

# REGISTRATION

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Tuesday  
March 4, 1980

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## Highlights

- 14001 **Inter-American Development Bank Day**  
Presidential proclamation
  
- 14003 **William O. Douglas Arctic Wildlife Range**  
Presidential proclamation
  
- 14180 **Housing for Agricultural Workers** Labor/ETA  
makes technical amendments and amends rules  
relating to agency standards and OSHA temporary  
labor camp standards; effective 4-3-80 (Part II of  
this issue)
  
- 14188 **Energy Conservation Program for Consumer  
Products** DOE/SOLAR proposes rules and  
announces hearing regarding provisions for waiver  
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- 14081 **Demonstration and Evaluation Programs** USDA/  
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5-23-80
  
- 14154 **Electronic Funds Transfer and Mail Systems**  
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## Highlights

- 14035 **Homes and Condominiums** VA increases maximum interest rate on guaranteed, insured and direct loans; effective 2-28-80
  - 14024 **Mortgage Insurance and Home Improvement** HUD increases the FHA maximum interest rate and the maximum allowable finance charge on loans for various housing and housing endeavors; effective 2-28-80
  - 14028 **Housing** HUD increases high cost area adjustment factor thereby availing additional loan amounts to finance projects for the elderly or handicapped; effective 4-3-80
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Title 3—

Proclamation 4728 of February 29, 1980

The President

Inter-American Development Bank Day

By the President of the United States of America

**A Proclamation**

The destinies of the people of North America and the people of Latin America have long been linked. Because of that relationship, one of the tools for the fulfillment of Latin American and Caribbean aspirations for economic and social development is a hemispheric framework of cooperation.

The Inter-American Development Bank is an important part of that framework. It began operations twenty years ago as a mutual effort by the United States and Latin America to promote progress in the hemisphere. Since 1960, the Bank has grown to embrace the nations of the Caribbean and, as contributors, Canada and 15 developed nations outside the hemisphere.

In the course of its first two decades, the Inter-American Development Bank has committed over \$16 billion in development loans to bring electricity and running water to Latin American villages, to provide schools and health care for overcrowded cities, to supply credit to small farmers and entrepreneurs, and to promote a modern infrastructure for Latin American economies. Through its own strong efforts, assisted by the Inter-American Development Bank, Latin America as a region has achieved high real growth rates in recent years—resulting in improved living standards and expanding opportunities for trade and investment.

February 1980—the twentieth anniversary of the first meeting of the governing body of the Inter-American Development Bank—is a good time for the American people to take note of the success of a bold experiment in hemispheric sharing.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, proclaim February 29, 1980, as Inter-American Development Bank Day, in recognition of the role of the Inter-American Development Bank and in reaffirmation of the commitment of the American people and Government to the Bank and to the cause of peaceful economic and social progress in the hemisphere. I direct the Secretary of the Treasury, as United States Governor of the Inter-American Development Bank, to communicate this proclamation to the authorities of the Bank and to each of its member governments.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of February, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.





## Presidential Documents

Proclamation 4729 of February 29, 1980

### William O. Douglas Arctic Wildlife Range

By the President of the United States of America

#### A Proclamation

"The Arctic has a call that is compelling. The distant mountains make one want to go on and on over the next ridge and over the one beyond. The call is that of a wilderness known only to a few . . . This last American wilderness must remain sacrosanct."

These are the words of the late Justice William O. Douglas describing the Brooks Range in Alaska, where the Arctic National Wildlife Range is located. They were written in 1960, the year the Range was established.

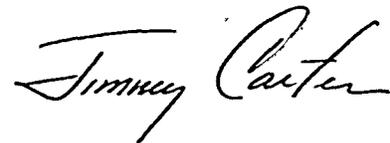
William O. Douglas staunchly asserted the right of all living things to be born, grow and die in a state of natural freedom. He cared for the moose and caribou of the arctic range as he cared for all those whose life and liberty were threatened by forces larger than themselves.

Justice Douglas insisted that the present generation must protect environmental and human rights not only for themselves but for the sake of future generations as well. He took strength from the refuge that nature and wilderness give the human soul.

It is fitting to memorialize this great American with one of America's most remarkable places. The area that will henceforth bear his name is an environment that offers the solitude and grandeur of vast arctic spaces as well as the vitality of a breeding ground for thousands of birds and for one of the largest remaining caribou herds on earth.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by virtue of the authority vested in me by the Constitution and statutes of the United States, and in consultation with the Secretary of the Interior who is charged with the management of the National Wildlife Refuge System, do hereby proclaim that the Arctic National Wildlife Range shall henceforth be known as the William O. Douglas Arctic Wildlife Range, in memory of a great American statesman and environmental leader. I hereby direct the Secretary of the Interior to take all steps necessary to implement this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of February, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.





# Rules and Regulations

Federal Register

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Tuesday, March 4, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 733

**Political Participation by U.S. Government Employees in Local Elections in the City of Manassas Park, Va.**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** In response to a request from the Mayor of the City of Manassas Park, OPM is designating that municipality as one where Government employees may participate in local elections subject to the limitations established by OPM, pursuant to the Hatch Act.

**EFFECTIVE DATE:** March 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Robert H. Moll, Office of the General Counsel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, (202) 632-7600.

**SUPPLEMENTARY INFORMATION:** On December 28, 1979, OPM published (44 FR 76799) a proposed rule to grant Federal Government employees residing in the City of Manassas Park, partial exemption from the political activity restrictions of the Hatch Act, 5 U.S.C. 7324 *et seq.* The exemption permits Federal employees to participate in local elections as or on behalf of independent candidates. OPM has received only one comment on the proposed rule, and that comment was favorable.

5 U.S.C. 553(d)(1) provides: "The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except a substantive rule which grants or recognizes an exemption or relieves a restriction." The Director of OPM has determined that the Hatch Act exemption does not require a notice

period before its effective date and that no public interest is served by delaying the effective date. Therefore, the Hatch Act exemption for the City of Manassas Park will become effective immediately.

Accordingly, OPM hereby revises 5 CFR 733.124(b) by adding the City of Manassas Park to the designated Virginia localities with Hatch Act exemptions, to be listed after Manassas and before Portsmouth.

(5 U.S.C. § 7327)

Office of Personnel Management.

Beverly M. Jones,

*Issuance System Manager.*

[FR Doc. 80-6787 Filed 3-3-80; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 210

**National School Lunch Program; State Food Distribution Advisory Councils**

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Correction of a final rule.

**SUMMARY:** On January 4, 1980 a final rule which appeared as Amendment 34 was published in the Federal Register (45 FR 996) revising the regulations governing the National School Lunch Program. The purpose of this regulation is to correct the existing Amendment 34 to appear as Amendment 35.

**EFFECTIVE DATE:** Retroactive to January 4, 1980.

**SUPPLEMENTARY INFORMATION:** On January 4, 1980 a final rule which appeared as Amendment 34 was published in the Federal Register (45 FR 996) revising the regulation governing the National School Lunch Program. This final rule implemented the provisions of Section 6(e) of Public Law 95-166 requiring that each State educational agency receiving food assistance payments for any school year shall establish for such year a State Food Distribution Advisory Council, which shall be composed of representatives of schools that participate in the National School Lunch Program. The responsibilities of this advisory council include, but are not limited to, providing the State agency, no later than January 15 of each year,

information such as (1) the most desired foods, (2) the least desired foods, and (3) recommendations for new products.

This information will be obtained in a survey of all School Food Authorities within the State, in a format provided by FNS. The purpose of this regulation is to correct the existing Amendment 34 to appear as Amendment 35.

**FOR FURTHER INFORMATION CONTACT:** Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-8130.

**Authority:** Sec. 6, P.L. 95-166, 91 Stat. 1334, 42 USC 1771 note.

**Dated:** February 28, 1980.

Carol Tucker Foreman,  
*Assistant Secretary for Food and Consumer Services.*

[FR Doc. 80-6784 Filed 3-3-80; 8:45 am]

BILLING CODE 3410-30-M

#### 7 CFR Part 283

[Amdt. No. 166]

**Food Stamp and Food Distribution Programs on Indian Reservations**

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule applies only to the implementation schedules for the Food Distribution Program on Indian reservations and is the result of a court order in *Chico Antone, et al., v. Bob Bergland, et al.* The Food Distribution Program will provide eligible households with a monthly food package based on number of household members. Six Food and Nutrition Service Regional Offices (FNSRO) were notified on November 21, 1979 to comply with the court order. The Mountain Plains FNSRO was closed on that date because of a snowstorm; that office was notified to comply with the court order on November 23, 1979.

**EFFECTIVE DATE:** November 21, 1979.

**FOR FURTHER INFORMATION CONTACT:** Darrel E. Gray, Director, Food Distribution Division, 500 12th Street, N.W., Washington, DC 20250, (202) 447-8371.

**SUPPLEMENTARY INFORMATION:** The court order reduced the timeframes for the Food and Nutrition Service to determine Indian tribal organization eligibility for and capability to

administer a Food Distribution Program from 60 days to 30 days. The court order also reduced from 180 days to 120 days the time a State agency has to begin Food Distribution Program operation for an Indian tribal organization that is not currently participating in a Food Distribution Program and that has been determined incapable of tribal administration.

The regulations are amended as follows:

§ 283.4 [Amended]

In § 283.4, paragraph (e)(2) is amended and reads as follows:

(e) *Tribal capability.* \* \* \*

(1) \* \* \*

(2) The Food and Nutrition Service (FNS) shall make a determination of potential Indian Tribal Organization (ITO) capability within 30 days of receipt of a completed application for the Food Distribution Program. FNS shall promptly advise ITOs of the need for additional information if an incomplete application is received.

§ 283.5 [Amended]

In § 283.5, paragraph (m) is amended and reads as follows:

(m) *Implementation.* FNS is required to implement the regulations of June 19, 1979 governing Administration of the Food Distribution Program to households on Indian reservations, 7 CFR Part 283, 44 FR 35928-35943, in accordance with the following schedules:

(1) Amendment 166—

(i) FNS shall determine tribal eligibility and capability to administer the Food Distribution Program within 30 days of receipt of a completed application in all cases, regardless of whether the ITO currently participates in or administers the Food Distribution Program.

(ii) Upon a FNS determination that an applicant ITO is capable of administering the Food Distribution Program, FNS shall immediately plan for and provide needed training and technical assistance to facilitate timely commencement of tribal administrative responsibilities;

(iii) The ITO shall have 120 days from FNS' determination of capability to submit and have approved a plan of operation, operating manuals and to commence program operations under the regulations as specified in this Part. Extensions may be granted by FNS to ITOs if good cause is shown:

(iv) If FNS determines that an ITO is not capable of administering the Food Distribution Program, FNS shall direct the appropriate State to begin or to

continue program operations and to submit a new plan of operation and to commence program operations under the regulations of June 19, 1979 within 120 days of the final FNS determination of ITO incapability in all cases, regardless of whether an ITO currently participates in or administers a Food Distribution Program;

(v) Extensions to the above implementation timeframe may be granted by FNS to State government agencies only if there is compelling justification involving circumstances which were not reasonably foreseeable and which are not the fault of the State agency and which circumstances present extraordinary problems that would render earlier implementation impossible.

Note.—This final rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A final Impact Analysis Statement has been prepared and is available from: Darrel E. Gray, Director, Food Distribution Division, 500 12th Street, Washington, D.C. 20250. (Catalog of Federal Domestic Assistance Programs—10.551 Food Stamps and 10.550 Food Distribution.)

Dated: February 15, 1980.

Carol Tucker Foreman,  
Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-6594 Filed 3-3-80; 8:45 am]

BILLING CODE 3410-30-M

## Agricultural Stabilization and Conservation Service

### 7 CFR Part 700

#### 1980 Rural Clean Water Program (RCWP)

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA).

ACTION: Final regulations.

SUMMARY: ASCS is publishing regulations to carry out the experimental Rural Clean Water Program (RCWP) as authorized in the Agriculture, Rural Development, and Related Agencies Appropriations Act, fiscal year 1980, Pub. L. 96-108. The program provides long-term financial and technical assistance to owners and operators having control of agricultural land. The purpose of this assistance is to install and maintain best management practices to control agricultural nonpoint source pollution for improved water quality.

EFFECTIVE DATE: March 4, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Durick, Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20013, telephone: 202-447-6221 (8:30 a.m.—4:30 p.m.).

SUPPLEMENTARY INFORMATION: These regulations implement the experimental Rural Clean Water Program authorized in the Agriculture, Rural Development, and Related Agencies Appropriations Act, fiscal year 1980, Pub. L. 96-108, 93 Stat. 821, 835, approved November 9, 1979 (hereinafter referred to as the "1980 Agriculture Appropriation Act"). The objective of the RCWP is to assist in improving water quality in rural areas, to be achieved in the most cost-effective manner possible, in keeping with the provision of adequate supplies of food and fiber and a quality environment.

The 1980 Agriculture Appropriation Act provides as follows:

"For necessary expenses for carrying out an experimental Rural Clean Water Program, \$50,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: *Provided*, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: *Provided further*, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: *Provided further*, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance."

In addition, the Conference Report to the 1980 Agriculture Appropriation Act provides, in part, as follows:

"The conferees will also expect that the approved funds will be used only for highest priority projects in geographical areas to be selected primarily from applications previously submitted to the Secretary and approved by him in consultation with the Administrator of the Environmental Protection Agency. In addition, where practical, the Agricultural Stabilization and Conservation Service and its State and local committees shall seek the advice and assistance of conservation districts, State soil and water conservation agencies or State

water quality agencies." (See H.R. 96-553, dated October 24, 1979, p. 25.)

The conferees also expected that the funding of approved projects under the 1980 RCWP will be primarily from those project applications previously submitted to the Secretary based on the regulations issued under Part 634 on November 1, 1978.

The experimental RCWP is only applicable to privately owned agricultural land, as defined herein. Any owner or operator whose land is in an approved project area and contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality plan may enter into a contract. The RCWP contract will include Best Management Practices (BMPs) to control agricultural nonpoint source pollution for improved water quality. The basis for the RCWP contracts is a land owner or operator water-quality plan prepared with technical assistance from SCS or its designee and approved by a soil conservation district. Land owner or operator participation in RCWP is on a voluntary basis. The criteria for establishing priorities among individual land owners and operators will be developed by the Local Coordinating Committee (LCC) in consultation with the State Coordinating Committee (SCC) for use by the County ASC Committee and the Soil Conservation District in setting priorities to assure that the most critical water quality problems are addressed.

Included in these rules and regulations are: (1) The responsibilities of USDA agencies, State and local agencies, land owners or operators, and EPA, (2) criteria for selecting, approving, and carrying out projects, (3) requirements for individual land owners or operators to enter into and carry out long-term RCWP contracts with financial and technical assistance, (4) provisions for project funding and termination, (5) requirements for making cost-share payments to participants, and (6) plans for program and project monitoring and evaluation.

#### General Comments

On December 21, 1979, ASCS published a notice of proposed rulemaking for RCWP. (See 44, FR 76202). ASCS received more than 1200 letters with more than 1600 comments on the published proposed rules. All comments were given full consideration in developing the final regulations. Several changes were made in the proposed rules as a result of the comments. All letters received are on file and available for public inspection

in Room 3095, South Building, 14th and Independence Avenue, S.W., Washington, D.C.

An operating procedures manual will be issued in accordance with these regulations to provide instructions for the operations of RCWP.

The comments and responses have been categorized by subject matter to facilitate ease of review as follows:

#### Program Administration (§ 700.3)

*Comment:* The proposed rules are good. Giving controls to the farmer committees at the local level is desirable.

*Response:* No response needed.

*Comment:* The State Water Quality Agency or the State Conservation Commission (or equivalent) should be given the job of managing the RCWP in order to insure the RCWP is operated in accordance with the 208 program and the State Water Quality Plan and that the rules recognize that the water quality management plan serves as a framework plan for the 1980 RCWP.

*Response:* ASCS has been delegated the authority to administer the RCWP. The 1980 RCWP is separate from the programs authorized by Section 208 of the Federal Water Pollution Control Act. The 208 planning process has been used in developing all of the previously submitted applications. The rules require all applications to be developed through a planning process and from the local level. The 208 planning process is an acceptable planning process under the 1980 RCWP.

#### Definitions (§ 700.4)

*Comment:* Several commentators felt the need to specifically include the term "farm forest" in the definition of "agricultural land" and "agricultural nonpoint source pollution". The Department of Interior requested that "Indian tribes" and "Indian lands" be specifically included as an "eligible participant" and "eligible lands".

*Response:* The planting of trees on cropland or in farm forest is eligible when needed to treat critical areas or sources in an approved project area. Indians and Indian tribes are eligible persons in RCWP. Tree planting, Indian tribes, and Indian lands are included as appropriate in the final regulations.

*Comment:* The regulations should be clarified for dealing with animal waste areas considered to be point sources of pollution rather than nonpoint sources of pollution.

*Response:* The regulations have been clarified to include the reference to 40 CFR 125.51 that animal waste areas considered to be point sources of

pollution are not eligible for assistance under RCWP.

#### Responsibilities (§ 700.5)

*Comment:* Two respondents recommended that the Chairman of the LCC and SCC (1) be elected by the committee members or (2) be the ASCS, State Executive Director (SED) or the County Executive Director (CED), respectively.

*Response:* ASCS is responsible for the administration of the RCWP at the state and county level. In order to carry out this function properly, it is essential that the top ASCS person in the State and county be responsible for program operations. There is adequate provisions for the Chairperson of the State and county committees to delegate to the State and county office staffs the day-to-day operations of the RCWP. Provisions for resolving differences between agencies will be provided in the operating procedures.

*Comment:* A number of respondents asked that county and State Extension Directors be members of the SCC and LCC and assigned the educational and informational work for RCWP.

*Response:* It was intended that the State and county Extension Service should handle the educational and informational work and also be members of the State and local coordinating committees. The regulations have been clarified with respect to these comments.

*Comment:* Several respondents requested that the regulations provide that the State "Governor will" appoint additional members to the SCC rather than "The Governor may."

*Response:* The regulations were modified to permit the Governor, at the Governor's option, to recommend additional members to the SCC.

*Comment:* A few commentators want project applications submitted to the Governor for approval before submission to the SCC and STC.

*Response:* State water quality plans were and are being developed under the authority of Section 208 of the Federal Water Pollution Control Act. The present RCWP was not funded through Section 208. State agencies are operating members of the SCC and LCC. The regulations have been clarified to indicate that their expertise is invited on water quality planning for all project applications. In addition the Governor may furnish a listing of the water quality priority areas in the State which are to be used by the SCC's and LCC's in considering and developing project applications. Where appropriate, the SCC will consult with the Governor in modifying project applications.

**USDA Officials Authority (§ 700.6)**

*Comment:* A few respondents raised a question as to how and when Section 700.6 (Officials not Precluded from Exercising Authority) would be used.

*Response:* This section relates only to the functions of the Secretary. This Section provides the Secretary, Administrator, ASCS, and Deputy Administrator, State and County Operations, ASCS, with the authority to take any action " \* \* \* where the committee or employee fails to perform a function required in these regulations." The statement in quotation was inadvertently omitted from the proposed regulations.

**Eligible Project Areas (§ 700.12)**

*Comment:* A large number of respondents expressed appreciation that the RCWP is limited to critical areas and is not just another conservation program.

*Response:* No response needed.

**Project Applications (§ 700.13)**

*Comment:* Several writers want new projects to be submitted and considered for RCWP.

*Response:* These regulations permit submitting new project applications using the criteria listed in § 700.14.

**Review and Approval of Project Applications (§ 700.14)**

*Comment:* One letter suggested adding to the project criteria the following: "Adequacy of planned action" and "Commitment of farmers and ranchers to participate in RCWP".

*Response:* Both of these items have been added to the regulations.

**Project and Technical Assistance Funding (§ 700.15)**

*Comment:* Several respondents said that RCWP funds should be made available for: (1) Informational and educational activities, (2) travel and per diem for District Commissioners, SCS, and other technical people for attending training meetings, meeting with farmers, the general public and for project application planning and development.

*Response:* The 1980 Agricultural Appropriations Act provides that RCWP funds are available for BMP cost sharing and for technical services. Expanded educational and information activities are eligible for funding from RCWP.

*Comment:* Several commentators (including contractors) requested that technical service funding be limited to not more than 5 percent of the appropriation for RCWP, (several recommended zero and that funds for technical service be provided out of

agencies' regular appropriation for administrative expenses).

*Response:* The 1980 Agricultural Appropriation Act provides that "such funds as may be required shall be transferred to the Soil Conservation Service, or others; for necessary technical assistance." The Secretary has determined that the appropriation was made for implementing a complete program, including cost sharing and technical assistance.

*Comment:* One respondent requested that the rules be clarified to show who is responsible for BMPs such as: Crop rotation, strip cropping, irrigation water management, and proper range use.

*Response:* An agency responsibility for BMPs will be made on a project by project basis and may differ between project areas.

**Eligible Lands (§ 700.20)**

*Comment:* Several respondents recommended that State, county and city owned lands devoted to agriculture uses be considered eligible under the RCWP.

*Response:* The limited amount of funds made available for the RCWP makes it desirable to exclude publicly owned lands, except for agricultural land owned by irrigation districts.

**Water Quality Plan (§ 700.23)**

*Comment:* One commentator supported that the following quoted phrase "Under RCWP a water quality management plan is not required for that part of the farm that does not have a critical nonpoint area or source of pollution" be added since RCWP is not applicable to noncritical areas.

*Response:* The above statement has been added since RCWP is applicable only to critical areas or sources.

**RCWP Contract (§ 700.25)**

*Comment:* Several commentators suggested BMP lifespans should be the longer of the length of the contract period or a minimum of five years after the year of installation.

*Response:* Some BMPs have a lifespan of only one year. Cost sharing may be provided for some management type BMPs in order to "establish a system" and the producer would be expected to continue the system or refund the cost-shares.

**Cost Share Payment (§ 700.27)**

*Comment:* A few respondents commented that the Conservation District should have the responsibility for developing cost data for BMP's.

*Response:* County ASC committees are the administering agencies of RCWP at the county level. This responsibility

includes the development of cost data for BMPs. County committees will be instructed to work closely with the Conservation District in developing these data.

*Comment:* One writer recommended the maximum payment limit be established at \$25,000 per person under all projects.

*Response:* Some of the kinds of work needed may be very expensive and extensive on some project areas. The water quality plan will provide the guide to the amount of cost sharing on each farm although the regulations provide for a \$50,000 maximum payment limitation for each participant.

**Appeals (§ 700.28)**

*Comment:* Several respondents expressed agreement with the administrative appeal procedures provided to program applicants whereby the applicant can appeal to the State Conservationist if the applicant is unable to agree with the District Conservationist on the requirements of the Water Quality Plan for the applicant's farm.

*Response:* No comment necessary.

**Monitoring and Evaluation (§ 700.40 and 700.41)**

*Comment:* Many respondents expressed concern about how the monitoring and evaluation process would be developed and carried out and who would be responsible for this process and its cost.

*Response:* The levels of monitoring and evaluation will be carried out at two levels:

(1) A general monitoring and evaluation will be carried out on all approved projects. This will be the responsibility of the agency members of the coordinating committees. The LCC will assure an adequate plan is developed and included in the project plan of work. The cost of general monitoring activities will be carried out without RCWP funds. (2) A comprehensive monitoring and evaluation will be carried out on selected projects. USDA and EPA will jointly select these projects and will develop the plan and provide for the system for carrying out the comprehensive program. The plan will identify those activities to be funded from RCWP funds and those to come from other sources.

**Public Benefits (§ 700.43)**

*Comment:* A few letters pointed out that fish and wildlife habitat must be protected in the course of implementing the RCWP.

*Response:* Section 700.43 has been added to incorporate appropriate references for among other things, the preservation of wildlife and historical sites. In addition environmental assessment is included in all phases of the planning process for projects.

#### Final Rule

Accordingly, the regulations in 7 CFR Part 700 is added to read as follows:

### PART 700—1980 RURAL CLEAN WATER PROGRAM

#### Subpart A—General

##### Sec.

- 700.1 Purpose and scope.
- 700.2 Objective.
- 700.3 Administration.
- 700.4 Definitions.
- 700.5 Responsibilities.
- 700.6 Officials not precluded from exercising authority.

#### Subpart B—Project Authorization and Funding

- 700.10 Applicability.
- 700.11 Availability of funds.
- 700.12 Eligible project areas.
- 700.13 Project applications.
- 700.14 Review and approval of project applications.
- 700.15 Project and technical assistance funding.
- 700.16 Termination of project funding.

#### Subpart C—Participant's RCWP Contracts

- 700.20 Eligible land.
- 700.21 Eligible person.
- 700.22 Application for assistance.
- 700.23 Water quality plan.
- 700.24 Cost sharing.
- 700.25 RCWP contract.
- 700.26 Contract modifications.
- 700.27 Cost-share payment.
- 700.28 Appeals.
- 700.29 Contract violations.
- 700.30 [Reserved]

#### Subpart D—Monitoring and Evaluation

- 700.40 General Program monitoring and evaluation.
- 700.41 Comprehensive USDA/EPA joint project water, quality monitoring, evaluation and analysis.
- 700.42 Program evaluation.
- 700.43 Public benefits when installing BMP's.

Authority: Pub. L. 96-108, 93 Stat. 821, 835

#### Subpart A—General

##### § 700.1 Purpose and scope.

(a) The purpose of this part is for the U.S. Department of Agriculture (USDA), with certain concurrences by the U.S. Environmental Protection Agency (EPA), to set forth regulations to carry out an experimental Rural Clean Water Program (RCWP) as authorized by the

Agriculture, Rural Development and Related Agencies Appropriations Act, fiscal year 1980, Pub. L. 96-108 (hereinafter referred to as the "1980 Appropriations Act").

(b) The RCWP will provide financial and technical assistance to private land owners and operators (participants) having control of agricultural land. The assistance is provided through long-term contracts of 3 to 10 years to install best management practices (BMPs) in approved project areas which have critical water quality problems resulting from agricultural activities. The project area must reflect the water quality priority concerns developed through the established water quality management program process. Participation RCWP is voluntary.

(c) This is a new USDA program using the experiences under various on-going USDA programs and the established water quality management program of EPA.

##### § 700.2 Objective.

The objectives of the RCWP are to:

(a) Achieve improved water quality in the approved project area in the most cost-effective manner possible in keeping with the provision of adequate supplies of food, fiber, and a quality environment.

(b) Assist agricultural land owners and operators to reduce agricultural nonpoint source water pollutants and to improve water quality in rural areas to meet water quality standards or water quality goals.

(c) Develop and test programs, policies and procedures for the control of agricultural nonpoint source pollution.

