regulations of the Illinois Department of Public Health, Article I, Rule 1.12, and the building codes of the following localities in Illinois, pertaining to central air conditioners that are covered products, are exempt from preemption:

(i) Building Officials and Code Administrator International (BOCA) Basic Building Code (1978); Article 20 and Basic Mechanical Code (1978), Article 3

Barrington Village
Buffalo Grove Village
Carpentersville Village
Crystal Lake City
Fairview Heights City
Fox River Grove Village
Galesburg City
Glen Carbon Village
Glencoe Village
Grayslake Village
Gurnee Village
Harvey City
Hickory Hills City

Hun Village
Jacksonville City
LaGrange Village
Lake Barrington Village
Lake Holiday Property Owners Association, Inc.
Lake in the Hills
Machesney Village
Madison City
Niles Village
Northbrook Village
O'Fallon City
Orland Park Village
Oswego Village
Palos Heights City
Park City City
Peotone Village
Richton Park Village
River Forest Village
Rochelle Village
Shorewood Village
South Barrington Village
Sterling City
Stickney Village
Sycamore City
Western Springs Village

(ii) Building Officials and Code Administrators International (BOCA) Basic Building Code (1978—Modified), Article 20 and Basic Mechanical Code (1978—Modified), Article 3

Hillside Village
Libertyville Village
Marion City
Springfield City.

(iii) Building Officials and Code Administrators International (BOCA) Basic Building Code (1981), Article 25 and Basic Mechanical Code (1981), Article 13

Acton City
Bellwood Village
Belnit City
Belvidere Village
Bethalto Village
Bloomington City
Bolingbrook Village
Carol Stream Village
Country Club Hills City
Countryside City
Darien City
Decatur City
Deerfield Village
DeKalb City
Dixon City
Downers Grove Village
Effingham Village
Elk Grove Village
Evanston City
Flora City
Fox Lake Village
Franklin Park Village
Glen Carbon Village
Golf Village
Grayslake Village
Hanover Park Village
Harvard Village
Hazel Crest Village
Hebron Village
Hoffman Estates Village
Hoopeston City
Kankakee City
Lake County
Matteson Village
Montgomery Village
Monticello City
Murphysboro City
North Aurora Village
Oak Lawn Village
Palos Park Village
Pekin City
Rock Falls City
Roselle Village
Schiller Park Village
Skokie Village
South Elgin Village
South Roxana Village
Spring Grove Village
Vernon Hills Village
Waukegan City
West Chicago City
Westchester Village
Westhaven Village
Wheaton City
Wheeling Village
Wood Dale City
Woodstock City

(iv) Building Officials and Code Administrators International (BOCA) Basic Building Code (1981—Modified), Article 25 and Basic Mechanical Code (1981—Modified), Article 13

Benton City
Champaign City
Morris City
Jerseyville City
Woodbridge Village

(v) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90-75

Carbondale City
Springfield City

(vi) International Conference of Building Officials (ICBO) Uniform Building Code

Canton City
Carthage City
Genesco City
Mound City
Pembroke Village
Rock Island County

(vii) National Building Code

Carbondale City
Camp Point
Glen Ellyn Village
Grand Ridge Village
Mt. Sterling City
North Riverside Village
Riverdale Village

(viii) Other

Oakwood Hills Village

(19) The State regulation which enacted the 1983 Utah Model Energy Code, section 503.4.5, pertaining to central air conditioners that are covered products, is exempt from preemption.

(20) Iowa Administrative Code, section 680-16.800(3), which enacted sections 503.4.5 and 603.2.1 and Tables No. 5-6 and 6-6 of the 1983 Model Energy Code, pertaining to central air conditioners that are covered products, are exempt from preemption.

(21) West Virginia Code section 5-4-2 which enacted the 1981 West Virginia Energy Cost Reduction Guidelines, pertaining to central air conditioners that are covered products, is exempt from preemption.

(22) Minnesota Stat. 116J.19 Subd. 8, pertaining to central air conditioners that are covered products, is exempt from preemption.

(23) Washington Energy Code, sections 411(e) and 602(a), enacted by section 51-12, Washington Administrative Code, pertaining to central air conditioners that are covered products, are exempt from preemption.

(24) The Orders in Kansas Corporation Commission Docket No. 110,776-U, pertaining to central air conditioners that are covered products, is exempt from preemption.

(25) The local regulations of the City and County of Honolulu, Hawaii County, and Kauai County which adopt Article Eight, section 16-8.04(b)(5) of the Uniform Building Code, pertaining to central air conditioners that are covered products, are exempt from preemption.

(26) The State regulation which enacted the Tennessee Code for Energy Conservation in New Building Construction, sections 503.4(e) and 603.2(a), pertaining to central air conditioners that are covered products, are exempt from preemption.

(h) Furnaces:

(1) Arkansas Act 255 of 1979 which prescribed Rules and Regulations for Energy Efficiency Standards for New Building Construction, section 503.4, pertaining to furnaces that are covered products, is exempt from preemption.

(2) The State regulation that enacted the 1981 Virginia Uniform Statewide Building Code, section M-1303.6, pertaining to furnaces that are covered products, is exempt from preemption.

(3) The 1982 Florida Model Energy Efficiency Code for Building Construction, sections 503.4(c), 903.8(c), and H903.8, pertaining to furnaces that are covered products, are exempt from preemption. Additionally, the 1984 Florida Model Energy Efficiency Code for Building Construction, sections 503.4(e) and 903.8(c), pertaining to furnaces that are covered products, are exempt from preemption.

(4) 16 Pa. Code, section 30.32(6), pertaining to furnaces that are covered products, is exempt from preemption.

(5) Wisconsin Statute 101.655 (1981) and Wisconsin Administrative Code: Ind 22.12, 22.13, and 63.20 and Administrative Code PSC 136.04.

pertaining to furnaces that are covered products, are exempt from preemption.

(6) Sections 503.4.3 and 603.2.2 of the Model Energy Code adopted by section 6-10-10, *et. seq.*, Code of Laws of South Carolina, 1976 (1982, Cum. Supp.), pertaining to furnaces that are covered products, are exempt from preemption.

(7) Section 503.4(c) of the 1977 Code for Energy Conservation in New Building Construction adopted by section 5301 of Chapter 53 of the 1979 Uniform Building Code adopted by New Mexico's Construction Industries Committee on April 8, 1980, pertaining to furnaces that are covered products, is exempt from preemption.

(8) The State regulation that enacted section 503.4(c) of the Georgia State Energy Code for Buildings, 1981 Edition, O.C.G.A. Sec. 8-2-20, *et seq.*, pertaining to furnaces that are covered products, is exempt from preemption.

(9) Sections 503.4(c) and 603.2(b) of the Rhode Island State Building Code, prescribed July 1, 1983, by the State Building Code Standards Committee, pertaining to furnaces that are covered products, are exempt from preemption.

(10) New Hampshire State Regulation RSA 155:D, which adopts section 503.4(c) of the New Hampshire Energy Code pertaining to furnaces that are covered products, is exempt from preemption.

(11) The State regulation filed by the State Building Code Commission on May 1, 1979 which enacted Massachusetts State Building Code, section 2010.6.1, pertaining to furnaces that are covered products, is exempt from preemption.

(12) Title 20, California Administrative Code section 1604(d), and 1605; Part 2, Title 24, California Administrative Code, sections 2-5306(c) and 2-5337; and California Public Resources Code, sections 25960 and 25964, pertaining to furnaces that are covered products, are exempt from preemption.

(13) State of Oregon, 1983 Edition, Structural Specialty Code and Fire and Life Safety Regulations, section 5304(b) 5, pertaining to furnaces that are covered products, is exempt from preemption.

(14) New York State Energy Law, section 16-116, and Title 9, Official Compilation of New York Codes, Rules and Regulations, section 7813.23, pertaining to furnaces that are covered products, are exempt from preemption.

(15) The building codes of the following localities in Missouri, pertaining to furnaces that are covered products, are exempt from preemption:

(i) Building Officials and Code Administrators International (BOCA) Basic Building Code (year adopted in parentheses)

Arnold (1980)
Ballwin (1981)
Berkley (1978)
Boonville (1978)
Breckenridge Hill Village (1979)
Brentwood (1980)
Brookfield (1979)
Butler (1973)
Clayton (1981)
Clinton (1975)
Columbia (1975)
Crestwood (1980)
Creve Coeur (1980)
Dellwood (1980)
Des Peres (1980)
Ellisville (1978)
Festus (1980)
Florissant (1980)
Fulton (1978)
Glendale (1980)
Hazelwood (1975)
Kennett (1981)
Kirkwood (1981)
Manchester (1980)
Marshall (1980)
Maryville (1979)
Mexico (1978)
Ferguson (pending)
Malden (unknown)
Pacific (updating)
Moberly (1980)
Normandy (1978)
Northwoods (1976)
Olivette (1980)
Overland (1981)
Pagedale (1980)
Perryville (1982)
Pine Lawn (1978)
Richmond Heights (1980)
Rock Hill (1980)
Rolla (1981)
Springfield (1979)
St. Clair (1971)
St. John (1975)
St. Joseph (1980)
St. Louis (1980)
St. Louis County
Unicorporated (1980)
Incorporated (1980)
St. Peters (1982)
Shrewsberry (1981)
Sullivan (1980)
Town and Country (1980)
University City (1981)
Webster Groves (1980)
Wellston (1980)
Plattesburg (unknown)
St. Charles (pending)
Wentzville (updating)

(ii) International Conference of Building Officials (ICBO) Uniform Building Code (year adopted in parentheses)

Aurora (1977)
Eldon (1980)
Excelsior Springs (1981)
Grandview (1979)
North Kansas City (pending)
Raytown (pending)

(iii) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90-75 (year adopted in parentheses)

Black Jack (1979)

(iv) Southern Building Code Congress International (SBCC) Standard Building Code (year adopted in parentheses)

Webb City (1981)
West Plains (1978)

(v) Other

Lee's Summit (1981)

(16) The building codes of the following localities in Texas, pertaining to furnaces that are covered products, are exempt from preemption.