##### § 700.3 Administration.

At the national level, the Secretary of Agriculture will administer the RCWP in consultation with the Administrator, EPA, including EPA's concurrence in the selection of the BMPs, as provided in the 1980 Appropriations Act. Authority to approve projects is reserved to the Secretary. The Secretary of Agriculture hereby delegates responsibility for administration of the program to the Administrator, Agricultural Stabilization and Conservation Service (ASCS) and the coordination of technical assistance to the Chief, Soil Conservation Service (SCS). ASCS will be assisted by other USDA agencies in accordance with existing authorities.

(a) A National Rural Clean-Water Coordinating Committee (NCC), chaired by the Administrator, ASCS, will assist in carrying out the RCWP.

(b) A State Rural Clean Water Coordinating Committee (SCC) will assist the State ASC Committee in

administering the program. The State ASC Committee Chairperson will chair the SCC. Where two or more States are involved in a project area the Deputy Administrator, State and County Operations (DASCO), ASCS, shall develop a coordinating process.

(c) A Local Rural Clean Water Coordinating Committee (LCC) will be established to assure coordination at the project level. The LCC committee will be chaired by the County ASC Committee Chairperson and will assist the County ASC Committee as provided in these regulations and as otherwise developed by the SCC and the LCC. Where two or more counties are involved in a project area, the SCC shall develop a coordination process.

##### § 700.4 Definitions.

(a) *Adequate Level of Participation.* An adequate level of participation is reached when participants having control of 75 percent (unless a different level is approved by the Administrator, ASCS, with the concurrence of the NCC), of the identified critical area(s) or source(s) of the agricultural nonpoint source pollution problem in the project area, are under contract.

(b) *Administrative Services.* The administration of the RCWP except for the technical phases as assigned in § 700.5 of these regulations.

(c) *Agricultural Land.* That portion(s) of a farm or ranch used to produce: Grains, row crops, seed crops, vegetables, hay, pasture, orchards, vineyards, trees, field grown ornamentals, livestock or other agricultural commodities.

(d) *Agricultural Nonpoint Source Pollution.* Pollution originating from diffuse sources, including, but not limited to, land areas and return flows from agricultural lands such as:

- (1) Animal waste areas and land used for livestock and/or crop production, or
- (2) Lands with silviculturally related pollution.

(3) Concentrated animal feeding operations defined as point sources in 40 CFR 125.1 and 125.51, are not eligible for assistance under RCWP.

(e) *Applicant.* A person in an approved project area who applies for RCWP assistance.

(f) *Average Cost.* The calculated cost, determined by recent actual local costs and current cost estimates, considered necessary for carrying out BMPs or an identifiable unit thereof.

(g) *Best Management Practice (BMP).* A single practice or a system of practices to improve water quality included in the approved RCWP application that reduces or prevents agricultural nonpoint source pollution.

(h) *BMP Cost.* The amount of money actually paid or obligated to be paid by the participant for equipment use, materials, and services for carrying out BMPs or an identifiable unit of a BMP. If the participant uses personal resources, the cost includes the computed value of personal labor, equipment use, and materials.

(i) *BMP Life Span.* Each BMP shall have a life span of not less than 5 years unless otherwise approved by the Administrator, ASCS.

(j) *Conservation District (CD).* A subdivision of a State or territory organized pursuant to the State Soil Conservation District Law, as amended. In some States these are called soil conservation districts, soil and water conservation districts, resource conservation districts, or natural resource districts.

(k) *Contract.* The document that includes the water-quality plan and is executed by the participant and approved by the County ASC Committee. Such document evidences the agreement between parties for carrying out BMPs on the participant's land.

(l) *Contract Period.* That period of time, 3 to 10 years, established as necessary to implement the BMPs needed to solve the water quality problems in the contract.

(m) *Cost-Share Level.* That percentage of the total cost of installing a BMP which is to be borne by the government under the RCWP.

(n) *Cost Share Rate.* The amount of money per unit (cubic yard, acre, etc.) to be paid for carrying out BMPs under the RCWP.

(o) *County ASC Committee.* The County ASC Committee elected by the farmers/ranchers in the county as provided for under Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

(p) *Critical Areas or Sources.* Those designated areas or sources of agricultural nonpoint source pollutants identified in the project area as having the most significant impact on the impaired use of the receiving waters.

(q) *Direct Costs.* The costs that can be specifically identified with the program.

(r) *Farmer/Rancher.* An owner and/or operator who has a vested interest in the operation of the farm or ranch.

(s) *Federal Funds Authorized.* The total amount of funds authorized to approved projects.

(t) *Fiscal Year.* The fiscal year beginning October 1 and ending September 30.

(u) *Identifiable Unit.* A part of a BMP that can be clearly identified as a

separate component in carrying out BMPs in the water quality plan.

(v) *Implementation.* The act of carrying out or executing a water quality plan, including both installation and maintenance of BMPs.

(w) *Maximum Payment Limitation.* The total amount of RCWP payments which a participant may receive for the full contract period. The total amount of such payments shall not exceed \$50,000.

(x) *Offsite Benefits.* Favorable effects of BMPs that occur away from the land of the participant receiving RCWP assistance and which accrue to the public.

(y) *Participant.* A land owner and/or operator who is an agricultural producer and applies for and receives assistance under RCWP.

(z) *Participant's Water Quality Plan.* The plan that identifies critical agricultural nonpoint sources of pollution, identifies water quality problems and schedules the application of BMPs which contribute to meeting the water quality objectives of the project.

(aa) *Plan of Work.* A written strategy for implementing the approved project, outlining the actions needed and to be taken by various USDA, State and local agencies and interested groups.

(bb) *Pooling Agreement.* An agreement between two or more participants or ranchers to pool their resources to treat a common critical area or source.

(cc) *Privately-Owned Rural Land.* Lands not owned by Federal, State, or local governments that include cropland, pastureland, forest land, rangeland, and other associated lands.

(dd) *Project Area.* The geographic determination included in the project application as agreed upon by the SCC and LCC, and approved by the Secretary, utilizing the water quality planning process which identifies agricultural nonpoint source water quality problems.

(ee) *Project Life Span.* The maximum total life span of a project shall be not greater than fifteen (15) years from the date RCWP funds are first made available for the project.

(ff) *RCWP Project.* The total system of BMPs, administrative support, institutional arrangements, cost-sharing, technical and community support that are authorized in a RCWP project application.

(gg) *Secretary.* The Secretary of the U.S. Department of Agriculture.

(hh) *Silvicultural.* The science and art of cultivating (growing and tending) forest crops based on the knowledge of forestry. Silviculture-related pollution is included as agriculture nonpoint source pollution in the RCWP.

(ii) *Standards and Specifications.* Requirements that establish the minimum acceptable quality level for planning, designing, installing, and maintaining BMPs.

(jj) *State ASC Committee (STC).* The State ASC Committee appointed by the Secretary in accordance with Section 8 b of the Soil Conservation and Domestic Allotment Act, as amended.

(kk) *Technical Assistance.* The preparation of the participant's water quality plan, the design, layout and implementation of BMPs to accomplish the purposes of the water quality plan, and water quality monitoring and evaluation.

(ll) *Water Quality Management Program.* A Federal-state-local program for addressing and solving point and non-point source pollution problems consistent with national clean water goals. The basic authority for this program is in Sec. 208 of the Federal Water Pollution Control Act, as amended, (Pub. L. 92-500).

#### § 700.5 Responsibilities.

(a) *The United States Department of Agriculture (USDA) shall:*

(1) Administer the RCWP by entering into contracts with land owners and operators to install and maintain BMPs to control agricultural nonpoint source pollution for improved water quality and:

(i) Consult with EPA in the selection of projects;

(ii) Obtain concurrence from EPA in approval of BMPs; and

(iii) Insure an adequate joint USDA/EPA monitoring and evaluation plan is carried out on selected projects.

(2) Provide technical assistance and share the cost of carrying out BMPs as specified in the contracts.

(3) Evaluate the overall effectiveness of the program in improving water quality.

(b) *The Environmental Protection Agency (EPA) will:*

(1) Participate on the NCC, SCC and LCC.

(2) Furnish information from the water quality management planning process which can assist in identifying areas with the most critical water quality problems for project applications.

(3) Participate in the approval of project applications for funding.

(4) Concur with the Secretary on BMPs recommended by the County and State ASC Committees and approved by the Secretary for funding, or recommended by the Secretary, with concurrence of the Administrator, EPA, and approved by the State and County ASC Committees.

(5) Assist USDA in evaluating the effectiveness of the program in improving water quality, including concurrence on projects selected for comprehensive monitoring and evaluation and development of the criteria for the comprehensive, joint USDA/EPA water quality monitoring, evaluation, and analysis program.

(c) *The Agricultural Stabilization and Conservation Service shall:*

(1) Serve as chairperson of the NCC, SCC and LCC and be responsible for developing and administering the RCWP.

(2) Provide to the Secretary those project applications recommended for approval, including the recommendations of the NCC.

(3) Through County ASCS Offices, provide the administrative support in all approved RCWP projects, such as accepting applications, preparing and approving contracts, carrying out funds control, issuing cost-share payments, otherwise administering contracts and payments, provide compliance oversight, maintain records and develop reports.

(4) Enter into agreements with Federal, State and local agencies and others as needed for support to be provided in an approved RCWP project.

(5) Through County and Community ASC Committees work with landowners and operators in the project area to encourage participation.

(6) Develop cost-share rates for installing needed BMPs.

(7) Assure that RCWP is in addition to and is coordinated with other related programs.

(8) Provide guidance to State and County ASC Committees and coordinate the Agricultural Conservation Program (ACP), the Forestry Incentives Program (FIP), and related conservation programs, with RCWP.

(9) Allocate project funds, to County ASC Committees in the approved project areas.

(10) Designate the State ASC Chairperson where a project area involves a part(s) of two or more States to chair the SCC, for that project.

(d) *The Soil Conservation Service (SCS) shall:*

(1) Participate on the NCC, SCC and LCC.

(2) Coordinate technical assistance and recommend appropriate agency or group to provide technical assistance on a project by project basis.

(3) Provide technical assistance for the appropriate BMPs.

(4) Assist the LCC in developing criteria for use by the County ASC Committees and the Conservation Districts in determining priorities of

assistance among individual applicants for developing the water quality plan.

(5) Provide technical assistance in developing and certifying the technical adequacy of the participant's water quality plan.

(e) *The Forest Service (FS) shall:*

(1) Participate on the NCC and as appropriate, SCC and LCC.

(2) Have technical responsibility for forestry.

(3) Provide technical assistance for appropriate BMPs, by providing technical assistance through the State Forestry Agency (State Forester as appropriate) for planning, applying and maintaining forestry BMPs.

(4) Participate in the monitoring and evaluation as appropriate.

(5) As appropriate, assist in developing the water quality plan to assure that the most critical water quality problems are addressed.

(f) *The Science and Education Administration (SEA), through the State and County Extension Services, Appropriate, shall:*

(1) Participate on the NCC, SCC and LCC.

(2) Develop, implement, and coordinate informational and educational programs for agricultural nonpoint source water pollution control.

(3) Encourage the State and County Extension Services to develop and carry out a comprehensive educational and informational program.

(4) Provide technical assistance for appropriate BMPs including, but not limited to, fertilizer management, pest management, conservation tillage, and animal waste as appropriate.

(g) *The Economics, Statistics and Cooperative Services (ESCS) shall:*

(1) Participate on the NCC and as appropriate, SCC and LCC.

(2) Assist in the economic evaluation of RCWP projects and BMPs.

(3) Make data available from existing and planned ESCS surveys relating to water quality and related matters.

(4) Conduct socioeconomic research, within ESCS authorities and funds, on relevant policy and program issues pertinent to RCWP.

(5) Assist in the annual program evaluation and be responsible for the economic component of the comprehensive evaluation of selected projects.

(h) *The Farmers Home Administration (FmHA) shall:*

(1) Participate on the NCC, SCC and LCC.

(2) Provide assistance and coordinate their farm loan and grant programs with RCWP.

(3) Assist in the annual program evaluation.

(i) *The National Rural Clean Water Coordinating Committee (NCC).* The NCC is chaired by the Administrator, ASCS. Other members of the National Committee are Director, Office of Environmental Quality, the Administrators of, FmHA, and ESCS: the Chief of FS, SCS; the Director of SEA; and the Assistant Administrator for Water and Waste Management, EPA. Nonfederal agencies such as Conservation Districts, State soil and water conservation agencies, State water quality management agencies, and other organizations may attend as observers. The duties of the NCC are to:

(1) Assist the Administrator, ASCS, in developing the program regulations and procedures.

(2) Recommend to the Administrator, ASCS, the project applications to be approved.

(3) Advise the Secretary on the maximum Federal contribution to the total cost of the project and establish the maximum cost-share levels of BMPs.

(4) Assist in coordinating individual agency programs with the RCWP.

(5) Make recommendations as appropriate on the technical aspects of the program.

(6) Recommend project areas and criteria for comprehensive joint USDA/EPA water quality monitoring, evaluation, and analysis.

(7) Annually review the Plans of Work and approve changes in the projects.

(8) Annually review the progress in each project and periodically advise the Secretary, the Under Secretary for International Affairs and Commodity Programs, and Assistant Secretary for Natural Resources and the Environment on program and policy issues.

(j) *The State Rural Clean Water Coordinating Committee (SCC).* The SCC is chaired by the State Chairperson. Members include a representative of the agency members on the NCC or their designee. Other members are the State water quality agency having responsibility for the water quality management program, the State soil and water conservation agency, the State Director, Cooperative Extension Service, and others, including those recommended by the Governor, and approved by the Chairperson of SCC. Other State and local agencies, and organizations, or individuals may attend as observers. The duties of the committee are to:

(1) Submit its recommendations for approval of project application(s) to the State ASC Committee for forwarding to the NCC, through the Administrator, ASCS.

(2) Assure coordination of activities at the project level by assisting in

determining the composition and responsibilities of the LCC.

(3) Assure adequate public participation, including public meeting(s), and appropriate environmental evaluation in the preparation of RCWP applications.

(4) Provide oversight for the RCWP in the State and to assist USDA and EPA in their comprehensive, joint water quality monitoring and evaluation of selected project areas, including coordination with the LCC.

(5) Develop procedures for coordination between the RCWP and other water quality programs.

(6) Assist the State ASC Committee in developing the membership of the LCC. For multi county projects, there will be one LCC.

(7) Annually review and approve the plan(s) of work and changes proposed by the LCC and forward a copy to the NCC through the administrator, ASCS.

(k) *The Local Rural Clean Water Coordinating Committee (LCC).* The LCC is chaired by the County ASC Committee Chairperson. Other members include a representative of the agency members on the NCC, or their designee, where applicable, and a representative of the soil and water conservation district, the designated water quality management agency, State forestry agency, the Director, County Extension Service, and others recommended by the LCC and approved by the STC. (Where more than one county is in a project area only one LCC will be established in the project area.) The duties of the committee are to ensure that a process exists and actions are taken to implement any approved project. The duties will include, among others which may be outlined by the SCC, the following:

(1) Assure an adequate level of public participation in implementing the project.

(2) Provide project coordination, including development of the plan of work for implementing the approved project using various USDA agencies, local agencies and interested groups.

(i) Enlist resources from other agencies and local groups.

(ii) Conduct informational and educational activities relating to the project.

(iii) Develop criteria with the SCC for use by the County ASC Committee and the soil conservation district to establish priorities among individual applications for developing water quality plans.

(iv) Assure the development of an adequate plan for project monitoring and evaluation.

(3) Consult with SCC for coordination with USDA State officials, State water

quality official, and EPA regional representatives to develop criteria for project plan of work and project coordination.

(4) Review the project Plan of Work annually and recommend changes in the approved project to the SCC.

(1) *State ASC Committee shall:*

(1) Provide the chairperson for the SCC and be responsible for administration of the RCWP project(s) in the State.

(2) Submit those project applications recommended by the SCC to the Administrator, ASCS.

(3) Provide overall administrative support for the RCWP through the County ASC Committee(s).

(4) Designate a County ASC Committee Chairperson to serve as Chairperson of the LCC in multi-county projects.

(5) Approve the BMPs for inclusion in project applications.

(6) Be responsible for all other administrative functions as provided in these regulations.

(m) *The Governor of each State, at the Governor's option, may:*

(1) Recommend to the SCC Chairperson appropriate additional individuals for membership on the SCC.

(2) Furnish to the SCC a listing of the water quality priority areas in the State which are to be used by the SCCs and LCCs in considering and developing project applications.

(n) *the State soil and water conservation agency will:*

(1) Participate on the SCC.

(2) Assist in preparing and submitting RCWP project applications.

(3) Carry out responsibilities of soil conservation districts, including participation on the LCC, where no soil conservation district exists.

(o) *The State water quality agency will:*

(1) Participate on the SCC.

(2) Provide expertise in preparing RCWP project applications.

(3) Assist in monitoring and evaluating the effectiveness of the water quality projects.

(p) *The County ASC Committee shall:*

(1) Be responsible for administration of the RCWP at the local level.

(2) Provide the chairperson of the LCC.

(3) Provide overall administrative support for the RCWP approved project through the ASCS County Office, including accepting applications, administering the contracts and making payments and preparing reports.

(4) Recommend approval of BMP's.

(5) Together with the Soil Conservation District, determine the priority for technical assistance among

individual applicants for water quality plans bases on criteria developed by the LCC to assure that the most critical water quality problems are addressed.

(6) Establish the recommended cost share level for BMP's in the RCWP project applications in consultation with the LCC.

(7) Utilize the Community ASC Committee(s) and LCC in encouraging farmers in the project area to install needed BMPs on the priority basis developed by the LCC.

(8) Be responsible for developing, and annually reviewing, and carrying out the plan of work for the approved project.

(q) *The Soil Conservation District will:*

(1) Participate on the LCC.

(2) Assist in the preparation and submission of applications for the RCWP.

(3) Assist in the promotion of the approved RCWP project.

(4) Together with the County ASC Committee, determine the priority of technical assistance among individual applicants for water quality plans based on criteria developed by the LCC to assure that the most critical water quality problems are addressed.

(5) Approve applicants' water quality plans and revisions.

#### § 700.6 Officials not precluded from exercising authority.

Nothing in these regulations shall preclude the Secretary; Administrator, ASCS; NCC; or Deputy Administrator, State and County Operations, ASCS; from administering any or all phases of the RCWP programs delegated to the LCC, County ASC Committee, SCC, State ASC Committee or any employee(s) where the committee or employee fails to perform a function required in these regulations. In exercising this authority either the Secretary, Administrator, ASCS, or Deputy Administrator, ASCS, may delegate a person or persons to be in charge with full authority to carry out the program or other function(s) without regard to the LCC, ASC committee(s), or employee(s) for such period of time as is deemed necessary.

#### Subpart B—Project Authorization and Funding

##### § 700.10 Applicability.

The RCWP is applicable in project areas that meet the criteria for eligibility contained in § 700.12 and are authorized for funding by the Secretary.

##### § 700.11 Availability of funds.

(a) The allocation of funds to the County ASC Committee(s) in a project area is to be made on the basis of the

total funds needed to carry out the approved project.

(b) The obligation of Federal funds for RCWP contracts with participants is to be made on the basis of the total contract costs.

**§ 700.12 Eligible project areas.**

(a) Only those project areas which reflect the water quality priority concerns developed through the established water quality management program planning process and have identified agricultural nonpoint source water quality problems are eligible for authorization under RCWP. Only those critical areas or sources of pollutants significantly contributing to the water quality problems are eligible for financial and technical assistance.

(b) An RCWP project area is a hydrologically related land area. Exceptions may be made for ease of administration, or to focus on concentrated critical areas. To be designated as an RCWP project area eligible for authorization, the area's water quality problems must be related to agricultural nonpoint source pollutants, including but not limited to, sediment, animal waste, irrigation return flows, runoff, or leachate that contain high concentrations of nitrogen, phosphorus, dissolved solids, toxics (pesticides and heavy metals), or high pathogen levels.

**§ 700.13 Project applications.**

Existing and subsequent project applications submitted for consideration must contain adequate information on each item specified in § 700.14. Instructions on such information requirements will be issued by the Administrator, ASCS. Opportunity will be provided prior to final approval of a project for the LCC and the SCC, in consultation with the Governor, through the applicable County and State ASC Committees, for modification necessary to bring them into conformance with the provisions of these regulations.

**§ 700.14 Review and approval of project applications.**

(a) In reviewing applications and recommending priorities, the NCC will consider the following:

(1) Severity of the water quality problem caused by agricultural and silvicultural related pollutants, including:

- (i) State designated uses of the water affected,
- (ii) Kinds, sources, and effects of pollutants,
- (iii) Miles of stream or acres of water bodies affected, extent of groundwater contamination, and

(2) Demonstration of public benefits from the project, including:

- (i) Effects on human health,
- (ii) Population benefited by improved water quality,
- (iii) Effects on the natural environment,
- (iv) Additional beneficial uses of the waters that result from improvement of the water quality, and

(3) Economic, and technical feasibility to control water quality problems within the life of the project, including:

- (i) Size of the area and extent of BMPs needed,
- (ii) Cost per participant and cost per acre or source for solution of problem,
- (iii) Cost effectiveness of BMPs,
- (iv) Adequacy of planned actions to meet the project's objectives, and

(4) Suitability of the project for the experimental RCWP in the testing of programs, policies and procedures for the control of agricultural non-point source pollution, including:

- (i) A project representative of a geographic area with significant water quality problems.
- (ii) The potential of the project for monitoring and evaluation, including existing base line data, and
- (5) State, local and other input in the project area, including:

- (i) Funds for cost-sharing general monitoring and technical assistance.
- (ii) Commitment of local leadership to promote the program.
- (iii) Commitment of farmers and ranchers to participate in RCWP, and

(6) The project's contribution to meeting the national water quality goals taking into consideration of other major sources of pollutants which affect the water quality in or near the project area.

(b) Based on the project application, the NCC is to recommend an upper limit of the Federal contribution to the total cost of the project. This includes both BMP cost-share and technical assistance costs.

(c) All project applications will be reviewed by EPA. BMPs approval for funding require EPA concurrence, except that the Secretary may assume EPA's concurrence, if EPA does not act within 15 days following receipt of the request for concurrence.

(d) The Secretary will approve projects for funding taking into consideration the recommendations of the NCC and consultation with EPA. The Chairperson, State ASC Committee, through the SCC, will assure that involved Federal, State, and local agencies are informed of the project approval.

**§ 700.15 Project and technical assistance funding.**

(a) Upon approval of a project, the Administrator, ASCS, will transfer funds to the State(s) ASC Committee for funding the project. The State committee will transfer funds to the County ASC Committee(s) for the county or counties in an approved project.

(b) ASCS will transfer funds to the applicable agency or organization providing the specific technical assistance. The transfer will be made on a project by project basis.

**§ 700.16 Termination of project funding.**

(a) Based on evidence of failure to accomplish the approved project objectives, including inadequate level of participation, the Administrator, ASCS, may issue a termination notice after conferring with the Administrator, EPA, and the NCC.

(b) The State ASC Committee shall give 10-day written notice to the applicable County ASC Committee of intent to terminate project funding. The termination shall establish the effective date of termination and the date for return of funds.

(c) After receipt of a project termination, the County ASC Committee shall not make any new commitments or enter into any new RCWP contracts. Those contracts in force at the time of project termination will remain in force until completed.

**Subpart C—Participant's RCWP Contracts**

**§ 700.20 Eligible land.**

RCWP is only applicable to privately owned agricultural lands in approved project areas. Indian tribal lands and lands owned by irrigation districts are eligible lands.

**§ 700.21 Eligible person (Participant).**

(a) Any land owner or operator whose land or activities in a project area is contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality plan is eligible to enter into an RCWP contract. An individual, partnership, corporation (except corporations whose stock is publicly traded), Indian tribe, irrigation district, or other entity. Federal, State, or local governments, or subdivisions thereof, (except irrigation districts) shall not be considered as an eligible person to enter into an RCWP contract.

(b) This program will be conducted in compliance with all requirements respecting nondiscrimination as contained in the Civil Rights Act of 1964 and amendments thereto and the

Regulations of the Secretary of  
Agriculture (7 CFR 15.1-15.12).

**§ 700.22 Application for assistance.**

(a) Land owners or operators in an approved project area must apply for RCWP assistance through the office of the County ASC Committee(s) by completing the prescribed application form.

(b) The priority for developing water quality plans among applicants is to be determined by the County ASC Committee and the soil conservation district based on the criteria developed by the LCC in consultation with the SCC, with technical assistance from SCS.

**§ 700.23 Water quality plan.**

(a) The participant's water quality plan, developed with technical assistance and certification by the SCS or its designee and approved by the CD, is to include appropriate approved BMPs. Such BMPs must reduce the amount of pollutants that enter a stream, aquifer, or lake by:

(1) Methods such as reducing the application rates or changing the application methods or potential pollutants, and

(2) Methods such as practices or combinations of practices which prevent potential pollutants from leaving source areas or reduce the amount of potential pollutants that reach a stream or lake after leaving a source area.

(b) Participants' water quality plans shall include BMPs for the treatment of all critical areas or sources on the farm on that land within the project area regardless of eligibility for cost-sharing with RCWP funds. Management type BMPs which are not cost-shared but for which technical advice will be given, project participants shall be listed in the plan. A water quality plan is not required for that portion of a farm that does not include a critical area or source.

(c) The participant is responsible for compliance with all applicable Federal, State, and local laws including those relating to the environment, in installing BMPs to solve the nonpoint source water quality problems.

(d) Time schedules for implementing BMPs are to be provided in the participant's water quality plan.

(e) The SCS or its designee shall make an annual status review to assure the technical adequacy of the implementation of the water quality plan.

**§ 700.24 Cost sharing.**

(a) The level of cost-sharing for each project is approved by the Secretary,

taking into consideration the recommendation of the NCC. The federal cost-share for each BMP shall not exceed 75%, unless otherwise approved by the administrator, ASCS.

(b) The combined cost-sharing by Federal, State, or Subdivision thereof shall not exceed 100% of the cost of carrying out the BMP.

(c) The County ASC Committee(s) in consultation with the LCC will annually set maximum individual BMP cost-share rates for the project area.

(d) BMPs to be cost shared must have a positive effect on water quality.

(e) Cost sharing is not to be made available for measures installed primarily for:

(1) Bringing additional land into crop production.

(2) Increasing production on existing crop land.

(3) Flood protection.

(4) Structural measures authorized for installation under Pub. L. 83-566, Watershed Protection and Flood Prevention Act.

**§ 700.25 RCWP contract**

(a) To participate in RCWP, land owners or operators must enter into a contract in which they agree to carry out the water-quality plan. Each person who controls, or shares control, of the farm, or ranch, for the proposed contract period must sign the contract.

(b) The participant must furnish satisfactory evidence of his or her control of the farm, or ranch.

(c) Cost-sharing payments cannot be provided for any measure that is initiated before the contract is approved by the County ASC Committee.

(d) RCWP contracts shall include the basic contract document, the participant's water-quality plan, schedule of operations, and special provisions as needed.

(e) Technical assistance will be provided to participants to develop the water quality plan and to install BMPs.