(i) International Conference of Building Officials (ICBO) Uniform Building Code (edition adopted and adopting ordinance identified in parentheses)

Austin (1982 Ed., Ord. 831110A)
Cleburne (1982 Ed., Ord. 3-1984-10)
Dimmitt (1982 Ed., Ord. 405)
Edgecliff (1982 Ed., Ord. 163)
Everman (1982 Ed., Ord. 277)
Ganado (1979)
Garland (1982 Ed., Ord. 2810)
McKinney (1979 Ed., Ord. 1083)
North Richland Hills (1982 Ed., Ord. 875)
Pilot Point (1979 Ed., Ord. 254)
University Park (1982 Ed., Ord. 83-9)
West Lake Hills (1982 Ed., Ord. 56-1)

(ii) Southern Building Code Congress International (SBCC) Standard Building Code (year adopted in parentheses)

Andrews (1978 Ed.)
Balcones Heights (1979 Ed., Ord. 4-81)
Brownfield (1979 Ed., Ord. 1576)
Brownwood (1979 Ed., Ord. 80-35)
Clute (1976 Ed., Ord. 82-17)
College Station (1982 Ed., Ord. 1393)
El Paso (1982 Ed., Ord. 6340)
Greenville (1982 Ed., Ord. 3003)
Harlingen (1982 Ed., Ord. 84-23)
Ingleside (1982 Ed., Ord. 356)
Jacksonville (1982 Ed., Ord. 505)
Jourdanton (1979 Ed., Ord. 158)
LaGrange (1982 Ed.)
Laredo (1979 Ed.)
Levelland (1982 Ed., Ord. 647)
Live Oak (1982 Ed., Ord. 419)
Longview (1982 Ed., Ord. 1576)
Luling (1977 Ed.)
Midland (1982 Ed., Ord. 6293)
Midlothian (1976 Ed.)
New Braunfels (1979 Ed., Ord. 8125)
Orange (1979 Ed., Ord. 1980-46)
Port Isabel (1982 Ed., Ord. 403)
Richardson (1979 Ed., Ord. 2280A)
Rosenberg (1982 Ed., Ord. 67-2)
Round Rock (1982 Ed., Ord. 2024)
Rusk (1980)
San Benito (1982 Ed., Ord. 931)
San Saba (1979)
Schertz (1982 Ed., Ord. 84-C-8)
Snyder (1982 Ed., Ord. 485)
Sonora (1982 Ed., Ord. 259)
Temple (1979 Ed., Ord. 1295)
Texarkana (1982 Ed., Ord. 294-82)
Victoria (1979 Ed., Ord. 83-10)
Wharton (1982 Ed., Ord. 1982-18)

(iii) Building Officials and Code Administrators International (BOCA) Basic Building Code (edition adopted and adopting ordinance identified in parentheses)

Pasadena (1978 Ed., Ord. 78-126)

(17) Section E-402.1.5 of the Building Officials and Code Administrators International Basic Code of 1981 as adopted with amendments by section 14:3-4.4, New Jersey Administrative Code, as readopted on July 11, 1983, pertaining to furnaces that are covered products, is exempt from premption.

(18) Administrative Rules and Regulations of the Illinois Department of Public Health, Article I, Rule 1.12, and the building codes of the following localities in Illinois, pertaining to furnaces that are covered products, are exempt from preemption:

(i) Building Officials and Code Administrators International (BOCA) Basic Building Code (1978), Article 20 and Basic Mechanical Code (1978), Article 3

Barrington Village
Buffalo Grove Village
Carpentersville Village
Crystal Lake City
Fairview Heights City
Fox River Grove Village
Galesburg City
Glen Carbon Village
Glencoe Village
Grayslake Village
Gurnee Village
Harvey City
Hickory Hills City
Hun Village
Jacksonville City
LaGrone Village
Lake Barrington Village
Lake Holiday Property Owners Association, Inc.
Lake in the Hills
Machesney Village
Madison City
Montgomery Village
Niles Village
Northbrook Village
O'Fallon City
Orland Park Village
Oswego Village
Palos Heights City
Park City City
Peotone Village
Richton Park Village
River Forest Village
Rochelle Village
Shorewood Village
South Barrington Village
Sterling City
Stickney Village
Sycamore City
Western Springs Village

(ii) Building Officials and Code Administrators International (BOCA) Basic Building Code (1978—Modified), Article 20 and Basic Mechanical Code (1978—Modified), Article 3

Hillside Village
Libertyville Village
Marion City
Springfield City

(iii) Building Officials and Code Administrators International (BOCA) Basic Building Code (1981), Article 25 and Basic Mechanical Code (1981), Article 13

Acton City
Bellwood Village
Belnit City
Belvidere Village
Bethalto Village
Bloomington City
Bolingbrook Village
Carol Stream Village
County Club Hills City
Countryside City
Darien City
Decatur City
Deerfield Village
DeKalb City
Dixon City
Downers Grove Village
Elk Grove Village
Evanston City
Fox Lake Village
Franklin Park Village
Glen Carbon Village
Golf Village
Grayslake Village
Hanover Park Village
Harvard Village
Hazel Crest Village
Hebron Village
Hoffman Estates Village
Hoopeston City
Kankakee City
Lake County
Matteson Village
Montgomery Village
Monticello City
Murphysboro City
North Aurora Village
Oak Lawn Village
Palos Park Village
Pekin City
Rock Falls City
Roselle Village
Schiller Park Village
Skokie Village
South Elgin Village
South Roxana Village
Spring Grove Village
Vernon Hills Village
Waukegan City
West Chicago City
Westchester Village
Westhorn Village
Wheaton City
Wheeling Village
Wooddale City
Woodstock City

(iv) Building Officials and Code Administrators International (BOCA) Basic Building Code (1981—Modified), Article 25 and Basic Mechanical Code (1981—Modified), Article 13

Benton City
Champaign City
Jerseyville City
Morris City
Woodbridge Village

(v) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 90-75

Carbondale City
Springfield City

(vi) International Conference on Building Officials (ICBO) Uniform Building Code (1977)

Canton City
Carthage City
Genesco City
Mound City
Pembroke Village
Rock Island County

(vii) National Building Code

Carbondale City
Camp Point
Glen Ellyn Village
Grand Ridge Village
Mt. Sterling City
North Riverside Village
Riverdale Village

(viii) Other

Oakville Hills Village

(19) The State regulation that enacted the 1983 Utah Model Energy Code, section 503.4.3, pertaining to furnaces that are covered products, is exempt from preemption.

(20) Iowa Administrative Code, section 680-16.800(3) which enacted sections 503.4.3 and 603.2.2 and Tables No. 5-5 and 6-4 of the 1983 Model Energy Code, pertaining to furnaces that are covered products, are exempt from preemption.

(21) West Virginia Code, section 5-4-2 which enacted the 1981 West Virginia Energy Cost Reduction Guidelines, pertaining to furnaces that are covered products, is exempt from preemption.

(22) Minnesota Stat. 116J.19, Subd. 8, and Minnesota Stat. 1165.19, Subd. 14, pertaining to furnaces that are covered products, are exempt from preemption.

(23) Washington Energy Code, sections 411(c) and 602(a), enacted by section 51-12, Washington Administrative Code, pertaining to furnaces that are covered products, are exempt from preemption.

(24) The local regulations of the City and County of Honolulu, Hawaii County, and Kauai County which enacted Article Eight, section 16-8.04(b)5 of the Uniform Building Code, and Chapter 196-5 of the Hawaii Revised Statutes, pertaining to furnaces that are covered products, are exempt from preemption.

(25) The State regulation that enacted the Tennessee Code for Energy Conservation in New Building Construction, sections 503.4(c) and 603.2(b), pertaining to furnaces that are covered products, are exempt from preemption.

[FR Doc. 84-21864 Filed 8-16-84; 8:45 am]
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Federal Register

Friday
August 17, 1984

Part IV

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Kraft Pulp Mills; Alternative Monitoring Procedure; Proposed Rule and Notice of Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2621-1]

Standards of Performance for New Stationary Sources; Kraft Pulp Mills; Alternative Monitoring Procedure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: The purpose of this action is to propose amendments to § 60.284 of Subpart BB of 40 CFR Part 60 to allow the use of an alternative monitoring procedure. The alternative procedure would allow the measurement of carbon dioxide instead of oxygen to correct the measured total reduced sulfur (TRS) concentrations emitted from kraft pulp mill recovery furnaces to 8 percent oxygen. This alternative would increase the flexibility of monitoring TRS emissions from recovery furnaces.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed amendments.

DATES: *Comments.* Comments must be received on or before October 31, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by September 7, 1984, a public hearing will be held on September 7, 1984, a public hearing will be held on October 1984 beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by September 7, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-84-18, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Shelby Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Docket. Docket No. A-84-18, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Shigehara, Emission Measurement Branch (MD-19), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237

Miscellaneous

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 it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices, and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities because this is not a new requirement but an alternative procedure.

This proposed rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, tires, Incorporation by reference, Can surface coating, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

Dated: August 7, 1984.

Alvin L. Alm,

Acting Administrator.

PART 60—[AMENDED]

40 CFR Part 60, § 60.284, is amended as follows:

§ 60.284 [Amended]

1. In § 60.284(a)(2), the following is added between the first and second sentences:

(a) * * *

(2) * * *

For the recovery furnace, percent of CO_2 by volume may be monitored instead of oxygen; the percentage may be either on a wet or dry basis, but must be on the same basis as the TRS concentration measurement.

2. In § 60.284(a)(2)(ii), the period at the end of the paragraph is removed, and the following is added: "or at 20 percent CO_2 for the continuous carbon dioxide monitoring system."

3. In § 60.284(c)(2), the period after the first sentence is removed, and the following is added: "or 12-hour average carbon dioxide concentration for the recovery furnace."

4. In § 60.284(c)(2), second sentence, between the words "oxygen" and "concentrations," the following parenthetical phrase is added: "(or carbon dioxide, if applicable)."