(f) SCS or its designee shall approve the technical adequacy of the Water Quality Plan.

(g) Participants shall install BMPs according to the specifications that are applicable at the time the contract is signed or the measures are installed.

(h) The contract period is to be not less than 3 and not more than 10 years. A contract is to extend for at least 1 year after the application of the last cost-shared BMPs. All contract items are to be accomplished prior to contract expiration.

(i) BMPs are to be maintained by the participant at no cost to the RCWP.

(j) All BMPs in the water-quality plan shall be maintained for the established life span of the BMP.

(k) The County ASC Committee in consultation with the LCC shall establish a BMP life span for each BMP offered in the approved project area. Each BMP cost-shared shall have a life span of at least 5 years, unless otherwise approved by the Administrator, ASCS.

(l) A participant may enter into a pooling agreement with other participants to solve mutual water quality problems.

(m) Participants are responsible for:

(1) Accomplishing the water quality plan,  
(2) Obtaining and maintaining any required permits and easements necessary to perform the planned work,  
(3) Applying or arranging for the application of BMPs, as scheduled in the plan, according to approved standards and specifications,

(4) The operation and maintenance of BMPs installed during the contract period, and

(5) Obtaining the authorities, rights, easements, or other approvals necessary to maintain BMPs in keeping with applicable laws and regulations.

(n) Unless otherwise approved by the NCC, the County ASC Committees shall not enter into any new RCWP contracts after five (5) years from the date when RCWP funds are first made available to the project.

**§ 700.26 Contract modifications.**

(a) The County ASC Committee by mutual agreement with the landowner or operator, may modify contracts previously entered into if it is determined to be desirable to carry out the purposes of the program, facilitate the practical administration thereof, or to accomplish equitable treatment with respect to other conservation, land-use, and/or water quality programs.

(b) Requirements of active contracts may be modified by the County ASC Committee only if such modifications are specifically provided for in these regulations. The concurrence of SCS or its designee and the CD are necessary when modifications involve a technical aspect of the participant's water quality plan. A contract may be modified only if it is determined that such modifications are desirable to carry out purposes of the program or to facilitate the program's practical administration.

(c) Contracts may be modified when the participants add or delete land to the farm.

(d) Contracts may be modified to add, delete, or substitute BMPs when:

(1) The installed measure failed to achieve the desired results through no fault of the participant,

(2) The installed measure deteriorated because of conditions beyond the control of the participant,

(3) Another BMP will achieve the desired results, or

(4) The extent of the BMP is changed.

(e) Contract modifications are not required when items of work are accomplished prior to scheduled completion or within 1 year following the year of scheduled completion. Other time schedule revisions will require modification.

(f) If, during the contract period, all or part of the right and interest in the land is transferred by sale or other transfer action, the contract is terminated on that portion of the contract, the participant:

(1) Forfeits all right to any future cost-share payments on the transferred portion, and

(2) Must refund all cost-share payments that have been made on the transferred land unit unless the new land owner or operator becomes a party to the contract, except the payment may be retained where it is determined by the County ASC Committee after consultation with the technical agency and the CD, that the established BMPs will provide water quality benefits for the designed life of the BMP.

(g) If the new land owner or operator becomes a party to the contract:

(1) Payment which has been earned, may be made to the participant who applied the BMPs and had control prior to the transfer,

(2) The new land owner or operator is to assume all obligations of the previous participant with respect to the transferred land,

(3) The contract with the new participant is to remain in effect with the original terms and conditions, except that

(4) The original contract is to be modified in writing to show the changes caused by the transfer. If the modification is not acceptable to the County ASC Committee, the provisions of paragraphs (f) (1) and (2) of this section apply.

#### § 700.27 Cost-share payment.

(a) *General.* Participants are to obtain or contract for materials or services as needed to install BMPs. Federal cost-share payments are to be made by the County ASC Committee upon certification by the District Conservationist, SCS, or designee, that the BMPs, or an identifiable unit thereof, have been properly carried out and meet the appropriate standards and specifications.

(b) *Payment maximum.* The maximum RCWP cost-share payment to a participant shall be limited to \$50,000.

(c) *Basis for cost-share payment.* (1) Cost-share payments are to be made by the County ASC Committee at the cost-share percentage specified in the project approval notice and by one of the following methods as set out in the contract:

(i) Average cost, or

(ii) Actual cost but not to exceed the average cost.

(2) If the average cost at the time of starting the installation of a BMP or identifiable unit is less than the costs specified in the contract, payment is to be at the lower rate. If the costs at the start of installation are higher, payment may be made at the higher rate. A modification will be necessary if the higher cost results in a significant increase in the total cost-share obligation. Cost-share payment is not to be made until the modification reflecting the increase is approved.

(d) *Average cost development.* Average costs are to be developed by the County ASC Committee for each project using cost data from the local area. These costs shall be reviewed by the SCC for consistency with average costs in other USDA programs. These average costs shall be updated annually by the County ASC Committee in consultation with the LCC.

(e) *Application for payment.* Cost-share payments shall be made by the County ASC Committee after a participant has completed a BMP or an identifiable unit of a BMP and it is determined to meet standards and specifications. Application for payment must be submitted to the County ASC Committee, on the prescribed form and be supported by such cost receipts as are required by the County ASC Committee. It is the participant's responsibility to apply for payments.

(f) *Authorizations for payments to suppliers.* (1) The contract may authorize that part or all of the Federal cost share for a BMP or an identifiable unit be made directly to suppliers of materials or services. The materials or services must be delivered or performed before payment is made.

(2) Federal cost shares will not be in excess of the cost share attributable to the material or service used or not in excess of the cost share for all identifiable units as may be requested by the participant.

(g) *Material inspection and analysis.* When authorizations for payments to suppliers are specified, the County ASC Committee, its representatives, or the Federal Government reserve the right to

inspect, sample, and analyze materials or services prior to their use.

(h) *Assignments, set-offs, and claims.*

(1) Any person who may be entitled to any cost-share may assign rights thereto in accordance with regulations governing the assignments of payments. (31 U.S.C. 203, as amended, and 41 U.S.C. 15, as amended.)

(2) If any participant to whom compensation is payable under RCWP is indebted to the United States and such indebtedness is listed on the county register of indebtedness maintained by the County ASC Committee, the compensation due the participant must be used (set-off) to reduce that indebtedness. Indebtedness to USDA is to be given first consideration. Setoffs made pursuant to this section are not to deprive the participant of any right to contest the justness of the indebtedness involved. (See 7 CFR Part 13.)

(3) Any cost-share payment due any participant shall be allowed without deduction of claims for advances except as provided for above and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the participant or any other creditor.

(i) *Access to land unit and records.* The County ASC Committee, the agency providing technical assistance or representatives thereof, shall have the right of access at reasonable times to land under application or contract, and the right to examine any program records to ascertain the accuracy of any representations made in the applications or contract.

(j) *Suspension of payments.* No cost-share payments will be made pending a decision on whether or not a contract violation has occurred.

(k) *Ineligible payments.* The filing of requests for payment for BMPs not carried out, or for BMPs carried out in such a manner that they do not meet the contract specifications, constitutes a violation of the contract.

#### § 700.28 Appeals.

(a) The applicant may, prior to execution of the contract, request that the County ASC Committee review or reconsider administrative criteria being used in developing his or her contract.

(1) The applicant shall make a written request to the County ASC Committee setting forth the basis for the appeal.

(2) The County ASC Committee shall have 30 days in which to make a decision and notify the applicant in writing.

(3) The decision of the County ASC Committee may be appealed to the State ASC Committee.

(4) The State ASC Committee decision shall be final.

(b) The applicant/participant may request and receive a review by the SCS State Conservationist of criteria used in developing the water quality plan or BMP specifications.

(c) After the contract has been executed, the participant may request and receive a review of administrative procedures under the ASCS appeals procedures set out in 7 CFR Part 780.

#### § 700.29 Contract violations.

(a) The following actions constitute a violation of the RCWP contract by a participant:

- (1) Knowingly or negligently damaging or causing BMPs to become impaired.
- (2) Failing to comply with the terms of the contract.
- (3) Filing a false claim.
- (4) Misusing conservation materials or services.
- (5) Adopting a land use or practice during the contract period which tends to defeat the purposes of the program.

(b) *Contract termination as a result of violations.* (1) The participant agrees to forfeit all rights to further cost-sharing payments under a contract and to refund all cost-share payments received if the County ASC Committee with the concurrence of the State ASC Committee, determines that:

(i) There was a violation of the contract during the time the participant had control of the land; and

(ii) The violation was of such a nature as to warrant termination of the contract.

(2) The participant shall be obligated to refund all cost-share payments, including those paid to vendors for materials and services.

(c) *Payment adjustments and refunds resulting from violations.* (1) The participant agrees to refund cost-share payments received under the contract or to accept payment adjustments if the County ASC Committee determines and the State ASC Committee concurs that:

(i) There was a violation of the contract during the time the participant had control of the land; and

(ii) The nature of the violation does not warrant termination of the contract.

(2) Payment adjustments may include decreasing the rate of the cost-share, or deleting from the contract a cost-share commitment, or withholding cost-share payments earned but not paid. The participant who signs the contract may be obligated to refund cost-share payments.

#### § 700.30 [Reserved]

### Subpart D—Monitoring and Evaluation

#### § 700.40 General program monitoring and evaluation.

(a) *Requirement.* All approved RCWP projects will be monitored in sufficient detail to determine BMP application progress and to generally document water quality improvement trends through the life of the project. This will include, among others, data on BMP installation progress, payments made, refunds and periodic water quality monitoring for addressing short and long-term trends in water quality.

(b) *Monitoring Report.* A water quality monitoring report will be submitted as a part of the annual progress report. The initial report will include:

- (1) A description of water quality monitoring strategy for the area,
- (2) Data collection schedule,
- (3) Parameters being monitored (and baseline values),
- (4) Collection and analytical methods,
- (5) A summary of existing data and trends.

Subsequent reports will update the initial data and report any significant changes in water quality land use.

(c) *Program Monitoring Funding.* The project application and the proposed monitoring plan are to include an estimate of the local and State financial and technical support. General monitoring will not be financed with RCWP funds.

#### § 700.41 Comprehensive USDA/EPA joint project water quality monitoring, evaluation, and analysis.

(a) *Requirement.* The Secretary and Administrator, EPA will jointly select a limited number of projects to be comprehensively monitored and evaluated from a list of projects recommended by the NCC. The NCC will develop criteria for selecting the project areas.

(b) *Project Selection.* The NCC will recommend projects for this comprehensive program. The project areas are to be representative of the agricultural and silvicultural nonpoint source pollution problems.

(c) *Plan Development.* After a project is selected for the comprehensive monitoring and evaluation, the SCC is to submit within 90 days, a plan for USDA-EPA review and approval. USDA and EPA will have 30 days for the plan review and approval process.

(d) *Plan Requirements.* In general, the comprehensive monitoring plan will address and include the following:

- (1) *Objective.* Define the purpose and scope of the monitoring program and

establish clear objectives for each activity proposed.

(2) *Monitoring Strategy.* Define the basic hydrological and meteorological factors within the proposed RCWP project area and identify the strategy and parameters to be used to identify the changes in water quality attributable to the installation of BMPs. Wherever possible, identify and quantify changes in land use, land use patterns and farming practices that will affect the quantity, quality or timing of nonpoint source pollutants reaching an aquatic system and detail information as to number and location of sampling stations and the frequency of sample collection.

(3) *Socioeconomic Impacts.* Identify the positive and negative impacts on the landowners in the project area and estimate the community or off-site benefits expected of the project if completed as planned.

(4) *Institutional Aspects.* Identify and clearly define the role and responsibility for each participating agency including, where appropriate fiscal and manpower commitments.

(5) *Educational Aspects.* Clearly define the approach(es) to be used to inform and educate individual landowners. Include procedures for periodic evaluation of this effort so the mid-course corrections can be made if needed.

(6) *Quality Assurance.* To insure that the data collected is usable to make National projections, a quality assurance program must be included that is consistent with that of the EPA Region within which the project is located.

(7) *Data Storage.* The data collected on comprehensive monitoring projects must be available to USDA and EPA RCWP user groups.

(e) *Reporting.* Reports for these projects are to be made at least annually to the NCC based on guidance sent to the SCC by the Administrator, ASCS.

(f) *Funding.* Funding for the comprehensive monitoring will be provided from RCWP funds and other authorizations.

#### § 700.42 Program evaluation.

(a) The RCWP will be evaluated annually by the USDA. The evaluation will be based on the reports provided in these regulations and on special studies undertaken by USDA or EPA as part of the RCWP program.

(b) The USDA Deputy Under Secretary for International Affairs and Commodity Program will have the responsibility for coordinating the program evaluation and preparing an annual report for transmittal to the

Secretary of Agriculture and the Administrator of EPA. The Deputy Assistant Secretary for Natural Resources and the Director of Economics, Policy Analysis and Budget, USDA, and the Assistant Administrator for Water and Waste Management, EPA will assist in this effort.

**§ 700.43 Public benefits when installing BMP's.**

All BMP's implemented under this program shall be in compliance with regulations promulgated under Part 799 on environmental quality and related environmental concerns or similar regulations issued by a technical agency. Persons responsible for any aspect of performing BMPs shall carry out their responsibilities in such a way as to promote public benefits:

- (a) By improving or preserving environmental quality and ecological balance.
- (b) By preventing or abating pollution and other environmental degradation.
- (c) Benefiting the community by means such as preserving open space or enhancing the appearance of the area.
- (d) Benefiting wildlife and other desirable life forms.
- (e) Preserving historic, archaeological, or scenic sites, wetlands, ecologically critical areas and prime farmland.
- (f) Avoiding the creation of hazards to persons or animals.
- (g) Avoiding actions that may adversely affect an endangered or threatened species and flood plains.

Note.—A program of assistance to landowners and operators similar to that in this program was developed in 1978 by the Soil Conservation Service (SCS). The SCS went through the rule making process for such program. Draft regulations were issued in April 1978. Public hearings and public comment were received on such program and final regulations were issued on November 1, 1978 by the SCS. An environmental impact statement (EIS) and an impact analysis statement were also developed on such program. The above referred to regulations, public comments, and impact statements were utilized to the extent feasible in developing this experimental Rural Clean Water Program.

These regulations are being classified as "significant" and a Final Impact Statement and an Environmental Impact Statement is available for review from Alan Durick, ASCS, Washington, D.C.

Signed in Washington, D.C., on February 27, 1980.

Bob Bergland,  
Secretary.

[FR Doc. 80-6681 Filed 3-3-80; 8:45 am]  
BILLING CODE 3410-05-M

**Farmers Home Administration**

**7 CFR Part 1924**

**Construction and Repair, Management Assistance to Individual Borrowers and Applicants; Recordkeeping Requirements**

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Farmers Home Administration (FmHA) is amending its regulations pertaining to recordkeeping requirements for emergency loan borrowers. This revision will require borrowers receiving emergency loans of \$100,000 or more to use a recordkeeping system that provides a monthly cash flow statement, a change in financial position statement, balance sheets and an income statement. This action is taken because of the importance of such financial statements for loan servicing and for the borrower to better manage the farming operation. The intended effect is to improve and expedite loan servicing.

**EFFECTIVE DATE:** March 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Roger H. Witt, Emergency Loan Division, FmHA, Room 5336-S, 14th and Independence Avenue SW., Washington, D.C. 20250, phone: 202-447-6257.

**SUPPLEMENTARY INFORMATION:** FmHA is revising § 1924.58(b)(3) of Subpart B, Part 1924, Chapter XVIII, Title 7 in the Code of Federal Regulations to require borrowers receiving emergency loans of \$100,000 or more to use a recordkeeping system or accounting service which provides a monthly cash flow statement, a change in financial position statement, balance sheets and an income statement. This section presently requires such a recordkeeping system or accounting service to be used by borrowers receiving emergency loans of \$250,000 or more and does not require the preparation of a change in financial position statement. The revision will also encourage affected borrowers to use a computer recordkeeping system when available. Public comments were solicited through publication for 60 days in Federal Register, Volume 44, Number 223, Page 65991, on November 16, 1979. No comments were received.

**PART 1924—CONSTRUCTION AND REPAIR**

Accordingly, § 1924.58(b)(3) is amended and reads as follows:

§ 1924.58 Recordkeeping.

**(b) Responsibilities.**

(3) The system selected must provide, as a minimum, a record of the annual cash flow, beginning and end of year balance sheets, and an income statement. Borrowers receiving EM loans of \$100,000 or more will be required to use a recordkeeping system or accounting service which provides, as a minimum, a monthly cash flow statement, a change in financial position statement, beginning and end of year balance sheets, and an income statement. Such borrowers will be encouraged to use a computer recordkeeping system when available.

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

This document has also been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Analysis Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250.

**Authorities:** 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR (2.23) delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

Dated: February 11, 1980.  
Gordon Cavanaugh,  
Administrator, Farmers Home Administration.

[FR Doc. 80-6616 Filed 3-3-80; 8:45 am]  
BILLING CODE 3410-07-M

**Animal and Plant Health Inspection Service**

**9 CFR Part 92**

**Importation of Animals From Mexico**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** These amendments (1) clarify the regulations for the importation of poultry from Mexico for slaughter, (2) delete the requirements for the importation of swine as swine are ineligible to enter the United States from Mexico, (3) provide that cattle, otherwise qualified for entry, may be imported into the United States from any area of Mexico without prior permit in lieu of restricting such imports to specific States of origin in Mexico, and (4) provide that horses may be imported into the United States from Mexico for slaughter without detention at the port of entry and testing for specific diseases as is required for all other horses imported into the United States from Mexico. The intended effect of these amendments is to resolve conflicts and remove unnecessary requirements presently in the regulations.

**EFFECTIVE DATE:** April 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Dr. D. E. Herrick, USDA, APHIS, VS, 6505 Belcrest Road, Federal Building, Room 815, Hyattsville, MD 20782. 301-436-8170.

**SUPPLEMENTARY INFORMATION:** On Tuesday, August 28, 1979, there was published in the Federal Register (44 FR 50351-50353) a proposed amendment to the regulations (9 CFR Part 92) concerning the importation of animals from Mexico.

A 60 day comment period was provided for receipt of comments which expired October 29, 1979. A total of two comments were received by the Department with one respondent endorsing the proposal which provided that ruminants otherwise eligible for importation be imported from any area of Mexico.

The other respondent protested all importations from Mexico as not wanting diseases such as fever ticks and foot-and-mouth disease to be introduced into the United States. This comment is considered irrelevant as treatment for ticks was not part of the proposal and the Department has considered Mexico free of foot-and-mouth disease since 1956. Further, the Department believes it would be an unreasonable restraint on foreign commerce to restrict all importations from Mexico. The Department believes that the importation of animals from Mexico may be adequately regulated to prevent the entry of communicable diseases of livestock and poultry.

After due consideration of these comments, this final rule is published as proposed without changes.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

1. In § 92.31, paragraph (a) is amended to read:

§ 92.31 Import permits and applications for inspection for animals and animal semen.

(a) For ruminants, poultry, and animal semen intended for importation from Mexico, the importer shall first apply for and obtain from Veterinary Services an import permit as provided in § 92.4: *Provided*, That an import permit is not required for a ruminant offered for entry at a land border port designated in § 92.3(c), if such animal:

(1) Was born in Mexico or the United States, and has been in no country other than Mexico or the United States, and

(2) Has not, during the preceding 60 days been corralled, pastured, or held with, or bred by, or inseminated with semen from any ruminant which has been imported into Mexico from a country designated in § 94.1(a)(1) as infected with foot-and-mouth disease or rinderpest, and

(3) Is not pregnant as a result of having been bred by, or artificially inseminated with semen from, a ruminant imported into Mexico from countries designated in § 94.1(a) as infected with foot-and-mouth disease or rinderpest.

§ 92.33 [Amended]

2. In § 92.33(a), the term "swine" in the first sentence and the term "and swine" in the third sentence is deleted.

§ 92.34 [Redesignated and Reserved]

3. All of § 92.34 is either deleted or moved to other sections and § 92.34 is reserved. Paragraph (b) of § 92.34 is deleted. Paragraph (a) of § 92.34 is redesignated as a new paragraph (a) in § 92.35. Paragraph (c) of § 92.34 is redesignated as a new paragraph (b) in § 92.39.

4. In § 92.35, paragraphs (a), (b), and (c) are redesignated as paragraphs (b), (c), and (d) respectively; former § 92.34(a) is added as a new paragraph (a); and the third sentence in new paragraph (b) (former paragraph (a)) is amended to delete the phrase "or quarantined". New § 92.35(a) and the third sentence in new paragraph (b) are amended to read as follows:

§ 92.35 Cattle from Mexico.

(a) Cattle and other ruminants imported from Mexico, except animals being transported in bond for immediate return to Mexico or animals imported for immediate slaughter, may be detained at the port of entry, and there subjected to such disinfection, blood tests, other tests, and dipping as required in this part to determine their freedom from any communicable disease or infection of such disease. The importer shall be responsible for the care, feed, and handling of the animals during the period of detention.

(b) \* \* \* Notwithstanding such certificates, such cattle shall be detained as provided in paragraph (a) of this section and shall be dipped at least once, under the supervision of an inspector, in one of the permitted dips listed in § 72.13(b) of this chapter. \* \* \*

5. Section 92.39 is amended to read:

§ 92.39 Horses from Mexico.

(a) Horses offered for entry from Mexico shall be inspected as provided in § 92.8(a) and § 92.33; shall be accompanied by a certificate and otherwise handled as provided in § 92.17; and shall be quarantined and tested as provided in paragraph (b) of this section; *Provided*, That horses offered for importation from tick-infected areas of Mexico shall be chuto inspected, unless in the judgment of the inspector a satisfactory inspection can be made otherwise. If upon inspection they are found to be apparently free from fever ticks, before entering the United States they shall be dipped once in a permitted arsenical solution or be otherwise treated in a manner approved by the Deputy.

(b) Horses intended for importation from Mexico, except horses certified for immediate slaughter, shall be quarantined at a port designated in § 92.3 until they qualify for release from such quarantine. In order to qualify for such release, all horses while so detained shall test negative to an official test for dourine, glanders, equine piroplasmiasis, equine infectious anemia,<sup>7</sup> and such other tests that may be required by the Deputy Administrator

<sup>7</sup>In view of the fact that official tests for dourine and glanders are run exclusively at the National Veterinary Services Laboratory, Ames, Iowa, protocols for these tests have not been published and are therefore not available; copies of "Protocol for the Complement-Fixation Test for Equine Piroplasmiasis" and "Protocol for the Immuno-Diffusion (Coggins) Test for Equine Infectious Anemia" may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, Hyattsville, Maryland 20782, filed as part of the original document.

to determine their freedom from other communicable diseases. Such horses shall also be subjected to such other inspections and disinfections deemed necessary by the Deputy Administrator to prevent the introduction of communicable disease and they shall be released from quarantine only if found to be free from communicable disease upon inspection.

6. Section 92.40 is amended to read:

**§ 92.40 Animals for immediate slaughter.**

Ruminants, other than sheep and goats, and horses may be imported from Mexico, subject to the applicable provisions of §§ 92.31, 92.32, 92.33 and 92.35(b)(2) for immediate slaughter if accompanied by a certificate of a salaried veterinarian of the Mexican Government stating that he has inspected such animals on the premises of origin and found them free of evidence of communicable disease, and that, so far as it has been possible to determine, they have not been exposed to any such disease common to animals of their kind during the preceding 60 days, and if the animals are shipped by rail or truck, the certificate shall further specify that the animals were loaded into cleaned and disinfected cars or trucks for transportation directly to the port of entry. Such animals shall be consigned from the port of entry to a recognized slaughtering establishment and there slaughtered within 2 weeks from the date of entry. Such animals shall be moved from the port of entry in conveyances sealed with seals of the United States Government. Sheep and goats from any part of Mexico may be imported only in compliance with other applicable sections in this part.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 3, and 4, 76 Stat. 130, and sec. 11, 76 Stat. 132 (21 U.S.C. 111, 134a, 134b, 134c, and 134f, respectively) 37 FR 28464, 28477; 38 FR 19141.)

This final rulemaking has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations," and has not been designated "significant." An approved Impact Analysis Statement has been prepared and is available from the Program Services Staff, USDA, APHIS, V.S. Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

Done at Washington, D.C. this 27th day of February 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-6587 Filed 3-3-80; 8:45 am]

BILLING CODE 3410-34-M

**FEDERAL HOME LOAN BANK BOARD**

**12 CFR Part 526**

[No. 80-122]

**Maximum Rates on Savings Accounts**

Dated: February 26, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

**SUMMARY:** This amendment places a ceiling of 12 percent on the rate members of the Federal Home Loan Bank System may pay on 2½-year fixed rate, variable ceiling savings accounts. The maximum rate payable on those accounts is prescribed on a monthly basis, and under existing regulations, member institutions were authorized to pay a rate one-half percent below the average 2½-year rate based on the yield curve for United States Treasury Securities as determined monthly by the U.S. Department of the Treasury. This amendment provides that the maximum rate shall be 12 percent or the rate based on the Treasury yield curve, whichever is lower.

**EFFECTIVE DATE:** February 27, 1980.

**FOR FURTHER INFORMATION CONTACT:** John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202-377-8466).

**SUPPLEMENTARY INFORMATION:** By Board Resolution No. 79-839, dated December 13, 1979 (44 FR 75625), the Federal Home Loan Bank Board amended Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) to authorize member institutions to offer, beginning January 1, 1980, a new variable ceiling account with no minimum amount, a minimum term of 30 months, and a maximum rate of return one-half percent below the average 2½-year rate based on the yield curve for United States Treasury Securities as determined by the U.S. Department of the Treasury.

The maximum rate payable on those accounts is authorized on a monthly basis. The rate ceiling is determined and announced prior to the end of each month and goes into effect on the first day of the following month. The rate remains in effect until the first day of the next month, when a new ceiling rate goes into effect.

The Board, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the United States Department of the Treasury, has determined to amend Part 526 to place a limit of 12 percent on the

ceiling rate for 2½-year variable ceiling accounts. Thus, under the revised regulation, the maximum rate payable on those accounts is the lower of 12 percent or one-half percent below the 2½-year rate based on the yield curve. Compounding of interest continues to be permitted.

The Board has determined that this action is necessary because, under current market conditions, institutions would otherwise be authorized to pay significantly increased rates of interest on deposits of 2½ years or more that are not warranted by current rates available on long-term assets, such as mortgages, in which the funds would be invested.

Because this action is taken in response to pressing economic conditions, the Board has determined that notice and public procedure with respect to such amendments is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendments for the period of time specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendment would, in the opinion of the Board, likewise be unnecessary for the same reasons, the Board hereby provides that such amendment shall become effective on February 27, 1980.

Accordingly, the Federal Home Loan Bank Board hereby amends paragraph (a)(4)(ii) of § 526.3 of the Regulations for the Federal Home Loan Bank System, to read as set forth below.