5. In § 60.284(c)(3), the following is added immediately after the equation: "or if applicable:

$C_{corr} = C_{meas}\ (11.4/\%CO_2$."

6. In § 60.284(c)(3), the following is added to the nomenclature list:

$\%CO_2$ = The volume percent of carbon dioxide, on the same wet or dry basis as C_{meas}.

11.4 = The volume percent of carbon dioxide corresponding to 8 percent oxygen.

[FR Doc. 84-21906 Filed 8-16-84; 8:45 am]

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Federal Register

Friday
August. 17, 1984

Part V

Department of Justice

Bureau of Prisons

28 CFR Part 541

Control, Custody, Care, Treatment, and Instruction of Inmates; Final Rule

28 CFR Parts 540, 544, 550, and 570

Control, Custody, Care, Treatment, and Instruction of Inmates; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule with comments invited.

SUMMARY: The Bureau of Prisons is amending and republishing its rule on control unit programs. The amendments are intended to clarify the existing rule and to update the required procedures with respect to control unit programs.

EFFECTIVE DATE: September 17, 1984, with interim § 541.48 effective August 17, 1984. Public comment on interim § 541.48 must be received on or before October 30, 1984.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534. Comments received on interim § 541.48 will be available for examination by interested persons at the above address.

FOR FURTHER INFORMATION CONTCT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its final rule on Control Unit Programs. A final rule on this subject was published in the Federal Register June 29, 1979 (at 44 FR 38260 et seq.). Amendments to this rule were published July 1, 1981 (at 46 FR 34546 et seq.). While the purpose of the rule is essentially the same, the current amendments are intended to clarify the existing rule and to update the required procedures with respect to control unit programs. These amendments, with the exception of interim § 541.48, were published in the Federal Register as proposed rules March 7, 1984 (at 49 FR 8567 et seq.). Interested persons were invited to submit comments on the proposed rule. Members of the public may submit comments concerning the final rule by writing the previously cited address. These comments will be considered but will receive no response in the Federal Register.

Section 541.48, Search of Control Unit Inmates, is new. This section authorizes the Warden at an institution housing a control unit to order a digital or simple instrument search for new admissions to the control unit and for inmates returned to the control unit following contact with the public. The need for this procedure is a result of the Bureau experiencing a growing problem with inmates transporting "hard contraband" (e.g., hacksaw blades) in their rectal cavities. Undetected, such contraband poses a serious threat to institution security and good order, and to the protection of staff and others. This threat is heightened in a setting such as a control unit, where inmates have been determined to be unable to function satisfactorily in a less restrictive environment. This assessment is supported by factors which warrant a control unit referral, such as incidents during confinement in which the inmate caused injury to other persons, or involvement in a disruption of the orderly operation of a correctional institution. Because a control unit is the most secure type housing unit in the Bureau of Prisons, it is necessary that the Warden have the authority to order a digital or simple instrument search on a new admission to the control unit or on an inmate returned to the control unit following contact with the public.

Based on the need to maintain institution security and good order, and to protect staff and others, the Bureau has determined that the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public comment and delay in effective date are inapplicable. While the immediate implementation of this procedure is necessary, the Bureau has decided to publish § 541.48 as an interim rule with public comment invited. Public comment received on or before October 30, 1984 will be considered, along with an assessment of the effectiveness of the search procedure, prior to a decision on whether to finalize the interim rule.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

1. Section 541.41—A commenter asks if paragraph (b)(3), concerning an inmate's possession of a deadly weapon, is based on evidence presented during the inmate's disciplinary hearing. Possession of a deadly weapon is a prohibited act and subjects an inmate to disciplinary action. If possession of that weapon is a factor in a subsequent control unit referral, information available to the disciplinary committee, and the committee's action, will be considered by the decision-makers in deciding whether a control unit placement is appropriate. If the disciplinary action is later expunged, the Bureau would reassess the basis for the inmate's control unit placement. If this placement was due primarily to the expunged disciplinary action, the inmate would be considered for release from the control unit.

The commenter also recommends that paragraph (b)(4) be limited to an incident which occurs in a federal penal or correctional institution, saying failure to do this could impact on an inmate having a "meaningful due process hearing before placement in a Control Unit." This placement is ordinarily recommended only for an inmate already in a federal institution; however, there may be an occasion where an inmate recommended for federal custody might require placement in a control unit. In *Bono* v. *Saxbe*, 620 F.2d 609, at 611 (7th Cir. 1980), the United States Court of Appeals opinion recognized that "Prisoners may be placed in the Marion Control Unit directly from the federal courts, from the general population at Marion or from other federal and state prisons."

In addition, the Bureau believes that the commenter's due process concerns, such as the ability to gather statements from witnesses and the opportunity to refute reports submitted by local authorities, are adequately addressed within the current rule, specifically the sections on hearing procedure (§ 541.43), decision of the hearing administrator (§ 541.44), and executive panel review and appeal (§ 541.45). These procedures, with the possible exception of a final administrative appeal filed through the Administrative Remedy Procedure, will occur prior to a control unit placement. Final § 541.41(b)(7) deletes the phrase, "For referral to a control unit in a security level 6 institution" An inmate will not be referred for placement within a control unit in any security level institution solely on the nature of the crime which resulted in the inmate's incarceration.

The Bureau does not believe it is feasible to adopt a suggestion that it identify the "major physical disabilities," as discussed in § 541.41(c)(1), which constitute a bar to placement in a control unit. A physical disability would be considered major for purpose of this rule if the inmate, based on a physical examination, is determined by medical staff as physically unable to reside in a control unit. Diseases, such as diabetes, which can be treated by medication, would not ordinarily meet, for purpose of this rule,

the criteria of "major physical disability"

2. Section 541.42—Section 541.42(a) substitutes the phrase "of the region where the control unit is located" for the "North Central Region." This change recognizes that a control unit may be located in areas other than the North Central region.

3. Section 541.43—Section 541.43(b)(4)(i) substitutes the more definitive phrase "in a general prison population" for "within any prison population." The section is also revised to state that the Hearing Administrator may not consider "an attempt" to reverse or repeal a prior finding of a disciplinary violation.

4. Section 541.45—Section 541.45(b) now requires the referring region to receive a copy of the Executive Panel decision, thereby providing that region with a written record of the action taken on the referral.

5. Section 541.46—A commenter on § 541.46 (b) and (c) points out that work and industries programs are now virtually nonexistent within the control unit. While such programs previously did exist, these were curtailed because of inmate work stoppages and the need for maintaining unit security and good order. The Bureau, as indicated by the rule, is willing to operate work and industries programs within a control unit, provided such programs are seen as able to operate without posing a significant threat to unit security and good order.

Revised § 541.46(d) now states that the law library will ordinarily include a table and chair. A commenter to this paragraph says the rule's basic law library does not include essential legal materials, such as the Federal Reporter. The basic law library provided control unit inmates is the same as specified in the Bureau's rule on Inmate Legal Activities (Part 543, Subpart B). While the library may not contain some legal research materials or published law reporters, the Bureau does, as suggested by the commenter, allow a control unit inmate to obtain such materials, on a request basis, from the institution's main law library.

Internal staff instructions seem to address a comment that the " provision should also make clear that an individual's abuse of legal materials will not lead to punishment of all those confined to a control unit." The internal instructions state that an inmate must be afforded access to the same legal reference books available to all other inmates. In the event of inmate abuse of these books, staff can require the inmate to use legal reference books under closer supervision (for example, in the inmate's cell). Such a limitation would be for the purpose of helping ensure that legal materials remain intact and available for inmate use.

A commenter objected to insertion of the word "ordinarily" in § 541.46 (f) and (g), in describing case management and counselor services. This amendment is not intended to suggest that such services are not available to a control unit inmate; rather, it shows that the Warden may designate a person other than the case manager or counselor to provide such services. The inmate is to be advised who provides the specified services as part of the inmate's admission process into a control unit. Section 541.46(i) deletes the term "complete". A mental health assessment is done at the time the inmate is recommended for referral to a control unit. In response to a comment on § 541.46(o), the Bureau does provide an inmate cell storage space for his or her personal property, with such space provided under the inmate's bed.

A commenter objected to the Bureau reducing its minimum visiting time in § 541.46(m) from sixteen to four hours, saying the Bureau's justification, "security considerations that exist within a control unit", is vague. The cited security considerations are clearly indicated by the fact that inmates accepted within a control unit have been determined, by a stringent review process, unable to function in a less restrictive environment without posing a threat to others or to the institution. The modification is intended to address recent security concerns. Contrary to the commenter's statement, the revision is not inconsistent with the purpose of the Bureau's rule on visiting, as set forth in Part 540, Subpart D. Both that rule and the Bureau's revised rule on control unit programs affords an inmate a minimum of four hours visiting time per month. This is a minimum requirement, and additional visiting hours may be added where appropriate.

6. Section 541.48—Section 541.48, Search of Control Unit Inmates, is new. The rule authorizes the Warden at an institution housing a control unit to order a digital or simple instrument search on all new admissions to the control unit and on any inmate returning to the control unit following contact with the public. The authorization must be in writing, signed by the Warden. The search may be conducted only by designated qualified health personnel (for example, physicians, physician assistants, and nurses). This type of search may not be conducted if it is likely to result in physical injury to the inmate. In that situation, the Warden, upon approval of the Regional Director, may authorize a non-repetitive X-ray to determine if contraband is concealed in or on the inmate. While the inmate's consent is solicited, consent is not required for either the digital or simple instrument search, or for an X-ray examination.

7. Section 541.49—Proposed § 541.48 becomes final § 541.49. The reference to proposed § 541.49(a) in proposed § 541.48 (a)(3) and (d) becomes § 541.50(a) in the final rule. Section 541.49(c) now identifies when the inmate will receive a response to his or her appeal of the Warden's decision. This response will be given at the inmate's next appearance before the Executive Panel.

8. Section 541.50—Proposed § 541.49 becomes final § 541.50.

List of Subjects in 28 CFR Part 541

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended as set forth below.

Dated: August 10, 1984.

Norman A. Carlson,

Director, Bureau of Prisons.