**PART 526—LIMITATIONS ON RATE OF RETURN**

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) Except as provided in § 526.3-1 for certificate accounts of \$100,000 or more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage, as follows:

- (4) \* \* \*
  - (ii) The lower of 12.00% or one-half of one percent below the average two and one-half year rate based on the yield curve for United States Treasury securities as determined by the U.S. Department of the Treasury immediately prior to the first day of the month—certificate accounts with a term or qualifying period of 30 months or more issued on or after the first day of the month. No addition to any such account shall be accepted during the term of the account.

(Sec. 4, 80 Stat. 824; 12 U.S.C. § 1425b. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Rita Fair,  
Acting Secretary.

[FR Doc. 80-6780 Filed 3-3-80; 8:45 am]

BILLING CODE 6720-01-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

[Docket No. C-3009]

#### Nolan's R. V. Center, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Denver, Colo. retailer of motor homes, campers, and travel trailers to cease failing to place inside each vehicle it offers for sale, all applicable written warranties; and a sign giving the location of such warranties, and stressing the importance of comparing warranty terms before making a purchase. The firm is required to instruct its employees as to their specific obligations and duties under federal law, and to institute a surveillance program designed to detect violators of the order.

**DATES:** Complaint and order issued February 5, 1980.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** Paul C. Daw, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202. (303) 837-2271.

**SUPPLEMENTARY INFORMATION:** On Monday, November 26, 1979, there was published in the Federal Register, 44 FR 67436, a proposed consent agreement with analysis in the Matter of Nolan's R.V. Center, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in

the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records. Subpart-Failing to Comply With Affirmative Statutory Requirements: § 13.1048 Failing to comply with affirmative statutory requirements; 13.1048-35 Magnuson-Moss Warranty Act. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and/or statutory requirements; 13.1852-55 Magnuson-Moss Warranty Act.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46); interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; (15 U.S.C. 2310))

Carol M. Thomas,  
Secretary.

[FR Doc. 80-6772 Filed 3-3-80; 8:45 am]

BILLING CODE 6750-01-M

### 16 CFR Part 13

[Docket C-3008]

#### The Hartz Mountain Corp.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Harrison, N.J. manufacturer of pet supplies to cease entering into any agreement or arrangement having the tendency to fix resale prices for pet products, or restrict interbrand and intrabrand competition in the pet supply industry. The firm is specifically prohibited from entering into any exclusive or preferential dealing arrangement; and using price incentives, refusals to deal, and threats of termination to induce and maintain such arrangements. The firm is further prohibited from engaging in price discrimination; restricting sales territories and allocating customers; disparaging financial status of competitors or disfavored distributors; suggesting resale prices for pet supplies; and refusing to deal with recalcitrant distributors. Additionally, the firm is required to publish the terms of the order in the *Supermarket News*, and

maintain specified records for a designated period.

**DATES:** Complaint and order issued Jun. 31, 1980.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

**SUPPLEMENTARY INFORMATION:** On Thursday, August 30, 1979, there was published in the Federal Register, 44 FR 50858, a proposed consent agreement with analysis. In the Matter of The Hartz Mountain Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Coercing and Intimidating: § 13.355 Customers and prospective customers of competitors; § 13.358 Distributors. Subpart-Combining or Conspiring: § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.407 To disparage competitors or their products; § 13.425 To enforce or bring about resale price maintenance; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-40 Furnishing information to media; 13.533-45 Maintain records. Subpart-Cutting Off Access To Customers or Market: § 13.535 Contracts restricting customers' handling of competing products; § 13.560 Interfering with distributive outlets; § 13.573 Limiting new warehouse facilities. Subpart-Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions; § 13.655 Threatening disciplinary action or

<sup>1</sup> Copies of the Complaint and Decision and Order filed with the original document.

<sup>1</sup> Copies of the Complaint and Decision and Order filed with the original document.

otherwise. Subpart-Discriminating Between Customers: § 13.685  
Discriminating between customers; 13.685-5 Clayton Act; 13.685-10 Federal Trade Commission Act. Subpart-Discriminating In Price Under Section 2, Clayton Act—Price Discrimination Under 2(a): § 13.700 Arbitrary or improper functional discounts; § 13.715 Charges and price differentials.

Subpart—Disparaging Competitors and Their Products—Competitors: § 13.950 Reliability, history and financial condition. Subpart-Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1145 Discrimination; § 13.1160 Refusal to sell.

[Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13]

Carol M. Thomas,

Secretary.

[FR Doc. 80-6785 Filed 3-3-80; 8:45 am]

BILLING CODE 6750-01-M

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 140

#### Organization, Functions, and Procedures of the Commission; Delegation of Authority to the Director of the Complaints Section

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission is amending § 140.81 of its rules to reflect a reorganization of its reparations staff. As amended, the rule delegates to the Director of the Complaints Section the authority to perform all functions reserved to the Commission in Sections 14 (a), (b) and (d) of the Commodity Exchange Act, as amended, 7 U.S.C. § 18.

**EFFECTIVE DATE:** February 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Donald L. Tendick, Executive Director, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254-7556.

**SUPPLEMENTARY INFORMATION:** Section 14 of the Commodity Exchange Act, 7 U.S.C. 18, provides that any person who wishes to complain of a violation of any provision of the Act or any rule, regulation or order thereunder by any person registered or required to be registered with the Commission under the Commodity Exchange Act may, within two years after the cause of action accrues, apply to the Commission for a reparation award. If, after a

hearing before an Administrative Law Judge, where required, the Commission determines that the commodity professional involved has violated the Act or a Commission rule, regulation, or order it may make a reparation award to the claimant.

On April 18, 1976, the Commission delegated to the Director of the Division of Enforcement, with the power to subdelegate to persons under his direction, the authority to review and process reparation claims and related documents in accordance with the Commission's Reparation rules prior to the docketing of the formal adjudicatory proceeding. On May 5, 1978, the Commission adopted Rule 140.81 to codify that delegation. 43 FR 20970-71 (May 16, 1978).

Under the delegation, the Director or such person is empowered to review reparation claims, to forward claims and other documents to the parties and to the Commission's Office of Hearings and Appeals, to undertake appropriate investigations, to delay the institution of a formal adjudicatory proceeding if an investigation is undertaken and to institute a formal adjudicatory proceeding. This delegation of authority enables the Commission to accomplish, as promptly as possible, the review and processing of claims and related procedural matters prior to the docketing of a formal reparation proceeding.

The Commission has recently undertaken a study of its reparation system and has determined to establish a Complaints Section to review and process reparation claims and related procedural matters prior to the docketing of a formal adjudicatory proceeding and to amend Rule 140.81 to transfer the delegation of authority to do so from the Director of the Division of Enforcement to the Director of the Complaints Section. In order to effect an orderly transition between the personnel and operations of the Reparations Unit of the Division of Enforcement, and the Complaints Section, the Commission has determined that all claims pending in the Reparations Unit which were docketed prior to January 14, 1980 will be processed by the personnel of the Reparations Unit of the Division of Enforcement. All claims which were docketed from January 14, 1980 forward will be processed by the staff of the Complaints Section.

The delegation to the Director of the Complaints Section reserves to the Commission the right to revoke the delegated authority at any time and specifically empowers the Director of the Complaints Section to submit

matters to the Commission for its consideration as appropriate.

## PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

Based on the foregoing, the Commission hereby amends Part 140 of Chapter 1 of Title 17 of the Code of Federal Regulations by amending § 140.81 to read as follows:

**§ 140.81 Delegation of authority to the Director of the Complaints Section.**

Pursuant to the authority granted under sections 2(a)(4) and 2(a)(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(c) and 4a(j), the Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, the following functions to the Director of the Complaints Section, and to such person or persons under the Director's direction as the Director may designate from time to time:

(a) With respect to reparation proceedings filed pursuant to section 14 of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. 18 on and after January 14, 1980 and subject to the Commission's Reparation rules as set forth in Part 12 of this chapter, to perform all functions reserved to the Commission in Sections 14 (a), (b) and (d) of the Act and in Subparts B and C of the Reparation rules, prior to the docketing of formal adjudicatory proceedings pursuant to § 12.41 of the Reparation rules.

(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which the Director believes it appropriate, or in which the Commission so requests, such Director may submit the matter to the Commission for its consideration.

(Pub. L. 93-463, Sec. 101(a)(4) and 101(a)(11), 88 Stat. 1391 (7 U.S.C. 4a(c) and 4a(j)).

The foregoing rule shall be effective immediately. The Commission finds that the rule relates solely to agency practice and procedure and that the public procedures and publication prior to the effective date of the rule in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C. on February 27, 1980.

By the Commission.

Jane K. Stuckey,  
Secretary of the Commission.

[FR Doc. 80-6780 Filed 3-3-80; 8:45 am]

BILLING CODE 6351-01-M

**SECURITIES AND EXCHANGE  
COMMISSION****17 CFR Part 211**

[Release No. SAB-38]

**Staff Accounting Bulletin No. 38****AGENCY:** Securities and Exchange Commission.**ACTION:** Publication of Staff Accounting Bulletin.

**SUMMARY:** This interpretation of the staff amends SAB No. 25, which provided guidance to issuers in disclosing relationships with independent public accountants in proxy statements, to indicate that fees incurred by an issuer for reviews of the system of internal accounting control for purposes of determining the adequacy of the system, or reviews of the issuer's procedures for making such determinations should be considered as services provided in connection with the audit function.

**DATE:** February 26, 1980.

**FOR FURTHER INFORMATION CONTACT:** James J. Doyle (202-272-2130), Office of the Chief Accountant, or Howard P. Hodges, Jr. (202-272-2553), Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

George A. Fitzsimmons,  
*Secretary.*

February 26, 1980.

**Staff Accounting Bulletin No. 38**

The following interpretation provides the staff's view on a question concerning the requirements of 17 CFR 240.14a-101 adopted in Accounting Series Release No. 250 (43 FR 29110).

Topic 6: Interpretations of Accounting Series Releases

\* \* \* \* \*

L. ASR No. 250—Disclosure of Relationships with Independent Public Accountants.

**Amendment of Staff Accounting Bulletin No. 25**

In Staff Accounting Bulletin No. 25, the following was included as an example of services that the staff believes meet the criterion of "services

provided in connection with the audit function":

- Reviews of the system of internal accounting control for the purpose of determining the adequacy of the system when done in conjunction with the examination of financial statements.

The above example is amended to read:

- Reviews of the system of internal accounting control for the purpose of determining the adequacy of the system, or reviews of the issuer's procedures for Making such determinations.

It should be noted that Staff Accounting Bulletin No. 25 also included the following example of services which do *not* meet the criterion of "services provided in connection with the audit function," which is *not amended*:

- Internal control services provided for the purpose of designing or redesigning systems and procedures.

[FR Doc. 80-6650 Filed 3-3-80; 8:45 am]

BILLING CODE 8010-01-M

**17 CFR Parts 240 and 249**

[Release No. 34-15867; File S7-611]

**Lost and Stolen Securities Program  
Amendments; Correction****AGENCY:** Securities and Exchange Commission.**ACTION:** Final rules; correction.

**SUMMARY:** This document corrects an inadvertent omission in FR Doc. 79-16827 appearing at page 31500 in the Federal Register of May 31, 1979. In § 240.17f-1(c)(5) in the first column on page 31504, paragraph (viii) was dropped and the subsequent paragraphs incorrectly numbered. Paragraph (viii) should read "Name in which registered;" and the following paragraphs designated (viii), (ix), (x) and (xi) should be correctly numbered (ix), (x), (xi) and (xii) respectively.

**DATE:** February 27, 1980.

**FOR FURTHER INFORMATION CONTACT:** Lisa G. Gessow, Branch Chief, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, tel. 202-272-2374.

George A. Fitzsimmons,  
*Secretary.*

February 27, 1980

[FR Doc. 80-6649 Filed 3-3-80; 8:45 am]

BILLING CODE 8010-01-M

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE****Food and Drug Administration****21 CFR Part 73**

[Docket No. 78C-0041]

**Listing of Color Additives Exempt  
From Certification; Silver;  
Confirmation of Effective Date****AGENCY:** Food and Drug Administration.**ACTION:** Final rule.

**SUMMARY:** This document confirms the effective date of December 17, 1979, for a regulation concerning the use of silver in externally applied cosmetics.

**DATE:** Effective date confirmed:  
December 17, 1979.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** A regulation published in the Federal Register of November 16, 1979 (44 FR 65974) added § 73.2500 (21 CFR 73.2500) to Subpart C of Part 73 (21 CFR Part 73) to provide for the safe use of silver as a color additive in fingernail polish.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of November 16, 1979. Accordingly, the amendments promulgated thereby became effective on December 17, 1979.

Dated: February 25, 1980.

William F. Randolph,

*Acting Associate Commissioner for  
Regulatory Affairs.*

[FR Doc. 80-6529 Filed 3-3-80; 8:45 am]

BILLING CODE 4110-03-M

**21 CFR Part 520****Phenylbutazone Tablets; Revocation  
of Certain Regulations****AGENCY:** Food and Drug Administration.**ACTION:** Final rule.

**SUMMARY:** The agency is revoking that portion of the regulations reflecting approval of a new animal drug application (NADA) providing for use of a phenylbutazone tablet in treating dogs for certain inflammatory conditions associated with the musculoskeletal system. The sponsor, Norden

Laboratories, requested the withdrawal of approval.

**EFFECTIVE DATE:** March 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

**SUPPLEMENTARY INFORMATION:** In a notice published elsewhere in this issue of the Federal Register, approval of NADA 91-939 is withdrawn. This document amends the regulations to delete that portion which reflects approval of this NADA.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.84), Part 520 is amended by revising § 520.1720a(b)(4), to read as follows:

§ 520.1720a Phenylbutazone tablets and boluses.

\* \* \* \* \*

(b) \* \* \*

(4) No. 000832 for use of 100-milligram tablets in dogs.

\* \* \* \* \*

*Effective date.* March 14, 1980.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: February 26, 1980.

Lester M. Crawford,  
Director, Bureau of Veterinary Medicine.

[FR Doc. 80-6625 Filed 3-3-80; 8:45 am]

BILLING CODE 4110-03-M

**21 CFR Part 558**

**New Animal Drugs for Use in Animal Feeds; Tylosin**

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed for The Eugene Ingmand Co., providing for safe and effective use of a 2-grams-per-pound tylosin premix for making complete swine feeds.

**EFFECTIVE DATE:** March 4, 1980.

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

**SUPPLEMENTARY INFORMATION:** The Eugene Ingmand Co., Box 22, Red Oak, IA 51566, is the sponsor of a supplemental NADA (91-465) providing for use of a premix containing 2 grams of tylosin (as tylosin phosphate) per pound, in addition to an existing approval for use of a 10-grams-per-pound premix, for making complete swine feeds used to increase rate of weight gain and to improve feed efficiency.

Approval of this application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (see the Federal Register of December 23, 1977 (42 FR 64367)), the approval of this supplemental NADA does not require reevaluation of the safety and effectiveness in NADA 12-491 or in NADA 91-465.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information supporting approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-85, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(49) to read as follows:

§ 558.625 Tylosin.

\* \* \* \* \*

(b) \* \* \*

(49) To 021533: 2 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

\* \* \* \* \*

*Effective date:* This amendment is effective March 4, 1980.

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

Dated: February 26, 1980.

Robert A. Baldwin,  
Associate Director for Scientific Evaluation.

[FR Doc. 80-6624 Filed 3-3-80; 8:45 am]

BILLING CODE 4110-03-M

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-80-768]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates; Correction

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

**ACTION:** Notice of correction.

**SUMMARY:** The final rule published at 45 FR 9895, February 14, 1980 contained certain inadvertent errors which could be misinterpreted to omit language which should have been kept in effect. Parts of paragraphs, rather than complete paragraphs, on maximum permissible financing charges were published. This Notice corrects the final rule by including the previously omitted text.

**EFFECTIVE:** February 11, 1980.

**FOR FURTHER INFORMATION CONTACT:** John Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 ((202) 428-4667.) (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The final rule published at 45 FR 9895, February 14, 1980 contained certain inadvertent errors which could be misinterpreted to omit language which continues in effect. Accordingly, the following sections are corrected to read as follows:

**PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS**

**Subpart A—Eligibility Requirements—Property Improvement Loans**

1. In § 201.4 paragraph (a) is amended to read as follows:

§ 201.4 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section

which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed a 14.00 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

\* \* \* \* \*

#### Subpart B—Eligibility Requirements—Mobile Home Loans

1. In § 201.540 paragraph (a) is amended to read as follows:

##### § 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charges which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction shall not exceed 14.50 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

\* \* \* \* \*

#### Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

1. In § 201.1511, paragraph (a) is amended to read as follows:

##### § 201.1511 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charges which may be directly or indirectly paid to, or collected by, the insured in connection with a combination mobile home and lot loan or mobile home lot loan transaction shall not exceed:

- (1) 14 percent per annum.
- (2) No points or discounts of any kind may be assessed or collected in connection with the loan transaction.

Finance charges on individual loans shall be made in accordance with tables of calculation issued by the Secretary.

\* \* \* \* \*

(Section 3(a), 82 Stat. 113; 12 USC 1709-i; Section 7(d) of the Department of Housing and Urban Development Act. 42 USC 3535(d))

Issued at Washington, D.C., February 25, 1980.

Morton Baruch,

*Deputy Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 80-6714 Filed 3-3-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Parts 201, 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242, 244, and 250

[Docket No: R-80-776]

#### Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Final rule.

**SUMMARY:** The change in the regulations increases the FHA maximum interest rate on insured home and project mortgage loans, and the maximum allowable finance charge on Title I property improvement, mobile home loans and combination and mobile home lot loans. The change is necessitated by the current realities of high discounts and declining availability of FHA financing. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with other competitive market rates and help assure adequate supply of FHA financing.

**EFFECTIVE DATE:** February 28, 1980.

**FOR FURTHER INFORMATION CONTACT:** John Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202-426-4667).

**SUPPLEMENTARY INFORMATION:** The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on FHA mortgage insurance programs has been raised from 12.00 percent to 13.00 percent for home programs and from 12.00 percent to 13.00 percent for the project programs. Maximum finance charges on Mobile home loans has been raised from 14.50 percent to 15.50, and the finance charges on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been raised from 14.00 percent to 15.00 percent. The maximum charge on property improvement loans has been raised from 14.00 percent to 15.50 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market, and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

#### PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

##### Subpart A—Eligibility Requirements—Property Improvement Loans

1. In § 201.4 paragraph (a) is amended to read as follows:

##### § 201.4 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed a 15.50 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

\* \* \* \* \*

##### Subpart B—Eligibility Requirements—Mobile Home Loans

1. In § 201.540 paragraph (a) is amended to read as follows:

##### § 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 15.50 percent simple interest per annum. No points or discounts of any kind may be assessed

or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner

\* \* \* \* \*

**Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans**

1. In § 201.1511 under paragraph (a), subparagraph (1) is amended to read as follows:

**§ 201.1511 Financing charges,**

(a) *Maximum financing charges.*

\* \* \* \* \*

(1) 15 percent per annum.

\* \* \* \* \*

**PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS**

**Subpart A—Eligibility Requirements**

1. In § 203.20 paragraph (a) is amended to read as follows:

**§ 203.20 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages insured on or after February 28, 1980.

\* \* \* \* \*

2. In § 203.74 paragraph (a) is amended to read as follows:

**§ 203.74 Maximum interest rate.**

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.00 percent per annum with respect to loans insured on or after February 28, 1980.

\* \* \* \* \*

**PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT**

**Subpart A—Eligibility Requirements**

1. Section 205.50 is amended to read as follows:

**§ 205.50 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases

involving insurance upon completion) on or after February 28, 1980.

**PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements**

1. In § 207.7 paragraph (a) is amended to read as follows:

**§ 207.7 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980.

\* \* \* \* \*

**PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements—Projects**

1. In § 213.10 paragraph (a) is revised to read as follows:

**§ 213.10 Maximum interest rate.**

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, which rate shall not exceed 13.00 percent per annum with respect to mortgages or supplementary loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980.

\* \* \* \* \*

**Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage**

1. In § 213.511 paragraph (a) is amended to read as follows:

**§ 213.511 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages insured on or after February 28, 1980.

\* \* \* \* \*

**PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS**

**Subpart C—Eligibility Requirements—Projects**

1. In § 220.576 paragraph (a) is amended to read as follows:

**§ 220.576 Maximum interest rate.**

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.00 percent per annum with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980.

\* \* \* \* \*

**PART 221—LOW-COST AND MODERATE INCOME MORTGAGE INSURANCE**

**Subpart C—Eligibility Requirements—Moderate Income Projects**

1. In § 221.518 paragraph (a) is amended to read as follows:

**§ 221.518 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980. Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

\* \* \* \* \*

**PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements**

1. In § 232.29 paragraph (a) is amended to read as follows:

**§ 232.29 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980.

\* \* \* \* \*

**Subpart C—Eligibility Requirements—Supplemental Loans to Finance Purchase and Installation of Fire Safety Equipment**

2. In § 232.560 paragraph (a) is amended to read as follows:

**§ 232.560 Maximum interest rate.**

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.00 percent per annum, with respect to

loans insured on or after February 28, 1980.

**PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements—Individually Owned Units**

1. In § 234.29 paragraph (a) is amended to read as follows:

**§ 234.29 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages insured on or after February 28, 1980.

**PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION**

**Subpart D—Eligibility Requirements—Rehabilitation Projects**

1. In § 235.540 paragraph (a) is amended to read as follows:

**§ 235.540 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages insured on or after February 28, 1980.

**PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS**

**Subpart A—Eligibility Requirements for Mortgage Insurance**

1. In § 236.15 paragraph (a) is amended to read as follows:

**§ 236.15 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980.

**PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES**

**Subpart A—Eligibility Requirements**

1. Section 241.75 is amended to read as follows:

**§ 241.75 Maximum interest rate.**

The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.00 percent per annum with respect to loans insured on or after February 28, 1980. Interest shall be payable in monthly installments on the principal then outstanding.

**PART 242—MORTGAGE INSURANCE FOR HOSPITALS**

**Subpart A—Eligibility Requirements**

1. In § 242.33 paragraph (a) is amended to read as follows:

**§ 242.33 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980. Interest shall be payable in monthly installments on the principal then outstanding.

**PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES**

**Subpart A—Eligibility Requirements**

1. In § 244.45 paragraph (a) is amended to read as follows:

**§ 244.45 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after February 28, 1980.

**PART 250—COINSURANCE FOR STATE HOUSING FINANCE AGENCIES**

**Subpart C—Eligibility Requirements Applicable to All Mortgages to be Coinsured**

1. In § 250.318 paragraph (a) is amended to read as follows:

**§ 250.318 Maximum mortgage interest rate.**

(a) On and after February 28, 1980, the maximum interest rate on which commitments to insure shall be issued shall not exceed 13.00 percent per annum.

(Section 3(a), 82 Stat. 113; 12 USC 1709-1; Section 7 of the Department of Housing and Urban Development Act, 42 USC 3535(d))

Issued at Washington, D.C., February 27, 1980.

Lawrence B. Simons,  
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-6622 Filed 3-3-80; 8:45 am]

BILLING CODE 4210-01-M

**24 CFR Part 300**

[Docket No. R-80-627]

**General; List of Attorneys-in-Fact**

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Final rule.

**SUMMARY:** This amendment updates the current list of attorneys-in-fact by amending Paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in Paragraph (a) of 24 CFR 300.11.

**EFFECTIVE DATE:** April 3, 1980.

**ADDRESSES:** Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:** Mr. William J. Linane, Office of General Counsel, on (202) 755-7186.

**SUPPLEMENTARY INFORMATION:** Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

1. Paragraph (c) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name:	Region
Pan Andrus.....	Los Angeles, Calif.
Ida Behling.....	Chicago, Ill.

2. Paragraph (c) of § 300.11 is amended by adding the following names to the current list of attorneys-in-fact:

Pan Andrus.....	Los Angeles, Calif.
Ida M. Behling.....	Chicago, Ill.
Elaine Benes.....	Chicago, Ill.
Mariann Greetis.....	Chicago, Ill.
Louise E. Isabel.....	Chicago, Ill.
Brian Kleven.....	Chicago, Ill.
Martin P. Long.....	Chicago, Ill.

(Section 309(d) of the National Housing Act, 12 U.S.C. § 1723a(d), and Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. § 3535(d))

Issued at Washington, D.C., February 25, 1980.

Ronald P. Laurent,  
President, Government National Mortgage Association.

[FR Doc. 80-6784 Filed 3-3-80; 8:45 am]  
BILLING CODE 4210-01-M

**Office of Assistant Secretary for Housing—Federal Housing Commissioner**

**24 CFR Part 841**

[Docket No. N-80-979]

**Public Housing Program; Development Phase; Prototype Cost Limits for Low-Income Public Housing**

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

**ACTION:** Notice of Prototype Cost Determination.

**SUMMARY:** On June 6, 1979, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to consolidate three existing prototype areas into one area and increasing per unit prototype cost limits for elevator dwellings in eight areas in the State of Connecticut.

**EFFECTIVE DATE:** March 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6248, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-4956 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The United States Housing Act of 1937 requires determination by HUD of the costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families.

The prototype costs constitute a limit on development cost for construction and equipment of new public housing projects.

These schedules establish per unit limits on prototype costs (dwelling construction and equipment) for development of low-income public housing under the United States Housing Act of 1937. Section 6(b) of the Act provides that the prototype costs shall be effective upon the date of publication in the Federal Register, and this Notice is, therefore, made effective March 4, 1980.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the

comments is appropriate. Comments with respect to cost limits for given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, the per unit cost schedules setting Prototype Cost Limits for Low-Income Housing are amended as follows:

1. At 44 FR 32518, delete the prototype per unit cost schedules for detached and

semi-detached, row, walk-up and elevator dwellings, Region I, Danbury and Stamford, Connecticut. These areas are being incorporated into the existing area and schedule for Ridgefield, Connecticut.

2. At 44 FR 32518 and 32519, revise the per unit cost schedule for elevator dwellings, Region I, Hartford, New Milford, New Haven, Bridgeport, New London, Windham, Ridgefield, and Norwich, Connecticut.

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)); sec. 6(b) U.S. Housing Act of 1937, (42 U.S.C. 1437(d)))

Issued at Washington, D.C., on February 25, 1980.

Lawrence B. Simons,  
Assistant Secretary for Housing—Federal Housing Commissioner.

**Region I**

	Hartford	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached								
Row dwellings								
Walkup								
Elevator structure		27,500	31,850	40,450				
	New Milford	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached								
Row dwellings								
Walkup								
Elevator structure		27,500	31,850	40,450				
	New Haven	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached								
Row dwellings								
Walkup								
Elevator structure		27,500	31,850	40,450				
	Bridgeport	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached								
Row dwellings								
Walkup								
Elevator structure		28,050	32,500	41,250				
	New London	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached								
Row dwellings								
Walkup								
Elevator structure		27,500	31,850	40,450				
	Windham	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached								
Row dwellings								
Walkup								
Elevator structure		27,500	31,850	40,450				
	Ridgefield	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached								
Row dwellings								
Walkup								
Elevator structure		28,900	33,150	42,050				
	Norwich	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached								
Row dwellings								
Walkup								
Elevator structure		27,750	32,200	40,850				

[FR Doc. 80-6618 Filed 3-3-80; 8:45 am]  
BILLING CODE 4210-01-M

**24 CFR Part 841**

[Docket No. N-80-981]

**Public Housing Program Development Phase; Prototype Cost Limits for Low-Income Public Housing**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

**ACTION:** Notice of Prototype Cost Determination.

**SUMMARY:** On June 6, 1979, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to increase per unit prototype cost limits for five areas in the State of Pennsylvania.

**EFFECTIVE DATE:** March 4, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing—Room 6248, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-4956 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The United States Housing Act of 1937 requires determination by HUD of the costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families.

The prototype costs constitute a limit on development cost for construction and equipment of new public housing projects.

These schedules establish per unit limits on prototype costs (dwelling construction and equipment) for development of low-income public housing under the United States Housing Act of 1937. Section 6(b) of the Act provides that the prototype costs shall be effective upon the date of publication in the Federal Register, and this Notice is, therefore, made effective March 4, 1980.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, the per unit cost schedules setting Prototype Cost Limits for Low-Income Housing are amended as follows:

1. At 44 FR 32528 and 32529, revise the prototype per unit cost schedule for detached and semi-detached, row and walk-up dwellings, as shown on the prototype per unit cost schedule, Region III, Altoona, Erie, Johnstown, New Castle, and Sharon, Pennsylvania.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 6(b), U.S. Housing Act of 1937 (42 U.S.C. 1437(d)))

Issued at Washington, D.C., on February 25, 1980.

Lawrence B. Simons,  
Assistant Secretary for Housing—Federal Housing Commissioner.

**Region III**

Altoona	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached .....	21,300	25,550	28,350	33,700	40,400	45,100	47,100
Row dwellings .....	20,200	24,400	26,750	32,000	38,450	42,850	44,750
Walkup .....	17,800	21,900	25,200	29,700	34,350	37,850	39,600
Elevator-structure .....							

Erie	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached .....	22,100	26,500	29,300	34,900	42,000	48,750	48,800
Row dwellings .....	21,050	25,200	27,700	32,850	39,750	44,400	48,250
Walkup .....	17,650	21,800	25,000	29,500	34,200	37,700	39,600
Elevator-structure .....							

Johnstown	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached .....	21,250	25,500	28,300	33,600	40,350	45,050	47,050
Row dwellings .....	20,050	24,050	26,500	31,500	38,150	42,350	44,200
Walkup .....	17,650	21,850	25,000	29,500	34,200	37,700	39,600
Elevator-structure .....							

New Castle	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached .....	21,250	25,500	28,300	33,600	40,350	45,050	47,050
Row dwellings .....	20,200	24,200	26,700	31,800	38,350	42,700	44,550
Walkup .....	17,630	21,850	25,000	29,500	34,200	37,700	39,600
Elevator-structure .....							

Sharon	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Detached and semidetached .....	23,100	27,650	30,800	36,600	43,950	49,000	51,300
Row dwellings .....	22,050	26,450	29,100	34,650	41,650	46,550	48,550
Walkup .....	17,650	21,850	25,000	29,500	34,200	37,700	39,600
Elevator-structure .....							

[FR Doc. 80-6820 Filed 3-3-80; 8:45 am]  
BILLING CODE 4210-01-M

**24 CFR Part 885**

[Docket No. R-80-773]

**Loans for Housing the Elderly or Handicapped; Amendment To Increase High Cost Area Adjustment Factor**

**AGENCY:** Department of Housing and Urban Development

**ACTION:** Final rule.

**SUMMARY:** This amendment will permit HUD to make cost adjustment increases up to 75 percent in high cost areas above the dollar amount limitations provided in the regulation thereby making additional loan amounts available to finance projects for the elderly and handicapped under Section 202 of the Housing Act of 1959 in such high cost areas.

**EFFECTIVE DATE:** April 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. George O. Hipps, Jr., Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, Washington, D.C. 20410; (202) 755-5720.

**SUPPLEMENTARY INFORMATION:** Under current regulations, the maximum allowable cost adjustment of 50 percent above specified dollar limitations is serving to eliminate a large number of proposals to house the elderly or handicapped in our high cost metropolitan areas. This amendment will enable HUD to fund many of these worthy projects thereby resulting in a greater availability of funding for projects in high cost areas.

The Department has determined that in light of the current economic situation where numerous projects are experiencing cost problems in high cost areas, it is urgent that the benefits afforded by this amendment be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment on this amendment would cause a substantial delay in making the benefits available. Therefore, the Department finds that the normal rulemaking procedure would be contrary to the public interest. Accordingly, this amendment is being published as a final rule. In order to provide for orderly processing of proposals in the pipeline, HUD field offices shall apply this change to Section 202/8 applications which have not reached initial closing as of the effective date.

The Department has further determined that this final rule will not have a significant impact upon the quality of the environment. A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410.

In consideration of the foregoing, 24 CFR Part 885, is amended by revising § 885.410(f)(1) to read as follows:

(Note.—Section 885.410 has been erroneously reproduced in 24 Code of Federal Regulations, Revised as of April 1, 1979. A correct version is found in the Federal Register at 43 FR 8497 dated March 1, 1978.)

§ 885.410 Amount and term of financing.

\* \* \* \* \*

(f) \* \* \*

(1) In any geographical area where the Assistant Secretary finds cost levels so

require, the Assistant Secretary may increase, by not to exceed 75 percent, the dollar amount limitations set forth in § 885.410(b) and (c).

\* \* \* \* \*

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., February 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-6421 Filed 3-3-80; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

### 29 CFR Part 2520

Rules and Regulations for Reporting and Disclosure; Summary Plan Description Requirements; Final Regulations

**AGENCY:** Department of Labor.

**ACTION:** Adoption of final regulations.

**SUMMARY:** These regulations, which were effective on an interim basis, relate to the summary plan description, which is filed with the Department of Labor (Department) and is furnished to, and describes the rights and benefits of, participants and beneficiaries under an employee benefit plan. The regulations affect all plans required to file and furnish a summary plan description under the Employee Retirement Income Security Act of 1974.

**EFFECTIVE DATE:** April 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** Robert Doyle, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523-7901 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On July 19, 1977, the Department published final and interim regulations relating to the form, content and distribution of the summary plan description (42 FR 37178). The Department solicited comments on the interim regulations (29 CFR § 2520.104-5, § 2520.104-6, § 2520.104-28, § 2520.104a-7, § 2520.104b-2(a)(3), § 2520.104b-4) and, based on the comments received, is adopting the interim regulations, as modified and discussed below. These final regulations have been deemed to be "significant" within the meaning of Department of Labor guidelines implementing Executive Order 12044.

### Sections 2520.104-5 and 2520.104-6

These sections were revised in the July 19, 1977 interim regulations (a) to provide a short additional period of deferral of certain reporting and disclosure requirements relating to the summary plan description, and (b) to permit pension plans adopting master, prototype, or pattern plans on or after March 17, 1977, to defer compliance with these reporting and disclosure requirements until the expiration of the remedial amendment period provided by Internal Revenue Service regulations.

Some commentators requested that provisions of the regulation which allow certain plans that became subject to Part 1 of Title I of ERISA before March 17, 1977 to delay furnishing an SPD until 90 days following the receipt of a final determination letter from the Internal Revenue Service, be extended to plans which are established after March 17, 1977. The Department has not accepted these comments because this provision was intended to deal with problems plans were encountering in initially complying with the requirements of ERISA. However, in light of these comments, and other comments which requested clarification as to the obligation by a plan administrator to comply with the requirements to file and furnish an SPD when a determination letter has not been received from the Internal Revenue Service, § 2520.104b-2(a)(3) has been restructured to clarify when a plan becomes subject to Part 1 for purposes of that section. In addition, the preamble to that section sets forth the circumstances under which a plan which has a request for a determination letter pending with the Internal Revenue Service would not be subject to the requirements to file and furnish an SPD.

### Section 2520.104-28

This section allows certain plans a 60 day extension of time, for good cause as determined by the plan administrator, to file the initial summary plan description and to furnish it to plan participants and beneficiaries. This extension was proposed to be available only to an employee benefit plan subject to Part 1 of Title I of ERISA on or before July 19, 1977.

Some commentators requested that the extension provided be available to plans which become subject to Part 1 of Title I after July 19, 1977. The extension procedure was intended to deal with the difficulties plan administrators responsible for the preparation of summary plan descriptions might encounter in attempting to comply, for the first time, with new summary plan description requirements. The

Department does not believe similar problems will be encountered with respect to plans established after the adoption of the summary plan description regulations, and therefore, this section is adopted unchanged from the interim version.

#### Section 2520.104a-7

This section was originally proposed as § 2520.104a-5, but was subsequently redesignated as § 2520.104a-7 (42 FR 60898, November 29, 1977). The section requires a plan administrator to file a summary of material modifications with the Department no later than the date he is required to distribute that document to plan participants and beneficiaries.

One commentator questioned whether, because of the broad language in § 2520.104a-7, certain small welfare plans, which were exempted from the requirement to file a summary plan description under §§ 2520.104-20 and 2520.104-21, would nevertheless be required to file a summary of material modifications. Section 2520.104a-7 has been modified to make clear that plans which are otherwise exempt from the requirement to file a summary plan description are not required to file a summary of material modifications, since the latter document is merely a summary of changes in information previously described in the summary plan description.

#### Section 2520.104b-2(a)(3)

The summary plan description must be filed with the Department and furnished to plan participants within 120 days of such time as a plan becomes subject to Part 1 of Title I of ERISA. Interim § 2520.104b-2(a)(3) provides a rule for determining when a plan becomes subject to Part 1 of Title I of ERISA. The final section, which is unchanged in substance from the interim and proposed version, has been restructured to clarify when a plan becomes subject to Part 1 for purposes of this section. Under the interim and final version, if a plan is adopted with a prospective effective date, including those instances where the prospective date is dependent upon the satisfaction of a condition or the occurrence of a contingency, the 120 day period begins the day after the effective date (i.e., the day after the satisfaction of the condition or occurrence of the contingency).<sup>1</sup> Similarly, in the case of a plan which is made retroactively effective, but dependent upon the

<sup>1</sup> For example, if a plan is adopted with a condition that the plan will not be effective until issuance of a favorable determination letter by the Internal Revenue Service, the 120 day period will begin the day after issuance of such a letter.

satisfaction of a future condition, the 120 day period begins the day after the condition is satisfied. In order to remove any ambiguity with respect to the application of this section to a situation where a plan is adopted with a retroactive effective date (but without a condition precedent), a sentence has been added which states that in such a case, the 120 day period begins on the day after the plan is adopted.

#### Section 2520.104b-4

This section was adopted as a final regulation on March 15, 1977. Subsequently, on July 19, 1977, in light of public comments it was revised on an interim basis and proposed for final adoption to provide several methods for tailoring disclosure so that a plan may furnish to retired participants, beneficiaries receiving benefits and separated participants with vested benefits only information which is pertinent to such persons. These changes are adopted here, the Secretary of Labor having made the determinations required by section 110 of ERISA.<sup>2</sup>

Some commentators requested that the proposed alternative method of compliance be amended to permit any previously used booklet or pamphlet, supplemented with certain information, to satisfy the requirement to file and distribute a summary plan description on the date due—November 16, 1977. The Department has not adopted these comments because it appears, on the basis of the comments, that such pre-ERISA documents generally did not meet the content and format requirements of the SPD regulations. The Department believes that retired participants, vested separated participants and beneficiaries receiving benefits are entitled to information contemplated by and in a format consistent with the requirements of these regulations.

<sup>2</sup> Under section 110, the Secretary on his own motion or after having received the petition of an administrator may prescribe an alternative method for satisfying any requirement of part 1 of Title I of ERISA with respect to any pension plan, or class of pension plans, subject to such requirement if he determines—

(1) that the use of such alternative method is consistent with the purposes of this title and that it provides adequate disclosure to the participants and beneficiaries in the plan, and adequate reporting to the Secretary,

(2) that the application of such requirement of this part would—

(A) increase the costs to the plan, or  
(B) impose unreasonable administrative burdens with respect to the operation of the plan, having regard to the particular characteristics of the plan or the type of plan involved; and

(3) that the application of this part would be adverse to the interests of plan participants in aggregate.

Accordingly, under the authority of sections 101, 102, 103, 109, 110, and 505; Pub. L. 93-406, 88 Stat. 840-841, 847-852, 894 (29 U.S.C. 1021, 1022, 1024, 1029-1031, 11345) the following regulations are hereby adopted.

§ 2520.104-5 Deferral of certain reporting and disclosure requirements relating to the summary plan description for welfare plans.

(a) *General Rule.* Under the authority of section 104(a)(3) of the Act, employee welfare benefit plans described in and meeting the conditions of paragraph (b) may defer certain reporting and disclosure requirements that apply on and after July 15, 1977. These requirements may be deferred until dates that are no earlier than November 16, 1977, as provided in paragraph (c). The requirements that may be deferred include filing a copy of a summary plan description with the Secretary, furnishing a copy of a summary plan description to participants of a plan, filing material modifications to the plan and changes in the information required to be included in the summary plan description with the Secretary, furnishing a summary description of such modification or changes to participants of a plan, and furnishing a copy of the latest summary plan description to participants and beneficiaries upon written request.

(b) *Application.* (1) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act on or before March 2, 1976, the plan administrator may defer until the time specified in paragraph (c) compliance with the requirements set forth in paragraph (a), if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b-5 on or before May 30, 1976 to each participant covered under the plan as of March 2, 1976,

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b-5 to each person who became a participant covered under the plan after March 2, 1976 and before December 2, 1976, within 90 days after that person became a participant covered under the plan and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary to whom no copy of the Notice had been previously furnished.

(2) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act after March 2, 1976 but before December 2, 1976, the plan administrator may defer until the time specified in paragraph (c) compliance with the requirements set forth in paragraph (a) if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b-5 within 90 days after the date the plan became subject to the provisions of Part 1, Title I, to each person who was a participant covered under the plan on the date the plan became subject to the provisions of Part 1, Title I;

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b-5 to each person who became a participant covered under the plan after the date on which the plan became subject to the provisions of Part 1, Title I and before December 2, 1976, within 90 days after that person became a participant covered under the plan; and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary to whom no copy of the Notice had been previously furnished.

(3) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act on or after December 2, 1976, but before the date of publication of these regulations, the administrator may defer compliance with the requirements set forth in paragraph (a) until the time set in paragraph (c).

(c) The administrator of a welfare plan described in paragraph (b) who elected to defer compliance with the requirements described in paragraph (a) shall have complied with such requirements by November 16, 1977.

§ 2520.104-6 Deferral of certain reporting and disclosure requirements relating to the summary plan description for pension plans.

(a) *General rule.* Under the authority of section 110 of the Act, an alternative method of compliance which defers certain reporting and disclosure requirements that apply on and after May 30, 1976 is provided for employee pension benefit plans described in and meeting the conditions of paragraph (b). The alternative method of compliance permits pension plans to defer these requirements until the times set forth in paragraph (c) or (d). The requirements which may be deferred include filing a copy of the summary plan description with the Secretary, furnishing a copy of the summary plan description to participants and beneficiaries of a plan, filing material modifications and changes in the information required to be included in the summary plan description, with the Secretary, furnishing a summary description of such modifications or changes to participants and beneficiaries of a plan, and furnishing a copy of the latest summary plan description upon written request.

(b) *Application.* (1) In the case of a pension plan which became subject to the provisions of Part 1, Title I of the Act on or before March 2, 1976, the plan administrator may defer until the times specified in paragraph (c)(1) compliance with the requirements set forth in paragraph (a), if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b-5 on or before May 30, 1976 to each participant covered under the plan and beneficiary receiving benefits as of March 2, 1976;

(ii) Furnished an ERISA Notice to each person who became a participant covered under the plan or a beneficiary receiving benefits after March 2, 1976 but more than 120 days before the date prescribed in paragraph (c)(1), within 90 days after that person became a participant covered under the plan or beneficiary receiving benefits; and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary receiving benefits to whom no copy of the Notice had been previously furnished.

(2) In the case of a pension plan which became subject to the provisions of Part 1, Title I of the Act after March 2, 1976 but before December 2, 1976, the plan administrator may defer until the times specified in paragraph (c)(1) compliance with the requirements set forth in paragraph (a) if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b-5 within 90 days after the date the plan became subject to the provisions of Part 1, Title I to each person who was a participant covered under the plan or beneficiary receiving benefits on the date the plan became subject to the provisions of Part 1, Title I;

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b-5 to each person who became a participant covered under the plan or a beneficiary receiving benefits after the date on which the plan became subject to the provisions of Part 1, Title I but more than 120 days before the date prescribed in paragraph (c)(1), within 90 days after that person became a participant covered under the plan or a beneficiary receiving benefits; and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary receiving benefits to whom no copy of the Notice had been previously furnished.

(3) In the case of a pension plan which became subject to the provisions of Part 1, Title I of the Act on or after December 2, 1976 but before March 17, 1977, the administrator may defer compliance

with the requirements set forth in paragraph (a) until the times specified in paragraph (c)(1).

(4) In the case of a pension plan, other than a pension plan described in subparagraph (5), which became subject to the provisions of Part 1, Title I of the Act on or after March 17, 1977 and before July 19, 1977, the administrator may defer compliance with the requirements set forth in paragraph (a) until the time specified in paragraph (c)(2).

(5) In the case of a master, prototype or practitioner pattern plan which became subject to the provisions of Part 1, Title I of the Act on or after March 17, 1977, the administrator may defer compliance with the requirements set forth in paragraph (a) until the times specified in paragraph (d).

(c)(1) The administrator of a pension plan described in paragraphs (b)(1), (b)(2), or (b)(3) who elected to defer compliance with the requirements described in paragraph (a)—

(i)(A) And who files a request for a determination letter within the period prescribed in section 401(b) of the Internal Revenue Code of 1954 and the regulations issued pursuant thereto, shall have complied with the requirements described in paragraph (a) by the later of November 16, 1977 or 90 days after the date on which notice of the final determination with respect to the request for a determination letter is issued by the Internal Revenue Service, the request is withdrawn or the request is otherwise finally disposed of.

(B) For the purpose of computing the periods of time described in subparagraph (A) above, a notice of determination, opinion letter or notification letter from the Internal Revenue Service will be deemed to be issued on the later of the date of such document or the date of postmark thereon. The date of withdrawal of a request for a determination letter, opinion letter or notification letter will be deemed to be the later of the date on the document withdrawing the request or the postmark thereon. The date of "other disposition" will be the later of the date on the document notifying of such other disposition or the postmark on such document.

(ii) And who does not file a request for a determination letter within the period prescribed in section 401(b) of the Internal Revenue Code and the regulations issued pursuant thereto, shall have complied with the requirements described in paragraph (a) by the later of November 16, 1977 or the close of the period prescribed in section 401(b) of the Internal Revenue Code of

1954 and the regulations issued pursuant thereto.

(2) The administrator of a pension plan described in paragraph (b)(4) who defers compliance with the requirements described in paragraph (a) shall have complied with such requirements by November 16, 1977.

(d) *Special rule for plans adopting master, prototype or practitioner pattern plans after March 17, 1977.* The administrator of a pension plan which adopts a master, prototype, or practitioner pattern plan on or after March 17, 1977 may defer compliance with the statutory requirements described in paragraph (a) until the later of—

(1) The end of the applicable remedial amendment period described in 26 CFR § 1.401b-1(d) (1) or (2) of regulations issued by the Internal Revenue Service under section 401(b) of the Internal Revenue Code of 1954, or

(2) November 16, 1977.

**§ 2520.104-28 Extension of time for filing and disclosure of the initial summary plan description.**

(a) *General.* An employee benefit plan may, for good cause as determined by the plan administrator, extend the date to file and disclose the initial summary plan description or supplement for a period of 60 days from the date provided in § 2520.104a-3 and § 2520.104b-2. This extension is available to all employee benefit plans, except those plans described in paragraph (c), which may use the extension procedure provided under that paragraph.

(b) *Requirements.* In order for an employee benefit plan to extend the date for filing and disclosure of the initial summary plan description or supplement, the plan administrator of a plan must—

(1) Determine that there is good cause for the extension. The following are examples of situations for which good cause could be found. This list is not exclusive and other situations may also constitute good cause for extending the date for filing and disclosure:

(i) A plan whose summary plan description or supplement is being prepared by a consulting company, insurance carrier or service, or other person that engages in the preparation of summary plan descriptions or supplements, where the volume of work of such persons exceeds the capacity to finish preparation of these documents before the time to file and disclose them under § 2520.104a-3 and § 2520.104b-2.

(ii) A plan of a plan sponsor which has 20 or more classes of participants for which separate summary plan

descriptions or supplements will be filed and disclosed.

(2) Furnish with the initial summary plan description or supplement a statement describing the good cause for which the date for filing and disclosure was extended.

(c) *Plans involved in collective bargaining negotiations:* The plan administrator of a plan which by the terms of a collective bargaining agreement may be the subject of collective bargaining negotiations within a period of 120 days prior to, or after, the date for filing and disclosure of the summary plan description or supplement under § 2520.104a-3 and § 2520.104b-2, may extend the requirement to file and disclose the summary plan description or supplement for a period not to exceed 90 days from the date of conclusion of the new collective bargaining agreement. A statement explaining the basis upon which the date was extended must be furnished with the summary plan description or supplement.

(d) *Limitation.* This extension procedure is available only for an employee benefit plan which is subject to Part 1 of Title I on or before July 19, 1977.

**§ 2520.104a-7 Summary of material modification.**

The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act, and not otherwise exempt from the requirement to file and distribute a summary plan description, shall file a summary description of modifications or changes described in section 102(a)(1) of the Act with the Secretary no later than the date on which the summary description is required to be disclosed to participants and beneficiaries by § 2520.104b-3.

**§ 2520.104b-2 Summary plan description.**

(a) *Obligation to furnish.*

(3)(i) A plan becomes subject to Part 1 of Title I on the first day on which an employee is credited with an hour of service under § 2530.200b-2 or § 2530.200b-3. Where a plan is made prospectively effective to take effect after a certain date or after a condition is satisfied, the day upon which the plan becomes subject to Part 1 of Title I is the day after such date or condition is satisfied. Where a plan is adopted with a retroactive effective date, the 120 day period begins on the day after the plan is adopted. Where a plan is made retroactively effective dependent on a condition, the day on which the plan becomes subject to Part 1 of Title I is the day after the day on which the condition is satisfied. Where a plan is made

retroactively effective subject to a contingency which may or may not occur in the future, the day on which the plan becomes subject to Part 1, Title I is the day after the day on which the contingency occurs.

(ii) Examples: Company A is negotiating the purchase of Company B. On September 1, 1978, as part of the negotiations, Company A adopts a pension plan covering the employees of Company B, contingent on the successful conclusion of its negotiations to purchase Company B. The plan provides that it shall take effect on the first day of the calendar year in which the purchase is concluded. On February 1, 1979, the negotiations conclude with Company A's purchase of Company B. The plan therefore becomes effective on February 1, 1979, retroactive to January 1, 1979. The summary plan description must be filed and disclosed no later than 120 days after February 1, 1979.

**§ 2520.104b-4 Alternative methods of compliance for furnishing the summary plan description and summaries of material modifications of a pension plan to a retired participant, a separated participant with vested benefits, and a beneficiary receiving benefits.**

Under the authority of section 110 of the Act, in the case of an employee pension benefit plan—

(a) *Summary plan descriptions.* A plan administrator will be deemed to satisfy the requirements of section 104(b)(1) of the Act and § 2520.104b-2(a) to furnish a copy of the initial summary plan description to a retired participant, a beneficiary receiving benefits, or a separated participant with vested benefits ("vested separated participant") if, no earlier than the date stated in subparagraph (4) of this paragraph,

(1) In the case of a retired participant or a beneficiary receiving benefits, a document is furnished which—

(i) Meets the requirements of §§ 2520.102-2 and 2520.102-3 except paragraphs (b)(9), (b)(4), (j), (k), (l), (n), (o) and (p);

(ii) Contains a statement that the benefit payment presently being received by the retired participant or beneficiary receiving benefits will continue in the same amount and for the period provided in the mode of settlement selected at retirement, and will not be changed except as described in subparagraph (iii); and

(iii) Contains a statement describing any plan provision under which the present benefit payment may be reduced, changed, terminated, forfeited or suspended;

(2) In the case of a vested separated participant, a document is furnished which—

(i) Meets the requirements of §§ 2520.102-2 and 2520.102-3 except paragraphs (b)(3), (b)(4), (j), (l), (n), (o), (p) and (r);

(ii)(A) If at or after separation, a separated vested participant was furnished a statement of the dollar amount of the vested benefit or the method of computation of the benefit, includes a statement that the dollar amount of the vested benefit was previously furnished and that a copy of the previously furnished statement of the dollar amount of such vested benefit or method of computation of the benefit may be obtained from the plan upon request;

(B) If the vested separated participant was not furnished a statement of the dollar amount of the vested benefit or the method of computation of the benefit, the plan furnishes either a statement of the dollar amount of the vested benefit, or a statement of the formula used to determine the dollar amount of the vested benefit;

(iii) Includes a statement of the form in which the benefits will be paid and duration of the payment period or a description of the optional modes of payment available under the plan; and

(iv) Includes a statement describing any plan provision under which a benefit may be reduced, changed, terminated, forfeited or suspended; or

(3)(i) Such retired participant, vested separated participant, or beneficiary receiving benefits was furnished with a copy of a document which—

(A) Satisfies the requirements of section 102(a)(1) of the Act and § 2520.102-2 (relating to the style and format of the summary plan description) and § 2520.102-3 (relating to the content of the summary plan description);

(B) Describes the rights and obligations under the plan of such retired participant, vested separated participant, or beneficiary receiving benefits as of the date stated in subparagraph (4);

(ii) In the case of a person who retired, became a beneficiary, or separated with vested benefits before November 16, 1977, a document will be deemed to comply with the requirements of subparagraph (i) if the document omitted only information described in one or more of the provisions of § 2520.102-3 listed below, provided that a supplement containing such information, which meets the requirements of § 2520.102-2, is furnished to the retired participant, vested separated participant, or

beneficiary receiving benefits by November 16, 1977.