1. In Subchapter C, revise Part 541, Subpart D to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

* * * * *

Subpart D—Control Unit Programs

Sec.
541.40 Purpose and scope.
541.41 Institutional referral.
541.42 Designation of hearing administrator.
541.43 Hearing procedure.
541.44 Decision of the hearing administrator.
541.45 Executive panel review and appeal.
541.46 Programs and services.
541.47 Admission to control unit.
541.48 Search of control unit inmates.
541.49 Review of control unit placement.
541.50 Release from a control unit.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart D—Control Unit Programs

§ 541.40 Purpose and scope.

(a) In an effort to maintain a safe and orderly environment within its institutions, the Bureau of Prisons

operates control unit programs intended to place into a separate unit those inmates who are unable to function in a less restrictive environment without being a threat to others or to the orderly operation of the institution. The Bureau of Prisons provides written criteria for the:

(1) Referral of an inmate for possible placement within a control unit;

(2) Selection of an inmate for placement within a control unit;

(3) Regular review of an inmate while housed in a control unit; and

(4) Release of an inmate from a control unit.

(b) The Bureau of Prisons provides an inmate confined within a control unit the opportunity to participate in programs and activities restricted as necessary to protect the security, good order, or discipline of the unit.

§ 541.41 Institutional referral.

(a) The Warden shall submit a recommendation for referral of an inmate for placement in a control unit to the Regional Director in the region where the inmate is located.

(b) The Warden shall consider the following factors in a recommendation for control unit placement.

(1) Any incident during confinement in which the inmate has caused injury to other persons.

(2) Any incident in which the inmate has expressed threats to the life or well-being of other persons.

(3) Any incident involving possession by the inmate of deadly weapons or dangerous drugs.

(4) Any incident in which the inmate is involved in a disruption of the orderly operation of a prison, jail or other correctional institution.

(5) An escape from a correctional institution.

(6) An escape attempt. Depending on the circumstances, an escape attempt, considered alone or together with an inmate's prior history, may warrant consideration for a control unit placement.

(7) The nature of the offense for which committed. An inmate may not be considered solely on the nature of the crime which resulted in that inmate's incarceration; however, the nature of the crime may be considered in combination with other factor(s) as described in paragraph (b) of this section.

(c) The Warden may not refer an inmate for placement in a control unit:

(1) If the inmate shows evidence of significant mental disorder or major physical disabilities as documented in a mental health evaluation or a physical examination;

(2) On the basis that the inmate is a protection case, e.g., a homosexual, an informant, etc., unless the inmate meets other criteria as described in paragraph (b) of this section.

§ 541.42 Designation of hearing administrator.

(a) The Regional Director in the region where the inmate is located shall review the institution's recommendation for referral of an inmate for placement in a control unit. If the Regional Director concurs with the recommendation, the Regional Director shall forward a written request, together with the institution's referral material, to the Regional Director of the region where the control unit is located. The Regional Director of the region where the control unit is located shall designate a person in the Regional Office to review the referral material and to conduct a hearing on the appropriateness of an inmate's placement in a control unit.

(b) The Hearing Administrator shall have the following qualifications:

(1) Correctional experience, including institutional work with inmates, processing of inmate disciplinary actions, significant institutional experience in observing and evaluating inmate adjustment and disruptive behavior, and knowledge of the options available in the Bureau of Prisons for dealing with such conduct;

(2) Lack of former personal involvement in an Institution Discipline Committee action involving the particular inmate in incident(s) referred; and

(3) Familiarity with Bureau of Prisons policies and operations, including the criteria for placement of inmates in different institutions and in a control unit.

§ 541.43 Hearing procedure.

(a) The Hearing Administrator shall provide a hearing to an inmate recommended for placement in a control unit. The hearing ordinarily shall take place at the recommending or sending institution.

(b) The hearing shall proceed as follows.

(1) Staff shall provide an inmate with an advance written notice of the hearing and a copy of this rule at least 24 hours prior to the hearing. The notice will advise the inmate of the specific act(s) or other evidence which forms the basis for a recommendation that the inmate be transferred to a control unit, unless such evidence would likely endanger staff or others. If an inmate is illiterate, staff shall explain the notice and this rule to the inmate and document that this explanation has occurred.

(2) The Hearing Administrator shall provide an inmate the service of a full-time staff member to represent the inmate, if the inmate so desires. The Hearing Administrator shall document in the record of the hearing an inmate's request for, or refusal of staff representation. The inmate may select a staff representative from the local institution. If the selected staff member declines or is unavailable, the inmate has the option of selecting another representative or, in the case of an absent staff member, of waiting a reasonable period (determined by the Hearing Administrator) for the staff member's return, or of proceeding without a staff representative. When an inmate is illiterate, the Warden shall provide a staff representative. The staff representative shall be available to assist the inmate and, if the inmate desires, shall contact witnesses and present favorable evidence at the hearing. The Hearing Administrator shall afford the staff representative adequate time to speak with the inmate and to interview available witnesses.

(3) The inmate has the right to be present throughout the hearing, except where institutional security or good order is jeopardized. The Hearing Administrator may conduct a hearing in the absence of the inmate when the inmate refuses to appear. The Hearing Administrator shall document an inmate's refusal to appear, or other reason for non-appearance, in the record of the hearing.

(4) The inmate is entitled to present documentary evidence and to have witnesses appear, provided that calling witnesses would not jeopardize or threaten institutional security or individual safety, and further provided that the witnesses are available at the institution where the hearing is being conducted.

(i) The evidence to be presented must be material and relevant to the issue as to whether the inmate can and would function in a general prison population without being or posing a threat to staff or others or to the orderly operation of the institution. The Hearing Administrator may not consider an attempt to reverse or repeal a prior finding of a disciplinary violation.

(ii) Repetitive witnesses need not be called. Staff who recommend placement in a control unit are not required to appear, provided their recommendation is fully explained in the record. Staff who were involved, in any capacity, in former disciplinary proceedings need not be called as to their involvement in those proceedings, since this hearing is

not to go over the factual basis for prior actions which have been decided.

(iii) When a witness is not available within the institution, or not permitted to appear, the inmate may submit a written statement by that witness. The Hearing Administrator shall, upon the inmate's request, postpone any decision following the hearing for a reasonable time to permit the obtaining and forwarding of written statements.

(iv) The Hearing Administrator shall document in the record of the hearing the reasons for declining to permit a witness or to receive documentary evidence.

§ 541.44 Decision of the hearing administrator.

(a) At the conclusion of the hearing and following review of all material related to the recommendation for placement of an inmate in a control unit, the Hearing Administrator shall prepare a written decision as to whether this placement is warranted. The Hearing Administrator shall:

(1) Prepare a summary of the hearing and of all information presented upon which the decision is based; and

(2) Indicate the specific reasons for the decision, to include a description of the act, or series of acts, or evidence on which the decision is based.

(b) The Hearing Administrator shall advise the inmate in writing of the decision. The inmate shall receive the information described in paragraph (a) of this section unless it is determined that the release of this information could pose a threat to individual safety, or institutional security, in which case that limited information may be withheld. The Hearing Administrator shall advise the inmate that the decision will be submitted for review of the Executive Panel. The Hearing Administrator shall advise the inmate that, if the inmate so desires, the inmate may submit an appeal of the Hearing Administrator's decision to the Executive Panel. This appeal, with supporting documentation and reasons, must be filed within five working days of the inmate's receipt of the Hearing Administrator's decision.

(c) The Hearing Administrator shall send the decision, whether for or against placement in a control unit, and supporting documentation to the Executive Panel. Ordinarily this is done within 20 working days after conclusion of the hearing. Any reason for extension is to be documented.

§ 541.45 Executive panel review and appeal.

The Executive Panel is composed of the Regional Director of the region where a control unit is located to which referral is being considered and the Assistant Director, Correctional Programs Division.

(a) The Executive Panel shall review the decision and supporting documentation of the Hearing Administrator and, if submitted, the information contained in an inmate's appeal. The Panel shall accept or reject the Hearing Administrator's decision within 30 working days of its receipt, unless for good cause there is reason for delay, which shall be documented in the record.

(b) The Executive Panel shall provide a copy of its decision to the Warden at the institution to which the inmate is to be transferred, to the inmate, to the referring Warden and region, and to the Hearing Administrator.

(c) An inmate may appeal a decision of the Executive Panel, through the Administrative Remedy Procedure, directly to the Office of General Counsel, Bureau of Prisons, within 30 calendar days of the inmate's receipt of the Executive Panel's decision.

§ 541.46 Programs and services.

The Warden shall provide the following services to a control unit inmate. These services must be provided unless compelling security or safety reasons dictate otherwise. These reasons will be documented and signed by the Warden, indicating the Warden's review and approval.

(a) *Education:* The Warden shall assign a member of the education staff to the control unit on at least a part-time basis to assist in developing an educational program to fulfil each inmate's academic needs. The education staff member is ordinarily a member of the control unit team.

(b) *Work Assignments:* Staff may assign inmates to a work assignment, such as range orderly. The manner in which these duties are carried out will reflect the inmate's unit adjustment, and will assist staff in evaluating the inmate.

(c) *Industries (UNICOR):* If an industry program exists in a control unit, each inmate participating in this program may earn industrial good time and industrial pay, subject to the regulations of Federal Prison Industries, Inc. (UNICOR). The industry program is supervised by an industry foreman. The control unit team will determine when or if an industry assignment is appropriate for each inmate who submits a request for possible assignment to industries work.

(d) *Legal:* An inmate assigned to a control unit may use that unit's inmate basic law library, upon request and in rotation. Consistent with security considerations, the law library is to include basic legal reference books, and ordinarily a table and chair, typewriter, paper and carbon. Abuse of materials in the inmate law library (for example, a typewriter) may result in a decision by the Warden to limit the use of legal materials. A decision to limit materials due to abuse must be documented in writing and signed by the Warden.

(e) *Recreation:* The recreation program in a control unit shall include the following requirements:

(1) Each inmate shall have the opportunity to receive a minimum of seven hours weekly recreation and exercise out of the cell.

(2) Staff shall provide various games and exercise materials as consistent with security considerations and orderly operation of the unit. Inmates who alter or intentionally damage recreation equipment may be deprived of the use of that equipment in the future.

(f) *Case Management Services:* The case manager is responsible for all areas of case management. This ordinarily includes preparation of the visiting list, notarizing documents, preparation of various reports, and other case management duties. The case manager is ordinarily a member of the control unit team.

(g) *Counselor Services:* The unit counselor ordinarily handles phone call requests, special concerns and requests of inmates, and requests for administrative remedy forms, is available for consultation, and is available for counseling as recommended in the mental health evaluation (see paragraph (i) of this section—Mental Health Services).

(h) *Medical Services:* A member of the medical staff shall visit control unit inmates daily. A physician will visit the unit as the need arises.

(i) *Mental Health Services:* During the first 30-day period in a control unit, staff shall schedule the control unit inmate for a psychological evaluation conducted by a psychologist. Additional individual evaluations shall occur every 30 days. The psychologist shall perform and/or supervise needed psychological services. Psychiatric services will be provided when necessary. Inmates requiring prescribed psychotropic medication are not ordinarily housed in a control unit.

(j) *Religion:* Staff shall issue religious materials upon request, limited by security consideration and housekeeping rules in the unit. This material may come from an inmate's personal property or from the chaplain's office. The institutional chaplains shall make at least weekly visits to the control unit. While individual prayer

and/or worship is allowed in a control unit, religious assemblies or group meetings are not allowed.

(k) *Food Service and Personal Hygiene:* Staff shall provide food services and personal hygiene care consistent with the requirements of the current rule regarding Special Housing Units.

(l) *Correspondence:* Inmates confined in a control unit are provided correspondence privileges in accordance with the Bureau of Prisons' rule on Inmate Correspondence (see 28 CFR, Part 540).

(m) *Visiting:* Visits for inmates confined in a control unit are conducted in a controlled visiting area, separated from regular visiting facilities. Staff shall allot a minimum of four hours per month visiting time to a control unit inmate. The number of consecutive hours visiting on a particular day may be limited by the number of visitors waiting to visit. All visitors must be on the inmate's approved visiting list.

(n) *Commissary:* Staff shall establish a commissary purchase schedule. The amount of money which control unit inmates spend per month is comparable to the spending limitation for inmates residing in the general population. Staff may limit commissary items to ensure the safety and security of the unit.

(o) *Personal property:* Personal property retained by an inmate in a control unit is to be stored in the space provided. Personal property items shall be limited in number and type to ensure the safety and good order of the unit.

§ 541.47 Admission to control unit.

Staff shall provide an inmate admitted to a control unit with:

(a) Notice of the projected duration of the inmate's confinement in a control unit;

(b) Notice of the type of personal property which is allowable in the unit (items made of glass or metal will not be permitted);

(c) A summary of the guidelines and disciplinary procedures applicable in the unit;

(d) An explanation of the activities in a control unit;

(e) The expectations of the inmate's involvement in control unit activities; and

(f) The criteria for release from the unit, and how those criteria specifically relate to this confinement period in the unit and any specific requirements in the inmate's individual case.

§ 541.48 Search of control unit inmates.

(a) The Warden at an institution housing a control unit may order a digital or simple instrument search for all new admissions to the control unit. The Warden may also order a digital or simple instrument search for any inmate who is returned to the control unit following contact with the public. Authorization for a digital or simple instrument search must be in writing, signed by the Warden, with a copy placed in the inmate central file. The Warden's authority may not be delegated below the level of Acting Warden.

(b) Staff may not conduct a digital or simple instrument search if it is likely to result in physical injury to the inmate. In this situation, the Warden, upon approval of the Regional Director, may authorize the institution physician to order a non-repetitive X-ray for the purpose of determining if contraband is concealed in or on the inmate. The X-ray examination may not be performed if it is determined by the institution physician that such an examination is likely to result in serious or lasting medical injury or harm to the inmate. Staff are to place documentation of the X-ray examination in the inmate's central file and medical file. The authority of the Warden and Regional Director may not be delegated below the level of Acting Warden and Acting Regional Director respectively.

(c) Staff shall solicit the inmate's written consent prior to conducting a digital or simple instrument search, or an X-ray examination. However, the inmate's consent is not required.

§ 541.49 Review of control unit placement.

(a) Unit staff shall evaluate informally and daily an inmate's adjustment within the control unit. Once every 30 days, the control unit team, comprised of the control unit manager, and other members designated by the Warden (ordinarily to include the case manager and education staff member assigned to the unit) shall meet with an inmate in the control unit. The inmate is required to attend the team meeting in order to be eligible for the previous month's stay in the control unit to be credited towards the projected duration of confinement in that unit. The unit team shall make an assessment of the inmate's progress within the unit and may make a recommendation as to readiness for release after considering the inmate's:

(1) Unit status;

(2) Adjustment; and

(3) Readiness for release from the unit. (See § 541.50(a))

(b) The Warden shall serve as the review authority at the institutional level for unit team actions.

(c) An inmate may appeal the Warden's decision to the Executive Panel within five working days of receipt of that decision. The inmate will receive a response to this appeal at the inmate's next appearance before the Executive Panel.

(d) At least once every 60 to 90 days, the Executive Panel shall review the status of an inmate in a control unit to determine the inmate's readiness for release from the Unit. The Executive Panel shall consider those factors specified in § 541.50(a), along with any recommendations by the unit team and Warden.

The decision of the Executive Panel is communicated to the inmate. Ordinarily, the inmate is interviewed in person at this review. If the inmate refuses to appear for this review, or if there is other reason for not having an in-person review, this will be documented.

(e) An inmate may appeal a decision of the Executive Panel, through the Administrative Remedy Procedure, directly to the Office of General Counsel, Bureau of Prisons within 30 calendar days from the date of the Executive Panel's response.

§ 541.50 Release from a control unit.

(a) Only the Executive Panel may release an inmate from a control unit. The following factors are considered in the evaluation of an inmate's readiness for release from a control unit:

(1) Relationship with other inmates and staff members, which demonstrates that the inmate is able to function in a less restrictive environment without posing a threat to others or to the orderly operation of the institution;

(2) Involvement in work and recreational activities and assignments;

(3) Adherence to institution guidelines and Bureau of Prisons rules and policy;

(4) Personal grooming and cleanliness; and

(5) Quarters sanitation.

(b) An inmate released from a control unit may be returned:

(1) To the institution from which the inmate was originally transferred;

(2) To another federal or non-federal institution;

(3) Into the general population of the institution which has a control unit.

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 540, 544, 550, and 570

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed Rules.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its rules on (1) correspondence; (2) adult basic education (ABE) program; and (3) urine surveillance to detect and deter illegal drug use. Proposed amendments to the correspondence rule are intended to clarify the prior rule language and to address various aspects of inmate correspondence that have arisen since the final rule was published in 1980. The amended rule on the ABE program will require that an inmate who can't read, write, or do mathematics at the eighth grade level (the existing rule says sixth grade level) attend an adult basic education program for a minimum of 90 calendar days. The eighth grade level is considered indicative of a basic education level. The rule on urine surveillance is being amended to clarify the existing language and to require that staff prepare a disciplinary report on an inmate who is unwilling to provide a urine sample within two hours of a request for it.

The Bureau is also proposing a new rule on escorted trips for inmates. The rule describes the Bureau's policy on providing approved inmates with staff-escorted trips into the community.

DATE: Comments on the rule on Adult Basic Education (Part 544) must be received on or before September 17, 1984. Comments on the other rules must be received on or before October 1, 1984.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, D.C. 20534. Comments received will be available for examination by interested persons at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), notice is hereby given that the Bureau of Prisons intends to publish in the Federal Register proposed amendments to its rules on correspondence; (2) adult basic education (ABE) program; and (3) urine surveillance to detect and deter illegal drug use. In addition, the Bureau is publishing a new proposed rule on escorted trips.

Proposed Amendments to the Rule on Correspondence

A final on correspondence was published in the Federal Register June 30, 1980 (at 45 FR 44229 et seq.). Amendments to this rule was published August 31, 1981 (at 46 FR 43809 et seq.) and May 20, 1982 (at 47 FR 22006). The present amendments are intended to both clarify, and to add to, the existing rule.

Note.—In addition to the changes identified below, the Bureau is making non-substantive rule changes, for example, to make the rule gender-neutral. In some instances, these are encompassed within the present proposals. In areas where no substantive changes are planned, we anticipate publishing non-substantive changes at the time of final rule publication.

Section 540.2(c) is revised to include the requirement that incoming special mail have adequate identification on the envelope, and the "special mail" marking. This requirement is consistent with existing procedures for the processing of incoming special mail. The last sentence of § 540.10, concerning the Bureau's rule on correspondence supplementing U.S. Postal Service regulations, is deleted since it does not appreciably contribute to the rule. Section 540.11, Mail Depositories, is new and requires that each institution have at least one mail depository in which an inmate may place outgoing correspondence. The Warden may establish an additional depository for outgoing special mail. Based on new proposed § 540.11, existing final §§ 540.11–20 become §§ 540.12–21. In § 540.12, Controls and procedures, paragraph (b) inserts the clarifying phrase on "the front of the envelope" to indicate where the special mail marking is to appear. This same phrase is also inserted in the accurate identification of the sender, § 540.12(d) requires each outgoing envelope to include both the inmate's name and register number. In § 540.14, General correspondence, paragraph (e) is revised. The rule now states the Bureau's standard for rejecting correspondence—detrimental to the security, good order, or discipline of the institution, to the protection of the public, or if it might facilitate criminal activity. The remainder of paragraph (e) gives some examples which might warrant rejection of correspondence. These include those listed in the current rule, plus two additional reasons. The first concerns activities which may lead to the use of physical violence or group disruption; the second concerns sexually-explicit material which may pose a threat to an individual's personal safety or security, or to institution good order. Of those reasons listed in the current rule, final paragraph (e)(2), now proposed paragraph (e)(3), substitutes the more accurate phrase "Bureau rules or institution guidelines" for "institution rules"

Section 540.17, Correspondence between confined inmates, is renumbered. The opening unlettered paragraph of this section becomes new paragraph (a) with existing paragraphs (a) and (b) becoming sub-paragraphs (1) and (2). New paragraph (a) is clarified to state that an inmate may correspond with an inmate confined in "any other" (was "another") penal or correctional institution. New paragraph (b) authorizes an inmate, upon approval of the Warden, to correspond with another inmate confined in the same institution. This procedure is responsive to institution security concerns and is intended to address the situation whereby two inmates try to exchange writings either by intra-institution means or through the outgoing-incoming correspondence procedures. Section 540.19, Legal Correspondence, is revised to clearly indicate that the requirements of paragraph (a), concerning staff marking each envelope of incoming legal mail, applies only if the sender has marked the envelope as required for special mail processing.