(A) Employer identification number (EIN), as required by § 2520.102-3(c);

(B) Type of administration, as required by § 2520.102-3(e);

(C) Name of agent for service of legal process, as required by § 2520.102-3(g);

(D) Names and addresses of trustees, as required by § 2520.102-3(h);

(E) Statement regarding plan termination insurance as required by § 2520.102-3(m);

(F) Date of the end of the fiscal year, as required by § 2520.102-3(r); or

(G) Statement of ERISA rights, as required by § 2520.102-3(t).

(4) For purposes of this paragraph the dates are: For a vested separated participant, the date of separation; for a beneficiary, the date on which payment of benefits commences; and for a retired participant, the date of retirement.

(b) *Updated summary plan descriptions.* A copy of an updated summary plan description need not be furnished as prescribed in section 104(b)(1) of the Act and § 2520.104b-2(b) to a retired participant, vested separated participant, or a beneficiary receiving benefits if—

(1)(i) On or after the date stated in subparagraph (ii), the retired participant, vested separated participant, or beneficiary is furnished with a copy of the most recent summary plan description and a copy of any summaries of material modifications not incorporated in such summary plan description;

(ii) For purposes of subparagraph (i) the dates are: for a retired participant, the date of retirement; for a vested separated participant, the date of separation; and for a beneficiary, the date on which payment of benefits commences;

(2) No later than the date on which an updated summary plan description is furnished to participants and beneficiaries as prescribed by section 104(b)(1) of the Act and § 2520.104b-2(b), a retired participant, vested separated participant, or beneficiary receiving benefits is furnished a notice containing the following:

(i) A statement that the benefit rights of such retired participant, vested separated participant, or beneficiary receiving benefits are set forth in the earlier summary plan description and any subsequently furnished summaries of material modifications (*see* paragraph (c)), and

(ii) A statement that such retired participant, vested separated participant, or beneficiary receiving

benefits may obtain a copy of the earlier summary plan description and summaries of material modifications described in subparagraph (i), and the updated summary plan description, without charge, upon request, from the plan administrator; and

(3) The plan administrator furnishes a copy of the documents described in subparagraph (2)(ii) to such retired participant, vested separated participant or beneficiary, without charge, upon request.

(c) *Summary of material modifications or changes.* A summary description of a material modification to the plan or a change in the information required to be included in the summary plan description need not be furnished to a retired participant, a vested separated participant or a beneficiary receiving benefits under the plan, within the time prescribed in section 104(b)(1) of the Act and § 2520.104b-3 for furnishing summary descriptions of such modifications and changes, if the material modification or change in no way affects such retired participant's, vested separated participant's, or beneficiary's rights under the plan. For example, a change in trustees is information which such a person may need to know in order to make inquiries about his or her rights expeditiously, and hence must be furnished. On the other hand, a modification in benefits under the plan to which such retired participant, vested separated participant, or beneficiary had not at any time been entitled (and would not in the future be entitled) would not affect his or her rights and hence need not be furnished. If such retired participant, vested separated participant, or beneficiary requests a copy of a summary description of a material modification or a change which was not furnished, the plan administrator shall furnish the copy, without charge.

(d) *Special rule for a plan which has previously furnished a summary plan description.* A plan described in § 2520.104b-2 (e) or (f) which did not specify and identify those items of information in the summary plan description pertinent to a class of participants or beneficiaries as required by § 2520.102-2 must furnish, by November 16, 1977 a supplement to the class which—

(1) Identifies the information not relevant to the class, and

(2) Provides the information required to be furnished to the class under § 2520.102-3, or under an alternative provided by this section.

Signed at Washington, D.C., this 27th day of February 1980.

Ian D. Lanoff,

*Administrator, of Pension and Welfare Benefit Programs, Labor-Management Service Administration.*

[FR Doc. 80-6528 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-29-M

## 29 CFR Part 2520

### Rules and Regulations for Reporting and Disclosure

**AGENCY:** Department of Labor.

**ACTION:** Final regulation.

**SUMMARY:** This document sets forth a regulation which requires that insurance company financial reports be filed with the Department of Labor (the Department) only upon request. This regulation will affect all plans subject to the requirement under section 103(e) of the Employee Retirement Income Security Act of 1974 (the Act) to file an insurance company financial report with the annual report of the plan.

**EFFECTIVE DATE:** These regulations are effective March 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Wayland Coe, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, 202/523-8474. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** On June 22, 1979, the Department of Labor (the Department) published in the Federal Register (44 FR 36432) a proposed regulation pertaining to reporting and disclosure under section 103(e) of the Act. The proposed regulation was designed to reduce the paperwork burden imposed by the Act by eliminating the requirement that certain employee benefit plans file insurance company financial reports with the Department on an annual basis.<sup>1</sup>

Section 103(e) of the Act provides, in part, that administrators of employee benefit plans affording benefits which are insured in whole or in part, and for which the insurance company, insurance service or similar organization does not maintain separate experience records, shall include a copy of the financial report of the insurance company, insurance service or similar organization

with the annual report of the plan filed with the Secretary of Labor (the Secretary).

Section 104(a)(3) of the Act authorizes the Secretary by regulation to exempt any welfare benefit plan from all or part of the reporting and disclosure requirements of Title I of the Act if he finds that such requirements are inappropriate as applied to welfare benefit plans. Section 110 of the Act authorizes the Secretary to prescribe an alternative method for satisfying any requirement of Part 1, Title I of the Act with respect to a pension benefit plan if he determines that the use of the alternative method meets certain statutory criteria.<sup>2</sup>

All interested persons were invited to submit comments concerning the proposal. Two comments were received. One commentator supported the proposed regulation because it would help to reduce the administrative burden and expense of complying with the Act without adversely affecting the interests of plan participants. The other commentator misread the regulation as exempting a plan from the requirement to file a Schedule A (Insurance Information) with the plan's annual report.

The Secretary has made the findings required by section 104(a)(3) and the determinations required by section 110(a), and has decided to adopt the regulation as proposed.

Because this regulation provides relief from a reporting obligation, it is effective immediately upon publication in the Federal Register, under the authority of the Administrative Procedure Act (5 U.S.C. 553(d)).

Therefore, in accordance with the authority in sections 104(a)(3), 110, and 505 of the Act, Pub. L. 93-406, 88 Stat. 848, 851, 894 (29 U.S.C. 1024, 1030, 1135), Chapter XXV of Title 29 of the Code of Federal Regulations is amended to add new § 2520.204-47 to Subpart D of Part 2520 as follows:

<sup>2</sup>The Secretary may prescribe an alternative method under section 110(a) of the Act if he determines: (1) that the use of such alternative method is consistent with the purposes of Title I of the Act and provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Department; (2) that the application of the reporting and disclosure requirements of the Act would increase the costs to plans or impose unreasonable administrative burdens with respect to the operation of plans having regard to the particular characteristics of the plans or type of plans involved; and (3) that the application of the reporting and disclosure requirements of the Act would be adverse to the interests of plan participants in the aggregate.

## PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

### Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

§ 2520.104-47 Limited exemption and alternative method of compliance for filing of insurance company financial reports.

An administrator of an employee benefit plan to which section 103(e)(2) of the Act applies shall be deemed in compliance with the requirement to include with its annual report a copy of the financial report of the insurance company, insurance service or similar organization, provided that the administrator files a copy of such report within 45 days of receipt of a written request for such report by the Secretary of Labor.

Signed at Washington, D.C., this 26th day of February, 1980.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 80-6483 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-29-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

[DOD Regulation 6010.8-R]

### Implementation of the Civilian Health and Medical Program of the Uniformed Service; Amendment No. 3

**AGENCY:** Office of the Secretary of Defense.

**ACTION:** Final rule.

**SUMMARY:** This amendment expands benefits under the Civilian Health and Medical Program of the Uniformed Services regarding the provisions of computer tomography (CT) scanning in that it adds coverage for CT scans of other anatomical regions of the body in addition to head scans; and revises the criteria for coverage of CT scans, removing requirements for hospital-based equipment. These actions will remove restrictions of beneficiary access to necessary health services.

**EFFECTIVE DATES:** Retroactively for covered CT scans provided on or after October 1, 1978.

**FOR FURTHER INFORMATION CONTACT:** LTC L. Rowlette, Special Assistant for CHAMPUS, Office of the Deputy Assistant Secretary of Defense (Health Resources and Programs) OASD(HA),

<sup>1</sup>This regulation has been deemed a significant regulation within the meaning of Department of Labor guidelines (44 FR 5570, January 28, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 23, 1978).

Washington, D.C. 20301; telephone (202) 625-6281.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 77-7834 appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation DOD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)." Amendment No. 1 was published in FR Doc. 79-9566, appearing in the Federal Register on March 29, 1979 (44 FR 18661), and Amendment No. 2 was published in FR Doc. 79-31420, appearing in the Federal Register on October 11, 1979 (44 FR 58709). A correction to Amendment No. 2 was issued by the Federal Register on October 25, 1979 (44 FR 61345). In FR Doc. 79-33592, appearing in the Federal Register on October 30, 1979 (44 FR 62295), the Office of the Secretary published a proposed rule, which expanded CHAMPUS benefits for computed tomography scans (CT scans), with an invitation for public comments to be received by November 29, 1979. Public comments received resulted in minor technical changes to the proposed rule.

**PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES**

Accordingly, 32 CFR, Chapter I, Part 199, is amended, reading as follows:

Section 199.10 is amended as follows:

a. By deleting the entire paragraph (b)(5)(x) and redesignating (b)(5)(xi) as (b)(5)(x).

b. By deleting the last sentence in paragraph (c)(2)(ix).

c. By adding a new paragraph (e)(14) as set forth below:

§ 199.10 Basic program benefits.

\* \* \* \* \*  
(e) Special Benefit Information. \* \* \*  
(14) Computed Tomography (CT) Scanning

(i) Approved CT Scan Services  
Benefits may be extended for medically necessary CT scans of the head or other anatomical regions of the body when each of the following conditions are met:

(A) The patient is referred for the diagnostic procedure by a physician; and

(B) The CT scan procedure is consistent with the preliminary diagnosis or symptoms; and

(C) Other noninvasive and less costly means of diagnosis have been attempted or are not appropriate; and

(D) The CT scan equipment is licensed or registered by the appropriate State agency responsible for licensing or

registering medical equipment which emits ionizing radiation; and

(E) The CT scan equipment is operated under the general supervision and direction of a physician; and

(F) The results of the CT scan diagnostic procedure are interpreted by a physician.

(ii) *Review Guidelines and Criteria.*

The Director, OCHAMPUS, or designee, will issue specific guidelines and criteria for CHAMPUS coverage of medically necessary head and body part CT scans.

\* \* \* \* \*

d. By deleting paragraph (g)(4) and redesignating existing paragraphs (g)(5) through (78) as (g)(4) through (77).

(10 U.S.C. 1079, 5 U.S.C. 301)

H. E. Lofdahl,

*Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.*

February 28, 1979.

[FR Doc. 80-5788 Filed 3-3-80; 8:45 am]

BILLING CODE 3810-70-M

**VETERANS ADMINISTRATION**

**38 CFR Part 36**

**Increase in Maximum Permissible Interest Rate on New, Guaranteed, Insured, and Direct Loans for Homes, Condominiums, Mobile Home Units, and Site Preparation**

**AGENCY:** Veterans Administration.

**ACTION:** Final regulations.

**SUMMARY:** The VA (Veterans Administration) is increasing the maximum interest rate on guaranteed, insured and direct loans for homes and condominiums. The interest rate is also increased on loans for the purchase of mobile home units, lots, and for site preparation. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rate will assure a continuing supply of funds for home mortgages; thereby allowing veterans to purchase a home with the assistance of a no downpayment VA loan.

**EFFECTIVE DATE:** February 28, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW., Washington, D.C. 20420 (202-389-3042).

**SUPPLEMENTARY INFORMATION:** The Administrator is required to establish a

maximum interest rate for loans guaranteed, insured or made by the Veterans Administration as he finds the mortgage money market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program it has been determined that an increase in the maximum permissible rate is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

In addition, the maximum interest rate applicable to the purchase of mobile home units and site preparation of lots owned by veterans, is also being increased for the purpose of assuring a continuing source of funds. To provide a competitive yield to investors, manufacturers and mobile home dealers are being required to pay unacceptable discounts to obtain financing for veterans under the VA programs.

A loan to purchase a mobile home lot is similar to other real estate loans and for the purpose of assuring a continuing supply of funds and consistency with other real estate programs, the rate on these loans is also being increased.

The increase in the maximum interest rate is accomplished by amending §§ 36.4212(a) (1), (2) and (3), 36.4311(a), and 36.4503(a), Title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: February 27, 1980.

Max Cleland,  
*Administrator.*

1. In § 36.4212, paragraph (a) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant

to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to February 28, 1980. (38 U.S.C. 1819(f))

(1) 15 percent simple interest per annum for that portion of the loan which finances the purchase of a mobile home unit.

(2) 13 percent simple interest per annum for that portion of the loan which finances the purchase of a lot and the cost of necessary site preparation, if any.

(3) 13 percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 15 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed \$2,500.

2. In § 36.4311, paragraph (a) is revised to read as follows:

**§ 36.4311 Interest rates.**

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13 percent per annum, effective February 28, 1980, the interest rate on any loan guaranteed or insured wholly or in part on or after such date may not exceed 13 percent per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1)).

3. In § 36.4503, paragraph (a) is revised to read as follows:

**§ 36.4503 Amount and amortization.**

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to \$33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to \$25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 13 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

(38 U.S.C. 1803(c)(1), 1819(f))

[FR Doc. 80-8775 Filed 3-3-80; 8:45 am]

BILLING CODE 8320-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[FRL 1425-1]

**Air Programs, Approval and Promulgation of State Implementation Plans; Final Rulemaking on Approval of Montana State Implementation Plan**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rulemaking.

**SUMMARY:** The purpose of this notice is to approve, conditionally approve or disapprove portions of the State Implementation Plan (SIP) revision for Montana which was received by EPA on April 24, 1979. The conditional approvals or disapprovals require Montana to undertake certain activities and to submit additional materials to satisfy the conditions or to correct the deficiencies. The SIP revision was prepared by the State to meet the requirements of the Clean Air Act (the Act), as amended in 1977. On August 2, 1979 (44 FR 45420), EPA published a notice of proposed rulemaking which described the nature of the SIP revision, discussed certain provisions which in EPA's judgment did not comply with the requirement of the Act, and requested public comment. At the request of the Governor of Montana and several other persons, the time period for accepting comments on the SIP was extended for an additional 30 days to October 4, 1979 (44 FR 55602, September 27, 1979). A number of comments were received.

The Environmental Protection Agency (EPA) has reviewed public comments received on the August 2, 1979, proposal and is taking the actions described below.

**EFFECTIVE DATE:** March 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Alkema, Air, Pesticides, and Solid Waste Coordinator, Environmental Protection Agency, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59601-(406) 449-5414.

**SUPPLEMENTARY INFORMATION:**

**Introduction**

The Environmental Protection Agency (EPA) has reviewed public comments received on the August 2, 1979, proposal and is taking the following actions:

1. Approval
  - a. Billings Total Suspended Particulate (TSP)
  - b. Great Falls TSP
2. Conditional Approval
  - a. Billings Carbon Monoxide (CO)
  - b. Butte TSP
  - c. Colstrip TSP

- d. Missoula TSP
- e. Source Surveillance Procedures
3. Disapproval
  - a. Malfunction Regulation
  - b. Missoula CO
4. Extension—SIP Submittal Deadline (secondary standards)
  - a. Butte TSP
  - b. Colstrip TSP

Elsewhere in today's Federal Register, EPA is inviting public comment on the acceptability of deadlines for complying with the conditions of approval. These deadlines have been established in response to comments and commitments made by Montana in its response to EPA's "Proposed Rulemaking" of August 2, 1979. In addition, EPA is proposing to conditionally approve the new source review program and the Colstrip control strategy based upon supplemental materials submitted by the State on October 4, 1979, and January 8, 1980.

In this notice the SIP is summarized, issues resulting in SIP approval or conditional approval are discussed, EPA's responses to relevant comments received on its proposal are included, and EPA's actions on the various portions of the SIP are discussed.

In addition to the actions discussed above, this notice takes final action on SIP revisions received by EPA on May 5, September 4, and October 1, 1975. In this notice all of those revisions are approved except for Regulation ARM 16-2.14(1), S14000 which deals with malfunctions.

The Montana SIP revision was developed and submitted to EPA in response to the requirements of Part D of the Clean Air Act, as amended in 1977. In general, the SIP is required to provide for attainment and maintenance of the national ambient air quality standards (NAAQS) for all areas which have been designated "nonattainment" pursuant to Section 107 of the Clean Air Act. Specific requirements for an approvable SIP are discussed in detail in the April 4, 1979, Federal Register (44 FR 20372), as amended by 44 FR 38583, July 2, 1979, 44 FR 50371, August 28, 1979, 44 FR 53761, September 17, 1979, and 44 FR 67182, November 23, 1979.

On March 3, 1978 (43 FR 8962), pursuant to Section 107 of the Act, EPA designated certain areas as nonattainment for the criteria air pollutants. The designated nonattainment areas in Montana are displayed in Table 1.

Table 1.—Nonattainment Areas in Montana

	Carbon monoxide	Total suspended particulate (TSP)	Sulfur dioxide (SO <sub>2</sub> )	Ozone (O <sub>3</sub> )
Anaconda area			X	
Billings area	X	X		
Butte area		X		
Columbia Falls		X		
Colstrip area		X		
E. Helena area		X	X	
Great Falls area		X		
Laurel area			X	
Missoula	X	X		
Yellowstone County				X

In accordance with Section 174 of the Act, primary responsibility for transportation planning was delegated by the Governor to organizations of local elected officials. These designated organizations are the Billings-Yellowstone City-County Planning Board, for the Billings-Yellowstone County nonattainment areas, and the Missoula City-County Health Board, for the Missoula nonattainment area. The State retained responsibility for ozone strategies since any stationary sources requiring controls would, by State laws, be under the jurisdiction of the State rather than the local agencies. New source review and any other programs beyond the scope or capability of the local agencies were also retained as State responsibilities.

The locally prepared plans were submitted to the State Board of Health in December, 1978. Following a public hearing, the Board adopted the SIP and submitted it to the Governor of Montana. The Governor submitted the SIP to EPA on April 24, 1979. EPA noticed the availability of the SIP in the Federal Register on May 23, 1979 (44 FR 29931), and requested public comments.

The Department of Transportation (DOT) has reviewed the SIP and submitted comments to EPA in accordance with the June 16, 1978, EPA-DOT Memorandum of Understanding and the Region VIII EPA-DOT procedures on SIP review. DOT's comments were considered in preparation of this notice.

On August 2, 1979, EPA proposed action on the SIP revision in the Federal Register (44 FR 45420). At the request of Montana's Governor and several other interested parties, the time period allowed for commenting on the EPA proposal was extended to October 4, 1979 (44 FR 55602, September 27, 1979). On that date, the Governor submitted the State's response to EPA's proposal. The reply included clarification of various portions of the plan, together

with schedules for the completion of certain activities.

#### Detailed Discussion

The discussion contained herein is divided on a geographical basis into seven sections: Statewide, Anaconda, Billings-Yellowstone County, Butte, Colstrip, Great Falls, and Missoula. Included in the discussion are a description of the SIP revision for each geographic area and a description of those portions of the SIP which are inadequate because they did not propose to accomplish all that is required by the Clean Air Act and its regulations. The discussion gives schedules and deadlines to correct most of these deficiencies.

It describes deficiencies which were satisfied by supplemental information provided by the Governor on October 4, 1979. It sets forth relevant public comments on the proposal and EPA's response to them. And finally, it explains EPA's decision to approve, conditionally approve, or disapprove portions of the SIP based on the State's submission.

This notice takes final action on the entire Montana SIP, as revised on May 5, 1975, September 4, 1975, October 1, 1975, April 24, 1979, and October 4, 1979, except as noted below:

a. Areas approved in a prior Federal Register notice:

1. Anaconda SO<sub>2</sub>
2. Columbia Falls TSP
3. East Helena TSP
4. Laurel SO<sub>2</sub>

b. Areas upon which action has been delayed:

1. East Helena SO<sub>2</sub>
2. Yellowstone County Ozone
3. Prevention of Significant

#### Deterioration

4. Stack Heights
5. New Source Review Program

Certain non Part D requirements which are not addressed in the SIP (e.g., Section 128—State Boards) will be dealt with in a separate notice.

#### Statewide Portion

*I. Airborne Particulate (Fugitive Dust) Rule.* In December 1978, the State Board of Health conducted a public hearing on a proposed airborne particulate regulation. Based on testimony presented at the hearing, a portion of the regulation relating to emissions from paved and unpaved roads was deleted and the Board directed the Air Quality Bureau to conduct a study to further evaluate the problem. The Air Quality Bureau is to use the results of the study to develop particulate emission standards for paved and unpaved roads. Particulate emissions from these sources

are significant problems in all of the State's TSP nonattainment areas. A schedule for the completion of the proposed study and for adoption of the regulation is included in the SIP. This schedule, as revised on October 4, 1979, indicates that the study will be completed by October 30, 1980, and that a regulation will be developed and adopted by February 15, 1981. Implementation of the regulation together with an assessment of its effectiveness is expected by December 31, 1982.

The portions of the airborne particulate regulation adopted by the Health Board in December 1978, include the following major provisions:

- (1) generally limits emissions from storage handling, production or transportation of materials to 20% opacity;
- (2) limits emissions from construction or demolition to 20% opacity;
- (3) within nonattainment areas requires Reasonably Available Control Technology (RACT) to be applied to existing sources;
- (4) within nonattainment areas requires best Available Control Technology (BACT) on new sources with an emission potential of less than 100 tons per year;
- (5) within nonattainment areas requires Lowest Achievable Emission Rate (LAER) for new sources with a potential to emit more than 100 tons per year;
- (6) requires reasonable precautions to prevent emissions from any street, road, or parking lot; and
- (7) exempts agricultural operations.

EPA finds the portion of the Airborne Particulate Rule adopted by the Health Board in December 1978, to be acceptable.

*II. Source Test Methods.* In its October 4, 1979, submission, the State indicated that EPA's comments on Montana's source test method in its August 2, 1979, notice were not specific enough for the State to respond. Section 110(a)(2) of the Clean Air Act, as amended, requires SIP's to include emission limitations and a program for their enforcement. The specification of acceptable test methods is critical to the enforceability of emission limitations. Additionally, 40 CFR 51.19 required SIP's to provide for periodic testing and inspection of stationary sources. Implicit in this is the necessity that the testing programs be legally sufficient and enforceable.

Several respondents agreed with EPA's comment that Montana should explicitly require EPA or equivalent methods for testing.

The State has agreed to modify its regulations by August 1, 1980, to specify a test procedure for each emission limitation which is part of the SIP. Because of this commitment, EPA is conditionally approving this portion of the SIP. Elsewhere in today's Federal Register, EPA is proposing the August 1, 1980, deadline for meeting the commitment.

For purposes of Federal enforcement, sources subject to SIP provisions which do not specify a test procedure will be tested by means of the appropriate procedures and methods prescribed in 40 CFR, Part 60, until the SIP is revised to specify a test procedure (40 CFR 52.12(c)).

III. *New Source Review Program.* EPA reviewed the State's regulation pertaining to the review of new and modified sources and found it deficient in a number of respects. First, the regulations did not meet the notice requirements of 40 CFR 51.18(h)(4) which require that a copy of the public notice be sent to the EPA and other appropriate State and local air pollution control agencies. In EPA's proposed rulemaking, we stated that this defect could be corrected by a commitment to provide such notice. In the State's October 4, 1979, supplemental SIP submittal, a commitment to provide such notice is included.

A number of other deficiencies were noted in EPA's proposed rule, including the lack of compliance with Section 173 of the Act. On October 4, 1979, and January 8, 1980, the State submitted supplemental material and committed to revising its permit rules to comply with Section 173. Other deficiencies in the new source review program were also addressed in the supplemental SIP revision. Elsewhere in this Federal Register EPA is requesting public comment on the new source review program. Thus, no final action is being taken at this time.

However, since EPA is not yet taking final action to approve or conditionally approve the SIP with respect to this critical Part D requirement, the ban on construction of new and modified major stationary sources required by Section 110(a)(2)(I) of the Act, will remain in effect. These restrictions apply only in the designated nonattainment areas and only to new or modified major stationary sources of emissions that cause or contribute to concentrations of the pollutant(s) for which the area was designated nonattainment. The restriction does not affect existing sources (unless they are being modified) or sources which applied for permits to construct before July 1, 1979. (See 44 FR

38471 July 2, 1979, for a more detailed discussion.)

IV. *Malfunction.* In its August 2, 1979, notice EPA made the following comments:

Montana's malfunction regulation, ARM 16-2.14(1)—S14000, is inadequate in that it renders emission limitations potentially unenforceable and, thereby, fails to provide for attainment and maintenance of the NAAQS, as required by Section 110 of the Clean Air Act. EPA's policy regarding malfunction regulations is set forth in the April 27, 1977, Federal Register (42 FR 21472), and the Federal malfunction regulations there promulgated provide a model of acceptable malfunction provisions. The Montana rule is deficient in the following respects:

(1) EPA defines "malfunction" as "any sudden and unavoidable failure of air pollution control equipment or process equipment or a process to operate in a normal and usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions." (42 FR 21474). The Montana regulation does not define the term "malfunction," so that it cannot be ascertained whether the State malfunction rule is sufficiently restrictive in scope to protect ambient air quality.

(2) As a matter of federal law, excess emissions due to malfunctions are violations of the applicable emissions limitations. This is necessary to ensure that the NAAQS will be attained and maintained on a continuous basis. The federal regulations do, however, establish a procedure whereby the source may submit information to the Administrator in order to enable him to carry out his statutory duties, which include the exercise of enforcement discretion. Although the information to be supplied is not limited in scope, the federal regulations require that if information is furnished, it include, at a minimum: (1) identification of the emission points; (2) the magnitude of the excess emissions; (3) the time and duration of the excess emissions; (4) identification of the equipment causing the excess emissions; (5) the nature and cause of the excess emissions; (6) a description of the steps taken to remedy the situation and the steps taken or planned to prevent a recurrence; (7) a description of the steps taken to limit the excess emissions; and (8) documentation that the air pollution control equipment, process equipment, or processes were at all times maintained and operated to the maximum extent practicable in a

manner consistent with good practice for minimizing emissions. While EPA reserves the right to enforce against any excess emissions, EPA discretion would normally be exercised according to and consistent with these criteria.

EPA has partially approved State malfunction regulations which exempt malfunctions from being violations of the applicable emission standards when the exemptions result from an exercise of discretion by the pollution control agency based upon criteria very similar to those listed above.

The Montana malfunction rule exempts excess emissions resulting from a malfunction from applicable emission standards if certain reporting requirements are met. The regulation also authorizes the Administrator to permit continued operation of the source, and states that he "may" require the submittal of a written report containing the information specified in (3), (5), and (6) above. As already noted, no criteria are set forth for determining, as a threshold matter, whether an episode of excess emissions qualifies as a malfunction, regardless of whether the source properly reports it. The information which the Administrator is empowered to require presupposes that a "malfunction" has occurred and is, presumably, intended to guide him in determining whether to allow continued operation of the source. The information which he is authorized to require is, however, insufficient to enable him to exercise this discretion consistently with federal malfunction requirements. Moreover, the discretionary language of the rule apparently allows the Administrator to permit a source to continue to operate without the submittal of even this limited report. In light of all the above deficiencies, the Montana malfunction rule provides such inadequate criteria for the exercise of enforcement discretion and is so vague as to render the State's emission standards potentially unenforceable.

(3) Finally, the Montana malfunction regulation authorizes the Administrator to allow a malfunctioning source to continue to operate for an unspecified period of time, provided a corrective program has been submitted and approved and there is no threat of life, health, or property. This open-ended discretion to permit continued operation of a source which is exceeding applicable emission limitations is inconsistent with the mandate of Section 110(i) of the Clean Air Act and is, therefore, unapprovable.

In its comments, the State requested EPA to either approve or conditionally approve the malfunction regulation. Although EPA recognizes that the rule

was proposed for approval in 1976, for the reasons stated in the August 2, 1979, proposal, EPA cannot approve the rule in its present form. EPA is, therefore, disapproving the Montana malfunction regulation.

As a result of this disapproval, the State's former malfunction regulation remains the applicable SIP provision. However, EPA also considers that regulations to be inadequate. The State of Montana has agreed to amend the malfunction regulation to conform to Federal requirements by August 1, 1980. If the State fails to meet the August 1, 1980, commitment, EPA will propose disapproval of that regulation.

One commenter stated that Section 75-2-212 of the Clean Air Act of Montana and the Montana malfunction regulation are unacceptable because they preclude the Administrator from determining that the plan will lead to attainment and maintenance of the ambient air quality standards by the specified attainment dates.

EPA is disapproving the Montana malfunction regulation. Under Section 110(i) of the Clean Air Act, a State variance would not be recognized by EPA unless it satisfied the requirements of Section 119, 110(f) or (g), 118, 113(d), 110(c), or 110(a)(3).

#### *Anaconda Malfunction Provision*

On August 2, 1979, EPA also stated that the malfunction provision contained in the Anaconda portion of the proposed SIP revision improves upon the general malfunction regulation, in that it contains an acceptable definition of the term "malfunction" and it requires the submittal of monthly excess emission reports which are to include information very similar to that required by the federal malfunction regulations. The provision is nevertheless deficient because it provides: "The Department shall determine whether to permit the operation to continue in accordance with ARM 16-2.14(1)—S14000 (1)." Incorporation of the general malfunction regulation is fatal to the Anaconda malfunction provision because, as discussed above, the regulation does not provide adequate criteria to guide the exercise of enforcement discretion and does not limit the Administrator's authority to permit continued operation.

Therefore, while EPA has already approved the Anaconda SO<sub>2</sub> control strategy, because the Anaconda malfunction provision incorporates the Montana malfunction regulation, EPA is disapproving the malfunction portion of the Anaconda plan. When an acceptable State malfunction regulation is submitted, EPA intends to approve the Anaconda malfunction provision.

*V. Previous Nonpart D Submissions.* On September 9, 1976 (41 FR 38190), EPA proposed to approve revisions to the Montana SIP which were submitted by the State on May 5, September 4, and October 1, 1975. These revisions amended regulations applicable to incinerators, industrial processes, storage of petroleum products, aluminum refineries, and malfunctions. No comments were received. Therefore, with the exception of the deficiencies found with the malfunction regulation discussed elsewhere in this notice, EPA is approving those revisions.

#### *Nonattainment Area Plans*

##### *Billings—Yellowstone County Area*

*I. Carbon Monoxide (CO).* A portion of the city of Billings is in violation of the eight hour carbon monoxide standard and the violations are due, almost entirely, to motor vehicle emissions.

The strategy proposed by the City-County Planning Board to alleviate the problem involves modifications of the Exposition-First Avenue North Intersection. Two additional lanes would be added to Exposition in the vicinity of the intersection and traffic signals would be installed. However, based on the input data used, modeling projections indicated that the 8 hour CO concentration would still be 9.6 ppm in 1982, 0.6 ppm above the standard. By 1985, the concentration would be reduced to 7.2 ppm.

The control strategy is unacceptable because it does not demonstrate attainment of the standard by 1982, and because it was based on an emission inventory using outdated emission factors which overestimate the benefits of the federal motor vehicle control program. The Yellowstone City-County Planning Board has developed additional traffic count and travel speed data relating to the Exposition-First Avenue North Intersection. These data and a revised emissions inventory based on EPA's May 1978 emission factors will be used to remodel the intersection and to develop and formally adopt any needed control strategies. A revised schedule for completing these activities has been developed by the Planning Board and submitted to the State.

A revised plan based on this updated modeling effort which demonstrates attainment of the national standards by December 31, 1982, is to be submitted to EPA by August 15, 1980. Based on this schedule, EPA is conditionally approving the Billings CO plan. Elsewhere in today's Federal Register, EPA is soliciting comments on this proposed schedule.

*II. Total Suspended Particulate (TSP).* The Billings downtown Central Business District was designated as a nonattainment area for TSP based on marginal violations of the secondary standard. The emission inventory indicates that reentrained dust from paved roads is the major problem.

The Billings plan indicates the City has purchased a vacuum sweeper and that a pilot street sweeping and flushing program will be undertaken. The streets involved in this program were not identified in the original submittal nor was the sweeping and flushing frequency delineated. Furthermore, it appeared that maintenance of some of the streets involved is the responsibility of the State Highway Department, and there was no indication that the Highway Department will participate in this program.

An agreement executed by the State Highway Department and the City of Billings related to street sweeping and flushing of State routes within the city was submitted by the State in response to EPA's August 2, 1979, proposal.

The State response also included a schedule submitted by the City of Billings for sweeping streets, other than highway routes, within the Central Business District. EPA finds the agreement and schedule to be acceptable and is approving this portion of the plan.

##### *Butte Area*

The northeast section of Butte was designated nonattainment for the primary TSP standards. The principal causes of the problem are fugitive emissions from paved roads and the open pit copper mine owned by the Anaconda Copper Company.

An analysis of the problem using the 1977 emission inventory, and an acceptable diffusion model demonstrated that a strategy to control fugitive dust emissions would attain the primary standard by 1982.

As discussed earlier, the State is developing a regulation to control reentrained dust from paved streets. The SIP analysis is based on an estimated reduction of 8 µg/m<sup>3</sup>. This is an acceptable approach.

EPA is conditionally approving the Butte plan to achieve the primary TSP standard. This approval is contingent upon the development and adoption of a revised airborne particulate rule and submission of a demonstration that the estimated reductions will be achieved, and upon submittal of that rule to EPA by February 15, 1981.

The airborne particulate rule will then be implemented so as to achieve the standard by December 1982. Elsewhere

in today's Federal Register, EPA is soliciting comments on the acceptability of this schedule.

The SIP does not include a demonstration for attainment of the secondary TSP standard. However, the State submitted a request for an 18-month extension to develop a SIP to attain the secondary standards. That request is approved herein.

#### *Colstrip*

The Colstrip area was designated nonattainment for both the 24 hour and annual primary standards for TSP. Two independent emission inventories were developed for the Colstrip area by two consultants. The results of these efforts were markedly different. As a result, it has not been possible to apply a diffusion model to the problem and the State proposes to achieve the standards through the implementation of its permit rule. This will involve application of Reasonably Available Control Technology (RACT), Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) to the stationary sources, as appropriate. However, no specific control measures were provided and no detailed schedules for applying these measures were included in the original plan.

One commenter offered a number of comments and recommendations on the Colstrip plan, as follows:

1. The plan lacks a control strategy.
2. There is no demonstration of reasonable further progress.
3. The plan does not adopt any specific control measures for reducing particulate emissions from mining operations.
4. The State should either enforce its airborne particulate regulation against the mining operations or amend its permit rule to require applications for permits to be filed immediately.
5. The State should apply all reasonably available control measures to mining operations.
6. The discrepancy in emission estimates for mining operations in the Colstrip area does not excuse the failure to comply with the Clean Air Act.
7. The plan does not specify an attainment date for the secondary particulate standard.

EPA's response to these concerns is as follows:

1. To develop a totally satisfactory control strategy, reliable estimates of emissions must be available. As stated in EPA's notice of August 2, 1979, (44 FR 45423), the two emissions inventories which have been developed for the Colstrip area differed markedly in their results. Because of this uncertainty surrounding actual emissions, it was not

possible to develop a control strategy in the conventional sense. Instead, the State has submitted a strategy which they believe will provide a 40% reduction in emissions from the mining operations. This reduction should be sufficient to attain the primary standard.

2. In the Colstrip plan and the material submitted on October 4, 1979, the State has indicated it will utilize its permit rule in conjunction with the application of Reasonably Available Control Technology (RACT), to existing source, Best Available Control Technology (BACT), or Lowest Achievable Emission Rate (LAER) as appropriate to the emissions from mining operations. The inclusion of specific control measures in permits by August 1, 1980 and application of these measures on a scheduled basis in conjunction with the ongoing evaluation of ambient monitoring data required by the State will be used to demonstrate reasonable further progress.

3. The State's existing airborne particulate rule requires the application of Reasonably Available Control Technology (RACT), Best Available Control Technology (BACT), to new sources with an emission potential of less than 100 tons per year, and Lowest Achievable Emission Rate (LAER) to new sources with a potential to emit more than 100 tons per year. The State's October 4, 1979 submission contained a schedule of activities including specific control measures. Elsewhere in this Federal Register EPA is proposing these measures for comment.

4. The airborne particulate rule will be used in conjunction with the permit rule meeting EPA's criteria.

5. The State's airborne particulate rule requires reasonable available control measures.

6. EPA agrees with this comment and feels that the application of RACT, BACT or LAER, as appropriate, coupled with an ambient monitoring program to assess progress toward attainment of the standards will comply with these requirements.

7. In this notice EPA is granting the State an 18-month extension for developing a plan and establishing an attainment date for the secondary standard. That plan will establish an attainment date.

The State's October 4, 1979, submission contained a schedule of activities including specific control measures to be undertaken by the Western Energy Company to reduce that company's emissions by 40% below the current levels by 1982, even when increases in production are taken into account. These reductions are expected to achieve the primary standard.

The State has agreed that by August 1, 1980, it will issue a permit to Western Energy Company to carry to completion all of the activities proposed in the State's October 4, 1979, submission.

EPA finds that there are relatively minor deficiencies in the plan for the colstrip area because the area is subject to the State's airborne particulate rule. Therefore, EPA is approving the Colstrip plan on the condition that the above commitments are met. In addition, EPA is granting the State an 18-month extension to submit a plan to attain the secondary TSP standard. Elsewhere in today's Federal Register, EPA is soliciting comments on the acceptability of this proposed schedule. EPA is also requesting comments on the specific control measures submitted on October 4, 1979.

#### *Great Falls*

The Great Falls area was designated nonattainment as a result of violations of the secondary TSP standard. Nonattainment in Great Falls is due largely to windblown particulate from street sanding operations. The plan indicates that a trial street sweeping and flushing program will be undertaken. However, no details concerning the program were provided in the original plan, and no agreement setting forth the respective responsibilities of the Highway Department and the City of Great Falls were included.

The State's October 4, 1979, submittal identified the streets in the downtown area which are to be swept and flushed, and included a frequency schedule for carrying the program out. It also contained communication from Great Falls indicating that the program was ongoing prior to submittal of the SIP on April 24, 1979.

Based on this information, EPA is approving the Great Falls plan.

#### *Missoula*

*I. Carbon Monoxide.* Missoula was designated nonattainment for the eight hour CO standard based on monitoring data from a single location (the corner of South Brooks and Russell). A schedule has been submitted as part of the Montana SIP which calls for updating the inventory, remodeling the problem and developing of the necessary control strategies, and a revised plan demonstrating attainment of the standards by December 1982 was scheduled to be submitted by January 1980.

The State's October 4, 1979, submittal contained the following revised schedule for developing a plan for the Missoula CO problem:

Complete calibrated model, February 1, 1980  
 Develop alternative control strategy, April 1, 1980  
 Select strategies, public hearing notice, June 1, 1980  
 Submit to EPA, August 15, 1980

Inasmuch as no plan whatsoever has been submitted, EPA finds this proposal unacceptable, and is disapproving Missoula's plan. However, if the revised schedule, calling for submission of a plan by August 15, 1980, is adhered to, the procedures for imposing federal funding limitations authorized under Sections 176 and 316 of the Clean Air Act, will not be instituted.

**II. Total Suspended Particulate (TSP).** Missoula was designated nonattainment for TSP because of violations of the primary standards. An emission inventory based on 1974 data indicated that paved and unpaved roads account for the bulk of the TSP emissions in Missoula. The emissions were modeled using EPA approved dispersion models. The plan sets forth a control strategy calling for an extensive street paving, sweeping and flushing program coupled with control of stationary sources.

In the original submittal the time schedule for completing the various activities was, for the most part, not specified, and commitments on the part of the appropriate units of government to carry them out were lacking. As an example, the plan indicated that the City of Missoula would sweep all streets under its jurisdiction at least once per month. The plan also indicated that the State Highway Department would sweep all State and Federal Highway routes in the Missoula Urban Area at least once per month. But the plan contained no formal, written commitment on the part of either the city or the highway department to carry out these activities. The plan contained similar commitments relating to the paving of roads and parking lots, but lacked the political and financial commitments to carry them out.

As part of its October 4, 1979, response, the State submitted additional information pertinent to the Missoula TSP problem. The information submitted states that the paving program will proceed as set forth in the plan. The city of Missoula has adopted an ordinance to implement the street sweeping program and the County has budgeted \$73,000.00 to pay for street sweeping in the County in 1980. An agreement between the local government and the Montana Highway Department setting forth the respective responsibilities of the three agencies was to have been developed and submitted to the State by November 30, 1979.

EPA is conditionally approving the Missoula TSP plan provided that the signed agreement relating to street sweeping is submitted to EPA for inclusion in the SIP by April 1, 1980. Elsewhere in today's Federal Register, EPA is soliciting comments on the acceptability of this proposed schedule.

#### Conditional Approvals

EPA is taking final action to conditionally approve certain elements of Montana's plan. A discussion of conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979). The conditional approval requires the State to submit additional materials by the deadlines proposed elsewhere in today's Federal Register. EPA will follow the procedure described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the Federal Register announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a Federal Register notice will be published proposing or taking final action either to find the condition has been met and approve the affected elements of the plan, or to find the condition has not been met, withdraw the conditional approval, and disapprove the affected elements of the plan.

3. If the State fails to timely submit the required materials needed to meet a condition, EPA will publish a Federal Register notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn and the SIP is disapproved.

Elsewhere in today's Federal Register, deadlines by which conditions must be met are being proposed. Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines, unless they are changed.

#### National Comments

**Comment and Response:** One commenter submitted extensive comments which it requested to be considered as part of the record for each state plan. Each of the points raised by the commenter and EPA's response follow. Although some of the issues

raised are not relevant to provisions in Montana's submission, EPA is notifying the public of its response to these comments at this time.

1. The commenter asked that comments it had previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of their comments on each state plan. EPA will respond to these comments in its response to comments on the Offset Ruling.

2. The commenter objected to general policy guidance issued by EPA, on grounds that EPA's guidance was more stringent than required by the Act. This comment is too general to respond to with specificity. However, EPA believes that its guidance conforms to the statutory requirements.

3. The commenter noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co. v Costle*, 13 ERC 1255 (D.C. Circ., June 18, 1979)). In the commenter's view, the court's ruling on the definition of "source," "modification" and "potential to emit" should apply to Part D as well as PSD programs, and the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of terms "source," "Major modifications," and "potential to emit," and the areas in which NSR applies, govern State plans under Part D (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979). In proposed rules published in the Federal Register on September 5, 1979, (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for State Part D plans. EPA will respond to this comment in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the proposed rules, EPA proposed regulations for Part D plans, to be set forth in a new section 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. EPA also proposed that prior to promulgation of the regulations, it would approve state-submitted relaxations of previously submitted SIPs so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final

regulations are more stringent than the existing or proposed requirements, States will have nine months, as provided in Section 406(d) of the Act, to submit revisions after EPA promulgates the final regulations.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the State to revise its growth projections and provide for additional emission reductions. Additional time for this would be provided after the revised new source provisions are approved by EPA.

4. The commenter questions EPA's alternative emission reduction options policy (the "bubble" policy). As the commenter noted, EPA has set forth its proposed bubble policy in a separate Federal Register publication 44 FR 3720 (January 18, 1979). EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commenter questioned EPA's justification for requiring a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commenter also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is impractical, it would not constitute a reasonably available control measure.

6. The commenter found the discussion in the General Preamble of reasonably available control technology (RACT) for VOC sources covered by Control Technique Guidelines (CTGs) to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs. The CTGs provide recommendations to the state for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although

EPA believes the General Preamble was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See Federal Register (September 17, 1979).

7. The commenter suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This comment has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commenter questioned EPA's authority when determining LAER to require states to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commenter suggested that if a State fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c) which may include restrictions on growth as provided in Section 110(a)(2)(I). In the commenter's view the Section 110(a)(2)(I) restrictions cannot be imposed without a federal promulgation. EPA has promulgated regulations which impose restrictions on growth which apply to any nonattainment area for which a State fails to submit an approvable Part D plan. See 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a federally-promulgated SIP before the restrictions on construction may go into effect.

Another commentator, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act), and proper composition of State boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commentators argued that EPA must secure a State commitment to satisfy the permit fee and State board requirements before conditionally approving a plan under Part D. In those States that fail to correct the omission within the required time, the commentators urged that restrictions on construction under Section 110(a)(2)(I) of the Act must apply.

To be fully approved under Section 110(a)(2) of the Act, a State plan must satisfy the requirements for State boards and permit fees for all areas, including nonattainment areas. Several States have adopted provisions satisfying these requirements, and EPA is working with

other States to assist them to develop the required programs. However EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the State board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

#### Attainment Dates

The 1978 edition of 40 CFR Part 52 lists in the subpart for each state the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines will be substituted on the attainment date chart. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements as well as with the new Section 172 plan requirements.

Congress established new deadlines under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre 1977-plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time

for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.

(123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement fully Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable Section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments EPA cannot approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond the preexisting attainment date may be granted if it will not contribute to a violation of any ambient standard or a PSD increment.<sup>1</sup>

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

EPA finds that good cause exists for making this action immediately effective for the following reasons:

(1) Plan revisions are already in effect under State law and EPA approval imposes no additional regulatory burden.

(2) EPA has a responsibility under the Act to take final action on Part D plan revisions by July 1, 1979, or as soon thereafter as possible.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: February 25, 1980.

Douglas M. Costle,  
Administrator.

<sup>1</sup> See General Preamble for Proposed Rulemaking 44 FR 20373-74 (April 4, 1979).

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

Title 40, Part 52, of the Code of Federal Regulations is amended as follows:

**Subpart BB—Montana**

1. In § 52.1370, paragraph (c)(7) is revised and paragraph (c)(8) is added as follows:

**§ 52.1370 Identification of plan.**

(c) \* \* \*

(7) On May 5, September 4, and October 1, 1975, the Governor submitted revisions which amended regulations applicable to incinerators, industrial processes, storage of petroleum products, aluminum refineries, and malfunctions.

(8) On April 24, and October 4, 1979, the Governor submitted revisions for Anaconda, East Helena, and Laurel—SO<sub>2</sub>; Billings, Butte, Columbia Falls, Colstrip, East Helena, Great Falls, and Missoula—TSP; Billings and Missoula—CO; and Yellowstone County—ozone.

No action is taken with regard to the revised new source review regulation, the revised stack height regulation, or the control strategies for East Helena SO<sub>2</sub> and Yellowstone County ozone.

2. Section 52.1371 is amended by changing "photochemical oxidants (hydrocarbons)" to "ozone".

**§ 52.1371 [Amended]**

3. In § 52.1376, paragraph (c) is added as follows:

**§ 52.1376 Extensions.**

(c) The Administrator hereby extends until July 1, 1980, the timetable for submitting a plan to attain and maintain the secondary particulate standard in the Butte and Colstrip nonattainment areas.

4. Section 52.1375 is revised to read as follows:

**§ 52.1375 Attainment dates for national standards.**

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Montana's plan, except where noted.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
<b>Billings intrastate:</b>							
a. Yellowstone County	c	c	a	c	b	e	f
b. Billings	e	e	a	c	b	e	f
c. Laurel	c	c	e	e	b	b	f
d. Remainder of AQCR	c	c	a	c	b	b	b
<b>Great Falls intrastate:</b>							
a. Great Falls	e	e	c	c	b	b	b
b. Remainder of AQCR	b	b	c	c	b	b	b
<b>Helena intrastate:</b>							
a. Anaconda	b	b	e	e	b	b	b
b. East Helena	e	e	f	f	b	b	b
c. Butte	e	g	b	b	b	b	b
d. Remainder of AQCR	b	b	b	b	b	b	b
<b>Miles City intrastate:</b>							
a. Colstrip	e	g	b	b	b	b	b
b. Remainder of AQCR	b	b	b	b	b	b	b
<b>Missoula intrastate:</b>							
a. Missoula	e	e	b	b	b	e	b
b. Columbia Falls	e	e	b	b	b	b	b
c. Remainder of AQCR	c	c	b	b	b	b	b

- a. Air quality levels presently below primary standards or area is unclassifiable.
- b. Air quality levels presently below secondary standards or area is unclassifiable.
- c. July 1975.
- d. May 31, 1977.
- e. December 31, 1982.
- f. Action on the SIP for this nonattainment area has been delayed.
- g. Eighteen month extension granted.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.325 (1976).

5. A new § 52.1380 is added as follows:

**§ 52.1380 Control strategy: Total suspended particulates.**

Part D—Conditional Approval—The Butte, Colstrip and Missoula plans are approved provided that the following conditions are met:

(a) For Butte, the State will submit a revised airborne particulate regulation as specified in their October 4, 1979, submittal to EPA.

(b) For Colstrip, the State will include all completed and planned emission reductions as specified in their October 4, 1979, submittal in an enforceable permit to Western Energy.

(c) For Missoula, the State will submit commitments made by the Missoula City-County governments to pave and dust coat the streets indicated in the plan on an organized schedule and a written agreement between the City-County governments and the State Highway Department delineating the respective responsibilities at these three governmental units for the proposed street sweeping and flushing program.

6. A new § 52.1384 is added as follows:

**§ 52.1384 Control strategy: Carbon monoxide.**

(a) Part D—Disapproval—The Missoula carbon monoxide plan is disapproved since the plan failed to evaluate the problem, analyze or develop attainment strategies and demonstrate attainment by December 31, 1982.

(b) Part D—Conditional Approval—The Billings plan is approved provided that the following conditions are met:

(1) The carbon monoxide problem will be reanalyzed using more accurate data.

(2) The results of the analysis will be evaluated and the plan revised if necessary to attain the national standards by December 31, 1982.

7. A new § 52.1385 is added as follows:

**§ 52.1385 Source surveillance.**

Part D—Conditional Approval—The requirements of Section 110 of the Clean Air Act are not met since the State does not specify source testing procedures in many of its emission limitations. However, this section is approved provided the State revises its regulations to include acceptable source test methods for each emission limitation.

8. A new § 52.1386 is added as follows:

**§ 52.1386 Malfunction regulations.**

Regulation ARM 16-2, 14(1), S14000 is disapproved because it would permit the

exemption of sources from the applicable emission limitations and therefore does not satisfy the enforcement imperatives of Section 110 of the Clean Air Act.

[FR Doc. 80-6662 Filed 3-3-80; 8:45 am]  
BILLING CODE 6550-01-M

## VETERANS ADMINISTRATION

### 41 CFR Part 8-3

#### Procurement; Miscellaneous Amendments

**AGENCY:** Veterans Administration.

**ACTION:** Final Regulation.

**SUMMARY:** This amendment to the Veterans Administration Procurement Regulations revises a section to specify that small purchases are to be reserved for the exclusive participation of small business concerns unless offers cannot be obtained from two small business offerors. The amendment also adds clarification of the responsibility for documentation of imprest fund purchases and adds a procurement document.

**EFFECTIVE DATE:** This rule is effective March 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Chris A. Figg, Policy and Interagency Staff, Supply Service, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC (202-389-2334).

**SUPPLEMENTARY INFORMATION:** Pub. L. 95-507, October 24, 1978, revises the Small Business Act. One of the revisions specifies that small purchases will be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns. Section 8-3.602 is revised to implement this provision.

Section 8-3.604 amends the provisions pertaining to use of imprest funds to more clearly delineate the documentation required for imprest fund purchases, and to specify the responsibilities of those making imprest fund purchases.

Optional Form 170 (or Standard Form 182), Request, Authorization, Agreement, and Certification of Training, is prescribed as a procurement document subject to the process referred to in § 8-3.605-3, which requires the incorporation of necessary contract clauses and the signature of the contracting officer.

It is the general policy of the VA to allow time for interested parties to participate in the regulatory process (§ 1.12, Title 38, CFR). Since this amendment merely implements public

law, provides for internal documentation and responsibility requirements, and adds a form that may be used in the procurement of training, compliance with notice and public procedure is considered unnecessary.

Approved: February 28, 1980.

By direction of the Administrator.  
Rufus H. Wilson,  
Deputy Administrator.

#### Subpart 8-3.6—Small Purchases

1. Section 8-3.602 is revised to read as follows:

##### § 8-3.602 Policy.

(a) Pursuant to Public Law 95-507, small purchases will be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns. Such procurements from small business concerns will be considered small business set-asides.

(b) Procurements exceeding \$2,500 will be considered for set-asides in accordance with the priorities specified in FPR 1-1.706-1, and will be documented in accordance with § 8-1.706-50.

(c) When it is contemplated that a single purchase order will be issued to the supplier quoting the lowest aggregate price, the suppliers will be so advised at the time quotations are solicited.

2. In § 8-3.603-2, the introductory paragraph and paragraph (a) are amended to read as follows:

##### § 8-3.603-2 Data to support small purchases.

Quotation information shall be recorded in the manner and to the extent outlined in FPR 1-3.603-2. The quotations will be recorded on one of the following:

(a) An Abstract of Bids (VA Form 60-1286, 60-2232, or 08-6103), or

\* \* \* \* \*

3. Section 8-3.604-6 is revised to read as follows:

##### § 8-3.604-6 Procurement and payment.

(a) Each purchase costing \$15.00 or more will be supported by a cash register receipt, invoice, sales slip, or other sales document which shall, if possible, contain an itemized listing of

the items purchased and be signed by the vendor or his/her agent. The cash receipt or sales document shall be furnished by the vendor to whom cash payment is made. Such cash receipt or sales document shall indicate the name of the vendor. When it is not possible to secure the listing or signature, the purchaser (employee authorized to accomplish the cash purchase) shall prepare and sign Standard Form 1165, Receipt for Cash-Subvoucher, listing thereon the name of the vendor and the articles or services purchased. The vendor's receipt for cash payment shall be attached to the SF 1165 subvoucher.