Paragraph (b) of § 540.21, Payment of postage, is revised to require inmates who use their own envelopes to place a return address on the envelope. This is consistent with the intent of proposed § 540.12(d). In paragraph (d) and elsewhere in this section the word "stamps" is placed after "postage", since indicia is not used for mailing inmate correspondence. Paragraph (h) of this section states that mail received with postage due is not ordinarily accepted by the Bureau of Prisons, since it is the responsibility of the sender to ensure the envelope has adequate postage. The scope of § 540.21(j) is clarified by substituting the phrase "stamped items" for "stamped envelopes"

Sections 540.22, Special postal services, and 540.23, Inmate funds received through the mails, are new. Section 540.22 is intended to provide an inmate with information on the availability of special postal services, such as registered and certified mail. Section 540.23 is intended to provide an inmate with information on receiving funds through the mail. A proposed rule on this subject was published in the Federal Register January 12, 1979 (at 44 FR 2983). That rule is now withdrawn.

Based on these new sections, existing final §§ 540.21–22 become §§ 540.24–25.

Section 540.25(a) now provides for an inmate being released or transferred to receive Bureau of Prisons, as well as U.S. Postal Service, change of address cards. Completion of the Bureau's card allows for an inmate's mail to be forwarded as specified in the rule. The extraneous phrase "U.S. Postal Service" is deleted from revised paragraph (b). Paragraph (c) is revised by deleting language that the Bureau will pay postage for mailing a change of address card to the U.S. Postal Service. This is considered unnecessary, since the Bureau will forward an inmate's mail for a minimum of 30 days. This is deemed sufficient time to allow the inmate to notify correspondents of the inmate's new address.

Paragraph (d) is revised to reference new paragraphs (e)-(g). Paragraph (e) requires staff to use all means practicable to forward special mail. Paragraph (f) requires staff to forward inmate general mail to the new address for a period of 30 days. Paragraph (g) replaces final § 540.22(e), and discusses the Bureau's handling of mail for inmates released on writ. Because special mail is now handled in proposed paragraph (e), proposed paragraph (g) is limited to general correspondence. The phrase "and any instructions which the inmate may give the U.S. Postal Service" is deleted as extraneous, since the Bureau simply returns the correspondence to the U.S. Postal Service.

Proposed Amendments to the Rule on Adult Basic Education (ABE) Program

The Bureau published its final rule on ABE programs in the Federal Register on May 20, 1982 (at 47 FR 22007). The rule is being revised to require an inmate who does not have a minimum academic grade level of 8.0 (was 6.0) to attend an adult basic education program for a minimum of 90 calendar days. The eighth grade level is consistent with the inmate demonstrating basic educational competency. Section 544.71(a)(4) raises the exemption level from a minimum academic grade level of 6.0 to 8.0. Section 544.71(a)(5) is new and exempts from the 8.0 minimum academic grade level requirement an inmate who, during the inmate's present confinement, has completed an ABE program at the 6.0 academic grade level. Based on new paragraph (a)(5), existing paragraph (a)(5) will become (a)(6). To allow better use of staff resources, § 544.72(b) is revised to require that the ABE coordinator formally interview each inmate involved in the ABE program at least once every 90 (was 30) days. This is a minimum requirement, and more frequent and informal contact ordinarily occurs. Section 544.72(c) now states that where treatment is mandated by statute, an inmate does not have the option to discontinue program involvement. This is consistent with the language of existing § 544.71(c).

Note.—Because the minimum academic grade level is specifically cited throughout the ABE rule, the Bureau has decided to republish the entire rule to allow ease of review. Public comment, however, will be accepted only for the proposed revisions identified in this paragraph.

Proposed Amendments to the Rule on Urine Surveillance To Detect and Deter Illegal Drug Use

The Bureau published its final rule on urine surveillance to detect and deter illegal drug use in the Federal Register on June 29, 1979 (at 44 FR 38252). The proposed amendments clarify the intent of the existing rule. The first sentence of § 550.30(b) clarifies staff responsibility where the inmate has a positive urine test result. Where no justification exists for the positive result, a disciplinary report is to be filed. Section 550.30(c) will require staff to prepare a disciplinary report where the inmate is unwilling, as opposed to unable, to provide a sample within two hours of a request for one. To prevent the possibility of diluted or adulterated samples, an inmate is not permitted to consume excessive fluids during this period. The rule also states the urine surveillance test is to be conducted by a person of the same sex as the inmate.

Escorted Trips

The Bureau is publishing its proposed rule on escorted trips. The rule provides information on the types of escorted trips an inmate may receive (medical or non-medical, emergency or non-emergency). The rule also provides information on supervision and restraint requirements, and on escorted trip violations.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to these rules since the rules involve agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), do not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534. Comments received will be considered before final action is taken. The proposed rules may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects

28 CFR Part 540, 550 and 570

Prisoners.

28 CFR Part 544

Education, Libraries, Prisoners, Recreation.

In consideration of the foregoing, it is proposed to amend Subchapters C and D of 28 CFR, Chapter V as follows:

I. In Subchapter C, revise Part 540, Subparts A and B;
II. In Subchapter C, revise Part 544, Subpart H;
III. In Subchapter C, revise Part 550, Subpart D; and
IV. In Subchapter D, add a new Subpart D to Part 570.

I. In Subchapter C, revise Part 540 to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

A. The Table of Contents and the authority citation for Part 540, Subparts A and B are revised to read:

Subpart A—General

Sec.
540.2 Definitions.

Subpart B—Correspondence

540.10 Purpose and scope.
540.11 Mail depositories.
540.12 Controls and procedures.
540.13 Notification of rejections.
540.14 General correspondence.
540.15 Restricted general correspondence.
540.16 Inmate correspondence while in segregation and holdover status.
540.17 Correspondence between confined inmates.
540.18 Special mail.
540.19 Legal correspondence.
540.20 Inmate correspondence with representatives of the news media.
540.21 Payment of postage.
540.22 Special postal services.
540.23 Inmate funds received through the mails.
540.24 Returned mail.
540.25 Change of address and forwarding of mail for inmates.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006-5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

B. In subpart A, the second paragraph of § 540.2(c) is revised to read as follows:

§ 540.2 Definitions.

* * * * *

(c) * * *

"Special Mail" also includes correspondence *received from* the following: President and Vice President of the U.S., attorneys, Members of the U.S. Congress, Embassies and Consulates, the U.S. Department of Justice (excluding the Bureau of Prisons but including U.S. Attorneys), other Federal law enforcement officers, State Attorneys General, Prosecuting Attorneys, Governors, U.S. Courts, and State Courts. For incoming correspondence to be processed under the special mail procedures (see §§ 540.18–19), the sender must be adequately identified on the enveolpe, and the front of the envelope must be marked "Special Mail—Open only in the presence of the inmate."

C. In Subpart B, § 540.10 is revised to read as follows:

§ 540.10 Purpose and scope.

The Bureau of Prisons encourages correspondence that is directed to socially useful goals. The Warden shall establish correspondence procedures for inmates in each institution, as authorized and suggested in this rule.

§§ 540.12, 540.14, 540.15, 540.19 and 540.21 [Redesignated as §§ 540.13, 540.15, 540.16, 540.20 and 540.24]

D. Redesignate existing §§ 540.12, 540.14, 540.15, 540.19 and 540.21 as §§ 540.13, 540.15, 540.16, 540.20 and 540.24, respectively.

§ 540.11 [Redesignated at § 540.12]

E. Existing § 540.11 is redesignated as new § 540.12. Paragraphs (b) and (d) of newly designated §540.12 are revised to read as follows:

§ 540.12 Controls and procedures.

* * * * *

(b) Staff shall inform each inmate in writing promptly after arrival at an institution of that institution's rules for handling of inmate mail. This notice includes the following statement:

The staff of each institution of the Bureau of Prisons has the authority to open all mail addressed to you before it is delivered to you. "Special Mail" (mail from the President or Vice President of the U.S., attorneys, Members of the U.S. Congress, Embassies and Consulates, the U.S. Department of Justice (excluding the Bureau of Prisons but including U.S. Attorneys), other Federal law enforcement officers, State Attorneys General, Prosecuting Attorneys, Governors, U.S. Courts, and State Courts) may be opened only in your presence to be checked for contraband. This procedure occurs only if the sender is adequately identified on the envelope and the front of the envelope is marked "Special Mail—Open only in presence of the inmate." Other mail may be opened and read by the staff.

If you do not want your *general* correspondence opened and read, the Bureau will return it to the Postal Service. This means that you will not receive such mail. You may choose whether you want your general correspondence delivered to you subject to the above conditions, or returned to the Postal Service. Whatever your choice, special mail will be delivered to you, after it is opened in your presence and checked for contraband. You can make your choice by signing Part I or Part II.

Part I— General Correspondence To Be Returned to the Postal Service

I have read or had read to me the foregoing notice regarding mail. I do not want my general correspondence opened and read. I REQUEST THAT THE BUREAU OF PRISONS RETURN MY GENERAL CORRESPONDENCE TO THE POSTAL SERVICE. I understand that special mail will be delivered to me, after it is opened in my presence and checked for contraband.

(Name) _____
(Reg. No.) _____
(Date) _____

Part II—General Correspondence To Be Opened, Read, and Delivered

I have read or had read to me the foregoing notice regarding mail. I WISH TO RECEIVE MY GENERAL CORRESPONDENCE. I understand that the Bureau of Prisons may open and read my general correspondence if I choose to receive same. I also understand that special mail will be delivered to me, after it is opened in my presence and checked for contraband.

(Name) _____
(Reg.No.) _____
(Date) _____
(Inmate Name) _____
(Reg. No. _____, refused to sign this form.

He (she) was advised by me that the Bureau of Prisons retains the authority to open and read all general correspondence. The inmate was also advised that his (her) refusal to sign this form will be interpreted as an indication that he (she) wishes to receive general correspondence subject to the above mentioned conditions.

Staff Members Signature _____
Date _____

* * * * *

(d) An inmate shall place both name and register number on each outgoing envelope.

§ 540.13 (Redesignated as § 540.14)

F. Redesignate existing § 540.13 as § 540.14 and revise paragraph (e) of newly redesignated § 540.14 to read as follows:

§ 540.14 General correspondence.

* * * * *

(e) The Warden may reject correspondence sent by or to an inmate if it is determined detrimental to the security, good order, or discipline of the institution, to the protection of the public, or if it might facilitate criminal activity. Correspondence which may be rejected by a Warden includes, but is not limited to, correspondence which contains any of the following:

(1) Matter which is nonmailable under law or postal regulations;

(2) Matter which depicts, describes, or encourages activities which may lead to the use of physical violence or group disruption;

(3) Information of escape plots, of plans to commit illegal activities, or to violate Bureau rules or institution guidelines;

(4) Direction of an inmate's business (See §-541.13, Prohibited Act No. 408). An inmate, unless a pre-trial detainee, may not direct a business while confined.

This does not, however, prohibit correspondence necessary to enable an inmate to protect property and funds that were legitimately the inmate's at the time of commitment. Thus, for example, an inmate may correspond about refinancing an existing mortgage or sign insurance papers, but may not operate a mortgage or insurance business while in the institution.

(5) Threats, extortion, obscenity, or gratuitous profanity;

(6) A code;

(7) Sexually explicit material (for example, personal photographs) which by its nature or content poses a threat to an individual's personal safety or security, or to institution good order; or

(8) Contraband. (See § 500.1. A package received without prior authorization by the Warden is considered to be contraband.)

§ 540.16 [Redesignated as § 540.17]

G. Redesignate existing § 540.16 as § 540.17 and revise it to read as follows:

§ 540.17 Correspondence between confined inmates.

(a) An inmate may be permitted to correspond with an inmate confined in any other penal or correctional institution, providing the other inmate is either a member of the immediate family, or is a party or a witness in a legal action in which both inmates are involved. The Warden may approve such correspondence in other exceptional circumstances, with particular regard to the security level of the institution, the nature of the relationship between two inmates, and whether the inmate has other regular correspondence. The following additional limitations apply:

(1) Such correspondence may always be inspected and read by staff at the sending and receiving institutions (it may not be sealed by the inmate); and

(2) The Wardens of both institutions must approve of the correspondence.

(b) Upon approval of the Warden, an inmate may be permitted to correspond with another inmate confined in the same institution. The correspondence may always be inspected and read by staff at the institution.

§ 540.17 [Redesignated as § 540.18]

H. Redesignate existing § 540.17 as § 540.18, and revise paragraph (a) to read as follows:

§ 540.18 Special mail.

(a) The Warden shall open incoming special mail only in the presence of the inmate for inspection for physical contraband and the qualification of any enclosures as special mail. The correspondence may not be read or copied if the sender is adequately identified on the envelope, and the front of the envelope is marked "Special Mail—Open only in the presence of the inmate"

* * * * *

§ 540.18 [Redesignated as § 540.19]

I. Redesignate existing § 540.18 as § 540.19, and revise paragraphs (a), (b) and (e) to read as follows:

§ 540.19 Legal correspondence.

(a) Staff shall mark each envelope of incoming legal mail (mail from courts or attorneys) to show the date and time of receipt, the date and time the letter is delivered to an inmate and opened in the inmate's presence, and the name of the staff member who delivered the letter. This paragraph applies only if the sender has marked the envelope as specified in § 540.18.

(b) The inmate is responsible for advising any attorney that correspondence will be handled as special mail only if the envelope is marked with the attorney's name and an indication that the person is an attorney and the front of the envelope is marked "Special Mail—Open only in the presence of the inmate" Legal mail shall be opened in accordance with special mail procedures (see § 540.18).

* * * * *

(e) Mail to an inmate from an attorney's assistant or legal aid student or assistant, in order to be identified and treated by staff as special mail, must be properly identified on the envelope as required in paragraph (b) of this section, and must be marked on the front of the envelope as being mail from the attorney or from the legal aid supervisor.

§ 540.20 [Redesignated as § 540.21]

J. Redesignate existing § 540.20 as § 540.21 and revise paragraphs (b), (d), (e), (h), and (j) to read as follows:

§ 540.21 Payment of postage.

* * * * *

(b) Writing paper and envelopes are provided at no cost to the inmate. Inmates who use their own envelopes must place a return address on the envelope, containing their name and register number, P.O. Box, city, state, and zip code.

* * * * *

(d) An inmate who has neither funds nor sufficient postage and who wishes to mail legal (includes courts and attorneys) or Administrative Remedy forms will be provided the postage stamps for such mailing. To prevent abuses of this provision, the Warden may impose restrictions on the free legal and administrative remedy mailings.

(e) When requested by an inmate who has neither funds nor sufficient postage, and upon verification of this status by staff, the Warden shall provide the postage stamps for mailing a reasonable number of letters at government expense to enable the inmate to maintain community ties. To prevent abuses of this provision, the Warden may impose restrictions on the free mailings.

* * * * *

(h) Mail received with postage due is not ordinarily accepted by the Bureau of Prisons.

* * * * *

(j) Inmates may not be permitted to receive stamps or stamped items (e.g., envelopes embossed with stamps, postal cards with postage affixed) other than by issuance from the institution or by purchase from commissary.

§ 540.22 [Redesignated as § 540.25]

K. Redesignate existing § 540.22 as § 540.25 and revise the section to read as follows:

§ 540.25 Change of address and forwarding of mail for inmates.

(a) Staff shall make available to an inmate who is being released or transferred appropriate Bureau of Prisons and U.S. Postal Service forms for change of address.

(b) Inmates are responsible for informing their correspondents of a change of address.

(c) Postage for mailing change of address cards is paid by the inmate.

(d) Except as provided in paragraphs (e)–(g) of this section, all mail received for a released or transferred inmate will be returned to the U.S. Postal Service for disposition in accordance with U.S. Postal Service regulations.

(e) Staff shall use all means practicable to forward special mail.

(f) Staff shall forward inmate general correspondence to the new address for a period of 30 days.

(g) Staff shall permit an inmate released temporarily on writ to elect either to have general correspondence held at the institution for a period not to exceed 30 days, or returned to the U.S. Postal Service for disposition.

(1) If the inmate refuses to make this election, staff at the institution shall document this refusal, and any reasons, in the inmate's central file. Staff shall return to the U.S. Postal Service all general correspondence received for such an inmate after the inmate's departure.

(2) If the inmate does not return from writ within the time indicated, staff shall return to the U.S. Postal Service all general correspondence being held for that inmate for disposition in accordance with postal regulations.

L. Add a new § 540.11 to read as follows:

§ 540.11 Mail Depositories.

The Warden shall establish at least one mail depository within the institution for an inmate to place outgoing correspondence. The Warden may establish a separate mail depository for outgoing special mail. A return address is necessary for each item placed in a mail depository.

M. Add new §§ 540.22–23 to read as follows:

§ 540.22 Special postal services.

(a) An inmate, at no cost to the government, may send correspondence by registered, certified, or insured mail, and may request a return receipt.

(b) An inmate may insure outgoing personal correspondence (e.g., a package containing the inmate's hobbycrafts) by completing the appropriate form and applying sufficient postage.

(1) In the event of loss or damage, any claim relative to this matter is made to the United States Postal Service, either by the inmate or the recipient. The United States Postal Service will only indemnify a piece of insured mail for the actual value of an item, regardless of declared value.

(2) Inmate packages forwarded as a result of institution administration are considered official mail, except as otherwise specified (for example, hobbycraft articles mailed out of the institution). Official mail is not insured. If such an item is subsequently lost or

damaged in the mail process the inmate may file a tort claim (see Part 543, Subpart C).

(c) Certified mail is sent first class at the inmate's expense.

(d) An inmate may not be provided such services as express mail, COD, private carriers, or stamp collecting while confined.

§ 540.23 Inmate funds received through the mails.

(a) An inmate, upon completing the appropriate form, may receive funds from family or friends, for crediting to the inmate's trust fund account.

(b) An inmate is responsible for advising persons forwarding the inmate funds that all negotiable instruments, such as checks and money orders, should give both the inmate's name and register number, thereby helping to ensure a deposit to the proper inmate's account. Negotiable instruments not accepted because they are incorrectly prepared will be returned to the sender, with a letter of explanation. A copy of this letter will be sent to the inmate.

(c) An inmate may not receive through the mail unsolicited funds, nor may the inmate solicit funds or initiate requests which might result in the solicitation of funds from persons other than the inmate's immediate family or friends.

(d) An inmate may not receive through the mail funds for direct services provided by the government, such as medical services.

II. Subchapter C, revise Part 544 to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 544—EDUCATION

Subpart H—Adult Basic Education (ABE) Program

A. Part 544, Subpart H is revised to read as follows:

Sec.
544.70 Purpose and scope.
544.71 Applicability.
544.72 Procedures.
544.73 Federal Prison Industries (UNICOR) and inmate performance pay (IPP) assignments.
544.74 Incentives.
544.75 Disciplinary action.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

§ 544.70 Purpose and scope.

An inmate confined in a federal institution who cannot read, write, or do mathematics at the 8.0 academic level is required to attend an adult basic education (ABE) program for a minimum of 90 calendar days. The Warden shall establish incentives to encourage an inmate to complete the ABE program.

§ 544.71 Applicability.

(a) The provisions of this subpart on the adult basic education program apply to all inmates in federal institutions *except:*

(1) Pre-trial inmates;

(2) Inmates committed for purpose of study and observation under the provisions of 18 U.S.C. 4205(c);

(3) Sentenced aliens with a deportation detainer;

(4) Inmates already in UNICOR or Inmate Performance Pay (IPP) assignments in pay grades 1, 2, and 3 at the time of implementation of this rule who do not presently function at the 8.0 academic level;

(5) Inmates who during their present confinement have previously completed the ABE program at the time the Bureau implements its 8.0 academic grade level requirement.

(6) Other inmates who, for good cause, the Warden may determine are exempt from the provisions of this rule.

(b) Staff shall document in the inmate's education file the specific reasons for not requiring the inmate to participate in the ABE program.

(c) Inmates who function below the 8.0 academic grade level and for whom treatment is mandated by statute (for example, Youth Corrections Act) shall be required to participate in the adult basic education program, as educational involvement is considered within the general scope of treatment.

§ 544.72 Procedures.

(a) The Warden at each federal institution shall ensure that an inmate who is functioning below an 8.0 academic grade level in reading, writing, and mathematics, is enrolled in the ABE program.

(b) The Warden or designee shall assign to an education staff member the responsibility to coordinate the institution's ABE program. The ABE coordinator shall meet initially with the inmate for the purpose of enrolling the inmate in the ABE program. Subsequently, the ABE coordinator shall formally interview each inmate involved in the ABE program at least once every 90 days to review and record the inmate's progress in this program. The ABE coordinator shall place documentation of this interview in the inmate's education file.

(c) At the end of 90 calendar days, excluding sick time, furloughs, or other authorized absences from scheduled classes, the inmate's unit team shall meet with the inmate in respect to the inmate's continued involvement in the ABE program towards attainment of the 8.0 academic grade level. At this time, the inmate may elect not to continue in the ABE program, and no disciplinary action will be taken. The inmate does not have this option to discontinue in programs where treatment is mandated by statute, such as the Youth Corrections Act.

§ 554.73 Federal Prison Industries (UNICOR) and inmate performance pay (IPP) assignments.

Inmates who wish to secure a UNICOR or IPP work assignment above the fourth grade of compensation must be able to demonstrate achievement of at least an 8.0 academic grade level. An inmate may be assigned to the fourth grade of compensation in a UNICOR or IPP work assignment contingent on the inmate's enrollment, and satisfactory participation, in the ABE program. Failure of an inmate to make adequate progress in the ABE program may be considered the basis for removal of the inmate from the UNICOR or IPP assignment.

§ 544.74 Incentives.

The Warden shall establish a system of incentives to encourage an inmate to obtain a minimum academic grade level of 8.0.

§ 544.75 Disciplinary action.

As with other mandatory programs, such as work assignments, staff may take disciplinary action against an inmate whose academic level is below the 8.0 grade level when that inmate refuses to enroll in, or to complete, the mandatory 90 calendar days ABE program.

III. In Subchapter C, amend Part 550 as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 550—DRUG PROGRAMS

A. The authority citation for Part 550 reads as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4031, 4082, 4251–4255, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

B. In Subchapter C, Part 550, Subpart D, revise § 550.30 (b) and (c) to read as follows:

§ 550.30 Purpose and scope.

* * * * *

(b) Institution staff shall determine whether a justified reason exists (e.g., use of prescribed medication) for any positive urine test result. If the inmate's urine test shows a positive test result for the presence of drugs which cannot be

justified, staff shall file a disciplinary report.

(c) A urine surveillance test is to be conducted by staff of the same sex as the inmate. If an inmate is unwilling to provide a urine sample within two hours of a request for it, staff shall file a disciplinary report. To eliminate the possibility of diluted or adulterated samples, staff shall keep the inmate under direct supervision during this two-hour period, or until a complete sample is furnished. Also, an inmate may not be permitted to consume excessive fluids during this period.

IV In Subchapter D, add Subpart D to Part 570 to read as follows:

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 570—COMMUNITY PROGRAMS

* * * * *

Subpart D—Escorted Trips

Sec.
570.40 Purpose and scope.
570.41 Medical escorted trips.
570.42 Non-medical escorted trips.
570.43 Maximum supervision inmates.
570.44 Supervision and restraint requirements.
570.45 Violation of escorted trip.

Authority: 5 U.S.C. 301; 18 U.S.C. 751, 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart D—Escorted Trips

§ 570.40 Purpose and scope.

The Bureau of Prisons provides approved inmates with staff-escorted trips into the community for such purposes as receiving medical treatment not otherwise available, for visiting a critically-ill member of the inmate's immediate family, or for participating in program or work-related functions.

§570.41 Medical escorted trips.

(a) Medical escorted trips are intended to provide an inmate with medical treatment not otherwise available within the institution. There are two types of medical escorted trips.

(1) Emergency medical escorted trip—An escorted trip occurring as the result of an unexpected life-threatening medical situation requiring immediate medical treatment not available at the institution. The required treatment may be on either an in-patient or out-patient basis.

(2) Non-emergency medical escorted trip—A pre-planned escorted trip for the purpose of providing an inmate with medical treatment ordinarily not available at the institution. The required treatment may be on either an in-patient or out-patient basis.

(b) The Chief Medical Officer or designee is responsible for determining whether a medical escorted trip is appropriate.

(c) *Escorted trip procedures—out-patient medical treatment*—A recommendation for an inmate to receive a medical escorted trip is prepared by medical staff, forwarded through the appropriate staff for screening and clearance, and then submitted to the Warden for review. Except as specified in § 570.43, the Warden may approve an inmate for an out-patient medical escorted trip.

(d) *Escorted trip procedures—in-patient medical treatment*—A recommendation for an inmate to receive a medical escorted trip is prepared by medical staff, forwarded through the appropriate staff for screening and clearance, and then submitted to the Warden. Except as specified in § 570.43, the Warden may approve an inmate for an in-patient medical escorted trip.

§ 570.42 Non-medical escorted trips.

(a) Non-medical escorted trips allow an inmate to leave the institution under staff escort for approved, non-medical reasons. There are two types of non-medical escorted trips.

(1) Emergency non-medical escorted trip—An escorted trip for such purposes as allowing an inmate to attend the funeral of, or to make a bedside visit to, a member of an inmate's immediate family. For purposes of this rule, immediate family refers to mother, father, brother, sister, spouse, children, step-parents, and foster parents.

(2) Non-emergency, non-medical escorted trip—An escorted trip for such purposes as allowing inmates to participate in program-related functions, such as educational or religious activities, or in work-related functions.

(b) *Escorted trip procedures—emergency non-medical reasons*—Unit staff are to investigate, and determine, the merits of an escorted trip following a review of the available information. This includes contacting those persons (e.g., attending physician, hospital staff, funeral home staff, family members, United States Probation Officer) who can contribute to a determination on whether an escorted trip should be approved.

(1) The government assumes the salary expenses of escort staff for the first eight hours. All other expenses, including all non-government transportation costs, are assumed by the inmate, the inmate's family, or other appropriate source approved by the Warden. The necessary funds must be deposited to the inmate's trust fund account prior to the trip. Funds paid by the inmate for purposes of the escorted trip are then drawn, payable to the Treasury of the United States. Unexpended funds are returned to the inmate's trust fund account following the completion of the trip.

(2) A request for an inmate to receive an emergency non-medical escorted trip is prepared by unit staff, forwarded through the appropriate staff for screening and clearance, and then submitted to the Warden. Except as specified in § 570.43, the Warden may approve an inmate for an emergency non-medical escorted trip.

(c) *Escorted trip procedures—non-emergency, non-medical reasons*—This type of escorted trip is considered for an inmate who has been at the institution for at least 90 days, and who is considered eligible for less secure housing and for work details, under minimal supervision, outside the institution's perimeter.

A recommendation for an inmate to receive an escorted trip for non-emergency, non-medical reasons is prepared by the recommending staff, forwarded through the appropriate staff for screening and clearance, and then submitted to the Warden. Except as specified in § 570.43, the Warden may approve an inmate for a non-emergency, non-medical escorted trip.

§ 570.43 Maximum supervision inmates.

Only the Regional Director may approve a non-emergency escorted trip (medical or non-medical) for an inmate who requires maximum control and supervision (for example, an inmate who is assaultive or seriously disruptive to the orderly running of the institution).

§ 570.44 Supervision and restraint requirements.

Inmates under escort will be within the constant and immediate visual supervision of escorting staff *at all times*. Restraints may be applied to an inmate going on an escorted trip, after considering the purpose of the escorted trip and the degree of supervision required by the inmate. Except for escorted trips for a medical emergency, an inmate going on an escorted trip must agree in writing to the conditions of the escorted trip (e.g., agrees not to consume alcohol).

§ 570.45 Violation of escorted trip.

(a) Staff shall process as an escapee an inmate who absconds from an escorted trip.

(b) Staff may take disciplinary action against an inmate who fails to comply with any of the conditions of the escorted trip.

Dated: August 14, 1984.

Norman A. Carlson,

Director.

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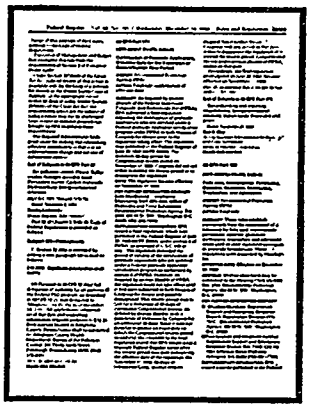

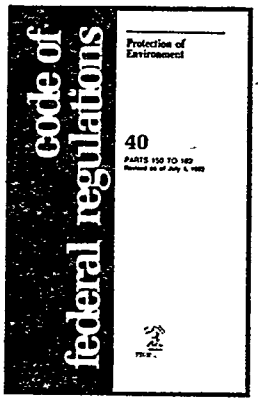

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