(b) Each purchase costing less than \$15.00 shall be supported by a receipt for cash or sales document as required in paragraph (a) of this section, except that the signature of the vendor or agent need not be secured. When a receipt is obtained for purchases costing less than \$15.00, the SF 1165 is not required. If a receipt cannot be secured, the purchaser shall prepare and sign the SF 1165, listing thereon the name of the vendor and the article or services purchased.

(c) When the Imprest Fund Cashier advances funds to an employee designated by the facility Director or to a messenger, under the provisions specified in MP-4, part I, section 4.05, the Imprest Fund Cashier will ensure that such designee or messenger is aware of the requirements for documentation specified in paragraphs (a) and (b) of this section, and the limitation of imprest fund purchasing elsewhere prescribed.

(d) All receipts for cash payments and SF 1165 subvouchers shall be securely attached to Standard Form 1129, Reimbursement Voucher, and submitted to the fiscal activity at the time of imprest fund replenishment, in accordance with MP-4, part I, chapter 4.

4. Section 8-3.605-3 is amended by revising paragraph (a) and by adding a new paragraph (d) so that the revised and new material reads as follows:

**§ 8-3.605-3 Agency order forms.**

(a) VA Form 60-2138, Order for Supplies or Services, and VA Form 60-2139, Order for Supplies or Services (Continuation), provide in one interleaved set of forms a purchase or delivery order, vendor's invoice, and receiving report. They will be used in lieu of and in the same manner as Standard Forms 147 and 148.

(d) Optional Form 170 or Standard Form 182, Request, Authorization, Agreement, and Certification of Training, will be utilized for the procurement of training in the manner prescribed in § 8-74.104.

5. Section 8-3.607-50 is revised to read as follows:

**§ 8-3.607-50 Intra-agency use of local term contracts.**

Where there is more than one Veterans Administration field station located in a community, or within a reasonable commuting distance, consideration shall be given to entering into a single contract for supplies or services not available from normal Veterans Administration supply channels. In determining whether such a single contract is both feasible and economical, the Chiefs, Supply Service, of the respective field stations concerned shall be guided by the provisions of FPR 1-3.607.

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 80-6778 Filed 3-3-80; 8:45 am]

BILLING CODE 8320-01-M

**41 CFR Parts 8-7, 8-18**

**Construction Contracts**

**AGENCY:** Veterans Administration.

**ACTION:** Final regulations.

**SUMMARY:** The Veterans Administration Procurement Regulations are amended by revising two provisions relating to construction contracts. First, release of claims portions of the Payments clauses are revoked as being redundant to the Federal Procurement Regulations. Second, the policy against retainage of a percentage of progress payments is revoked so as to restore the option to the contracting officer. This change conforms Veterans Administration practice to that of other Federal agencies.

**EFFECTIVE DATE:** This change is effective April 3, 1980, but may be observed earlier.

**FOR FURTHER INFORMATION CONTACT:** A. G. Vetter (202-389-2334).

**SUPPLEMENTARY INFORMATION:** The Veterans Administration proposed to revise its contract provisions on November 29, 1979 (44 FR 68491) and invited comments from interested parties by December 31, 1979. No comments were received. Accordingly, the Veterans Administration Procurement Regulations are amended as set forth below.

Approved: February 27, 1980.

By direction of the Administrator,  
Rufus H. Wilson,  
Deputy Administrator.

**PART 8-7—CONTRACT CLAUSES**

1. In § 8-7.650-14, paragraphs (f) of the clauses in paragraphs (a) and (b) are revoked.

**§ 8-7.650-14 Payments to contractors.**

(a) For contracts that do not contain a section entitled "Network Analysis System (NAS), Clause 7, General Provisions, SF 23A," will be implemented as follows:

Payments to Contractors

\* \* \* \* \*

(f) [Revoked]

(b) For contracts that contain a section entitled "Network Analysis System (NAS), Clause 7, General Provisions, SF 23A," will be implemented as follows:

Payments to Contractors

\* \* \* \* \*

(f) [Revoked]

**PART 8-8—PROCUREMENT OF CONSTRUCTION**

**§ 8-18.202 [Amended]**

2. Section 8-18.202 is amended by deleting the reference "§ 8-2.203-1" in the last sentence.

**§ 8-18.203-1 [Revoked]**

3. Section 8-18.203-1 is revoked.

(38 U.S.C. 210 (c), 40 U.S.C. 486(c))

[FR Doc. 80-6774 Filed 3-3-80; 8:45 am]

BILLING CODE 8320-01-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 611**

**Foreign Fishing Regulations; Northwest Atlantic Ocean; Correction**

**AGENCY:** National Marine Fisheries Service (NOAA) Commerce.

**ACTION:** Technical Amendment.

**SUMMARY:** The portion of the foreign fishing regulations dealing with fishing in the northwest Atlantic Ocean was published November 28, 1977 (42 FR 60682; 50 CFR 611.50). In that portion, prohibited species are listed as a group, but are not specifically identified as "prohibited." Furthermore, two prohibited species were not assigned species codes. These clarifications will correct those omissions and resolve the problems that have arisen between United States observers and foreign fishing captains on identifying and recording prohibited species.

**EFFECTIVE DATE:** April 1, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Allen E. Peterson, Jr., Director,  
Northeast Region, National Marine  
Fisheries Service, 14 Elm Street, Federal  
Building, Gloucester, Massachusetts  
01930, Telephone: (617) 281-3600.

**SUPPLEMENTARY INFORMATION:** The  
Assistant Administrator for Fisheries,  
NOAA, finds and determines that (1)  
this regulation is not significant within  
the meaning of Executive Order 12044,  
and (2) this regulation does not require  
the formulation of an Environmental  
Impact Statement under the National  
Environmental Policy Act of 1969.

Signed at Washington, D.C., this 27th day  
of February, 1980.

Winfred H. Meibohm,

*Executive Director, National Marine  
Fisheries Service.*

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

50 CFR 611 Part is amended as  
follows:

**§ 611.9 [Appendix I Amended]**

1. In § 611.9, add to Appendix I—  
Species Codes, Atlantic Ocean Fishes  
(Including the Gulf of Mexico):

314 Atlantic croaker, *Micropogon  
undulatus.*

414 Spot, *Leiostomus xanthurus.*

**§ 611.50 [Amended]**

2. In § 611.50, to paragraph (b)(4)(ii),  
insert before "American shad" the  
words: "the prohibited species, namely:"

[FR Doc. 80-6820 Filed 3-3-80; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register

Vol. 45, No. 44

Tuesday, March 4, 1980

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

### Rural Electrification Administration

#### 7 CFR Part 1701

#### Specification for Wood Telephone Pedestal Stubs; New Bulletin

**AGENCY:** Rural Electrification Administration.

**ACTION:** Proposed rule.

**SUMMARY:** REA proposes to issue Bulletin 345-82 to announce a new Specification for Wood Telephone Pedestal Stubs, PE-82. This specification has been developed to separate stubs from full length poles and to reflect the reduced inspection required for stubs.

**DATE:** Public comments must be received by REA no later than: May 5, 1980.

**ADDRESS:** Submit written comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Harry M. Hutson, telephone (202) 447-3827. A Draft Impact Analysis has been prepared and is available from the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355-S, U.S. Department of Agriculture, Washington, D.C. 20250.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345-82, Specification for Wood Telephone Pedestal Stubs.

Interested persons may obtain copies of this proposed action from the address indicated above. All written submissions made pursuant to his action will be made available for public inspection during regular business hours, address above.

On issuance of new Bulletin 345-82, Appendix A to Part 1701 will be modified accordingly.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355-S, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: February 25, 1980.

John H. Arnesen,  
Assistant Administrator—Telephone.

[FR Doc. 80-8533 Filed 3-3-80; 8:45 am]  
BILLING CODE 3410-15-M

## Agricultural Marketing Service

### 7 CFR Part 1040

[Docket No. AO-225-A33]

#### Milk in the Southern Michigan Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Public hearing on proposed rulemaking.

**SUMMARY:** This hearing is being held to consider industry proposals to amend certain provisions of the Southern Michigan Milk marketing order. The proposals would change the performance standards for pool supply plants, modify the producer milk definition with respect to diversions and revise the provisions concerning payments to producers and cooperative associations. Proponents contend that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

**DATE:** March 25, 1980.

**ADDRESS:** Sheraton Inn, G-4300 West Pierson Road (at I-75 exit), Flint, Michigan 48504.

**FOR FURTHER INFORMATION CONTACT:** Marin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-7311.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of a public hearing to be

held at the Sheraton Inn G-4300 West Pierson Road (at I-75 exit), Flint, Michigan 48504, beginning at 9:30 a.m., local time, on March 25, 1980, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Southern Michigan marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 19037, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Michigan Milk Producers Association

#### Proposal No. 1

Revise § 1040.7(b)(1) to read:  
A supply plant from which each month not less than 30 percent of the total quantity of Grade A milk received at such plant from producers and from a handler described in § 1040.9(c), or diverted therefrom by the plant operator or cooperative association (as described in § 1040.9(b)) to a nonpool plant pursuant to § 1040.13 less any Class I disposition of fluid milk products which are processed and packaged in consumer-type containers in the plant, is shipped to a pool plant(s) qualified pursuant to paragraph (a)(1) of this section. If such plant has met the required percentage during each of the months of October through March, it shall remain qualified under this subparagraph for each of the following months of April through September.

Amend § 1040.7 by adding a new paragraph (b)(5):

(5) Qualifying shipments pursuant to this paragraph may be made to the following plants: (i) Pool plants described in paragraph (a) of this section; (ii) Distributing plants fully regulated under other Federal orders except that credit for shipments to such

plants shall be limited to the quantity of milk shipped to pool distributing plants during the month. Shipments to other order plants may not be made on the basis of agreed upon Class II or Class III utilization.

*Proposal No. 2*

Revise § 1040.73, Payment to Producers and to Cooperative Associations, to read:

(a) Except as provided by paragraph (b) of this section, on or before the 15th day of each month, each handler (except a cooperative association) shall pay each producer for milk received from him during the preceding month, not less than an amount of money computed by multiplying the total pounds of such milk by the applicable uniform prices computed pursuant to § 1040.61 adjusted by the location and butterfat differentials pursuant to §§ 1040.75 and 1040.74, respectively, less the payments made pursuant to paragraph (e) of this section and any proper deductions authorized by the producer. If by such date such handler has not received full payment for such month pursuant to § 1040.72, he may reduce such payments uniformly per hundredweight for all producers by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by producers to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association on or before the specified dates amounts equal to the payments authorized pursuant to paragraph (d) of this section, and on or before the 13th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all such milk received from certified producers, less amounts owed by each such producer to the handler for supplies purchased from him on prior written order or as evidence by a delivery ticket signed by the producer.

(1) Each handler shall submit to the cooperative association written information on or before the sixth working day of each month which shows for each such producer:

(i) The total pounds of milk received from him during the preceding month;

(ii) The total pounds of butterfat contained in such milk;

(iii) The number of days on which milk was received; and

(iv) The amounts withheld by the handler in payment for supplies sold;

(2) A copy of each such request, promise to reimburse and certified list of producers shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto.

Exceptions, if any, to the accuracy of such certification by a producer, or by a handler shall be made by written notice to the market administrator, and shall be subject to his determination; and

(3) The foregoing payment and the submissions of information pursuant to paragraph (b)(1) of this section shall be made with respect to milk of each producer whom the cooperative association certifies is a member or has authorized such cooperative association to collect for his milk, which is received on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of certification or until the original request is rescinded in writing by the association.

(c) On or before the 13th day after the end of each month, each handler shall pay a cooperative association, which is a handler with respect to milk received by him from a pool plant operated by such cooperative association, or by bulk tank delivery pursuant to § 1040.9(c), not less than an amount computed by multiplying the uniform price for base milk subject to the location adjustment, if any, applicable at the transferee-plant as provided by § 1040.75 and the butterfat differential provided by § 1040.74 by the total hundredweight of milk received by such handler from the cooperative, less the payments made pursuant to paragraph (d) of this section.

(d) On or before the 20th day of each month, each handler shall pay for producer milk received the first 10 days of the month at not less than the Class III milk price for the preceding month plus 25 cents. On or before the last day of each month, each handler shall pay for producer milk received during the 11th through the 20th day of the month at not less than the Class III milk price for the preceding month plus 25 cents.

(e) On or before the 25th day of each month for producer milk received during the first 10 days of the month at not less than the Class III milk price for the

preceding month plus 25 cents. On or before the 5th day after the end of each month for producer milk received during the 11th through the 20th day of the month at not less than the Class III milk price for the preceding month plus 25 cents.

Proposed by Independent Co-operative Milk Producers Association, Inc.

*Proposal No. 3*

Amend § 1040.13(c)(1) to read:

Section 1040.13(c)(1) In any month that less than 2 days' production of a producer is delivered to pool plants the quality of milk of the producer diverted during the month shall not be producer milk.

Proposed by Kraft, Inc.

*Proposal No. 4*

Amend § 1040.7(b)(1) pool plant, to provide as follows:

(1) A supply plant from which during the month the volume of fluid milk products, except filled milk transferred and diverted to pool distributing plants is 30 percent or more of the total Grade A milk received at the plant from dairy farmers (including producer milk diverted from the plant pursuant to § 1040.13) (excluding receipts of milk diverted pursuant to § 1040.13) and handlers described in § 1040.9(c), less any Class I disposition of fluid milk products which are processed and packaged in consumer-type containers in the plant, subject to the following conditions:

(i) Not more than one-half of the shipping percentage specified in this paragraph may be met through the diversion of milk from the supply plant to pool distributing plants.

(ii) A supply plant that qualifies as a pool plant in each of the months of October through March shall be a pool plant for the following months of April through September.

*Proposal No. 5*

Revise § 1040.13 "Producer Milk" to provide as follows:

Producer milk of each handler means all skim milk and butterfat contained in milk from producers that is:

(a) Received at a pool plant directly from a producer excluding such milk that is diverted from another pool plant;

(b) Received by a handler described in § 1040.9(c) from producers;

(c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant; and

(d) Diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of a handler operating such pool plant or for

the account of a handler described in § 1040.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversions unless during the month at least six days production of such dairy farmer is physically received at a pool plant.

(2) The total quantity of producer milk diverted by a cooperative association or the operator of a pool plant may not exceed 60 percent during each of the months of October through March of the total quantity of producer milk for which it is the handler.

(3) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. The diverting handler may designate the dairy farmer whose diverted milk will not be producer milk. Otherwise, the total milk diverted on the last day of the month, then the second-to-the-last day, and so on in daily allotments will be excluded until all of the over-diverted milk is accounted for.

#### Proposal No. 6

Amend § 1040.73(d) by adding the following words:

... less proper deductions authorized in writing by such producers who had not discontinued shipping milk to such handler for the first 15 days of the month.

Proposed by the Dairy Division,  
Agricultural Marketing Service

#### Proposal No. 7

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, C. T. McCleery, 2684 W. Eleven Mile Road, Berkley, Michigan 48072, or from the Hearing Clerk, Room 1077 South Building, USDA, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture  
Office of the Administrator, Agricultural  
Marketing Service  
Office of the General Counsel  
Dairy Division, Agricultural Marketing  
Service (Washington office only)

Office of Market Administrator, Southern  
Michigan Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on February 28, 1980.

William T. Manley,  
Deputy Administrator, Marketing Program  
Operations.

[FR Doc. 80-6648 Filed 3-3-80; 8:46 am]

BILLING CODE 3410-02-M

#### 7 CFR Part 1068

#### Milk in the Upper Midwest Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

**SUMMARY:** This notice invites written comments on a proposal to suspend a requirement under the Upper Midwest marketing order that handlers make a partial payment for milk received from producers by the 25th day of the month. Two operators of pool distributing plants indicated that producers supplying their plants want such payments to be made about 8 days later so that their partial payments and final payments for milk will be spaced about 15 days apart. The proposed suspension would be for May 1980 through April 1981.

DATE: March 19, 1980.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-7311.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601 *et seq.*], the suspension of paragraph (a)(4) of § 1068.73 of the order regulating the handling of milk in the Upper Midwest marketing area is being considered for the period May 1980 through April 1981.

All persons who want to send written comments about the proposed suspension should send two copies to the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250 on or before March 19, 1980.

The documents that are sent will be made available for public inspection at

the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Paragraph (a) of § 1068.73 requires handlers to make a partial payment to cooperative associations and nonmember producers on or before the 25th day of the month for milk delivered during the first 15 days of the month. Suspension of paragraph (a)(4) would remove this requirement only with respect to producers for whom a cooperative is not collecting payments; the requirement would remain in effect for milk bought from a cooperative association.

Paragraph (a)(4) of § 1068.73 has been suspended since November 1976 (41 FR 51389, 42 FR 22360, 42 FR 59747, 43 FR 14025, 43 FR 19341, and 44 FR 23065). Two handlers requested that the suspension be extended. One handler claimed that if a hearing is held prior to April 1981 he will propose a permanent change in this provision. Both handlers claim that paying their producers a partial payment on the 3rd day of the month, 15 days prior to the final payment date, which is the 18th day of the month, enables them to accommodate their producers who request that their payments be spaced 15 days apart.

Signed at Washington, D.C. on February 28, 1980.

William T. Manley,  
Deputy Administrator, Marketing Program  
Operations.

[FR Doc. 80-6647 Filed 3-3-80; 8:46 am]

BILLING CODE 3410-02-M

#### Farmers Home Administration

#### 7 CFR Part 1980

#### Business and Industry Loan Program; Withdrawal of Proposed Rule

AGENCY: Farmers Home Administration, USDA.

ACTION: Withdrawal of proposed rule.

**SUMMARY:** On November 15, 1978, (43 FR 53164) the Department of Agriculture, Office of the Secretary, published in the Federal Register, Volume 43, No. 221, a Semiannual Agenda of proposed Regulations. Under calendar item FmHA 108-22, (43 FR 53191) the Farmers Home Administration (FmHA) proposed to change its Business and Industry Regulations to broaden eligibility for foreign-owned applicants.

On June 30, 1978, FmHA published in the Federal Register in Volume 43, No. 127, page 28510 its proposed rule. Public participation comments were overwhelming against the proposed change. FmHA has decided that it would

not be in the best interest of U.S. business and industry and would be contrary to public concern to change the foreign ownership criteria. Therefore, existing eligibility requirements regarding foreign ownership will not be changed and the proposed rule is hereby withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Darryl H. Evans, Loan Specialist, telephone 202-447-4150.

Dated: February 25, 1980.  
Gordon Cavanaugh,  
Administrator.

[FR Doc. 80-8777 Filed 3-3-80; 8:45 am]  
BILLING CODE 3410-07-M.

## Animal and Plant Health Inspection Service

### 9 CFR Part 73

#### Scabies in Cattle

**AGENCY:** Animal and Plant Health Inspection Service, (USDA).

**ACTION:** Proposed Rule.

**SUMMARY:** This document proposes to revise the cattle scabies regulations. Cattle scabies continues to be endemic, resulting in self-sustaining outbreaks of the disease in portions of six of the midwestern States. The intended effect of this proposal would be to support the State-Federal cooperative scabies eradication efforts.

**DATE:** Comments on or before May 5, 1980.

**ADDRESS:** Written comments to Deputy Administrator, USDA, APHIS, Veterinary Services, Room 737, Federal Center Building, 6505 Belcrest Road, Hyattsville, MD 20782.

**FOR FURTHER INFORMATION CONTACT:** Dr. J. L. Hourrigan, Senior Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, Veterinary Services, Room 737, Federal Center Building, 6505 Belcrest Road, Hyattsville, MD 20782, Area Code (301) 436-8321.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Act of September 28, 1962, the Act of March 3, 1905, as amended, the Act of February 2, 1903, as amended, the Act of May 29, 1884, as amended, the Act of July 2, 1962 (7 U.S.C. 450 and 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 73, Title 9, Code of Federal Regulations.

The present cattle scabies regulations have not proven effective to eradicate cattle scabies as evidenced by increased numbers of outbreaks each year. Numerous meetings have been held to discuss the cattle scabies program. A meeting was held on December 13, 1977, at Albuquerque, New Mexico, where the Cattle Scabies Subcommittee of the Parasites and Parasiticide Committee of the United States Animal Health Association strongly recommended a change in the present regulations.

A second cattle scabies meeting was held on January 23, 1978, at Oklahoma City, Oklahoma, where State and Federal regulatory officials agreed that more supervision was needed for the treatment of cattle infested with scabies and that approved treatment facilities be required. A nine-State regional meeting was held on June 23, 1978, at Sioux Falls, South Dakota, where a high level of interest was shown for an accelerated scabies program. A meeting was held on May 3, 1978, in Denver, Colorado, with State and Federal regulatory officials and industry representatives where the need for increased cattle scabies program activities was again stressed. Several contacts were made with representatives of the National Cattlemen's Association. The proposed revision contains the consensus of opinions expressed during these meetings and at other discussions held on the cattle scabies program.

The following alternatives were considered: (a) Remove all interstate shipment requirements as pertains to cattle scabies and discontinue field participation in cattle scabies program; (b) continue under present regulations; (c) revise regulations to include Eradication Areas in addition to present Cattle Scabies Free and Quarantine Areas; and (d) revise regulations and require that treatment of cattle for cattle scabies for interstate shipment will be performed at "Approved Treatment Facilities."

Alternative (d) was selected as being the most appropriate course of action. This alternative would appear to be the most acceptable to the industry and disease control and eradication officials. The Department believes that approved treatment facilities would insure the proper treatment for cattle moving interstate. The alternatives considered and their impacts are discussed in great detail in an approved Draft Impact Analysis which is available to the public.

The proposed revision of the regulations would expand the definition section, would revise conditions under which cattle may be moved interstate,

and would provide for specifically-approved treatment facilities which would be used when the cattle are required to be treated before moving interstate.

Presently, § 73.1c contains definitions of two terms used in Part 73. Under the proposal, definitions would be contained in § 73.1. Words and phrases which would be commonly used in proposed Part 73 would be defined in order to reduce the possibility of ambiguity.

Presently, § 73.1c contains the definition of "Veterinary Services Inspector" in § 73.1c(a) and "State Inspector" in § 73.1c(b). These two terms would be retained in proposed § 73.1, however, the definitions of these terms would be amended to include any person employed by Veterinary Services or the State or political subdivision authorized to perform the function involved in order to broaden the scope of those individuals contained within the definitions.

Presently, § 73.1c(a) defines a "Veterinary Services Inspector" as a veterinarian or livestock inspector employed by Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, in animal health activities, who is authorized to perform the function involved. Proposed § 73.1(d) would define a "Veterinary Services Inspector" as a person employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved. The word "person" would be substituted for "veterinarian or livestock inspector" because any person who is employed by Veterinary Services, United States Department of Agriculture, to perform the function involved may be a Veterinary Services Inspector. Proposed § 73.1(d) would also eliminate the phrase "in animal health activities" from present § 73.1c(a) because it is believed to be superfluous, since such activities would be covered by the phrase "who is authorized to perform the function involved."

Presently, § 73.1c(b) defines a "State Inspector" as a veterinarian or livestock inspector regularly employed in animal health activities by a State or a political subdivision thereof, authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the U.S. Department of Agriculture. Proposed § 73.1(e) would define a "State Inspector" as a person employed by a State or political subdivision thereof, who is authorized by such State or political subdivision to perform the

function involved under a cooperative agreement with the United States Department of Agriculture. Again the word "person" would be substituted for "veterinarian or livestock inspector" because any person who is employed by a State or political subdivision thereof to perform the function involved may be a State inspector. Further, this proposal would eliminate from the definition of "State inspector" the requirement that such an individual be "regularly employed in animal health activities by a State or political subdivision thereof." Although, the Department expects that such individuals will generally be employed regularly in animal health activities, there may be occasions where this is not the case. It is not necessary that such individuals be regularly employed in animal health activities; what is necessary is that they are authorized by the State or political subdivision thereof to perform the function involved.

Proposed §§ 73.1(a), 73.1(b), 73.1(c), 73.1(f) and 73.1(x) would add definitions of "Deputy Administrator," "Veterinary Services," "State animal health official," "Accredited veterinarian" and "State Certified pesticide applicator," respectively. These individuals and the organization are referred to repeatedly in the proposed Part. Although the Department does not believe that the terms would cause confusion, we have included definitions for the terms in this proposal for clarity and to remove any chance of ambiguity or confusion concerning the terms.

Proposed § 73.1(g) would define "cattle scabies free areas" as those States or portions of States not quarantined by the Secretary of Agriculture for the presence of cattle scabies. Proposed § 73.1(h) would define "quarantined area" as an area in which an outbreak of cattle scabies has occurred and which has been placed under an official Federal quarantine. These two terms were defined to clearly distinguish them from one another. This is necessary because this proposal, in part, bases restrictions on the interstate movement of cattle on whether the cattle are from a "cattle scabies free area" or a "quarantined area."

The term "permitted dip" would be defined in § 73.1(i) as a pesticide chemical permitted by the Department for treatment of cattle scabies as listed in § 73.13. The term would be defined because it is used in the definition of the word "treated" which is discussed below.

The word "treated" would be defined in § 73.1(j) as treated with a permitted dip in a specifically approved treatment facility. The definition of the word

"treated" would be necessary to insure that cattle which would be required to be "treated" prior to interstate movement are thoroughly wetted with a liquid (the permitted dip) in such a manner so as to insure that any scabies mites which may be on the cattle are killed.

The word "certificate" would be defined in § 73.1(k) as an official document issued by a Veterinary Services inspector or State inspector listing specific information needed to identify the animals, place of origin and destination, name and address of the owner, consignor and consignee, name and address of the carrier, and the date the certificate is issued. The certificate would be used for interstate movements of cattle from a quarantined area which are not infested with or exposed to cattle scabies and for cattle which are infested with or exposed to cattle scabies which are moved interstate other than for immediate slaughter. This information is necessary to insure that only those cattle meeting requirements of the proposed regulations are moved interstate and to provide information necessary to trace the movement of the cattle. When the cattle are treated for cattle scabies, the certificate would also include the date treated, pesticide used, and the required delay, if any, between treatment and slaughter. The information on the certificate regarding treatment appears to be necessary to insure that cattle covered thereby are not slaughtered for food purposes prior to the required delay on the pesticide label.

The word "permit" would be defined in § 73.1(l) as an official Veterinary Service Permit for Movement of Animals, VS Form 1-27, or similar State form issued by a Veterinary Services inspector or State inspector listing specific information needed to identify the animals, i.e. number of animals, purpose of movement, points of origin and destination, and the name of the consignor and consignee. This permit, VS Form 1-27, would be used for cattle infested with or exposed to cattle scabies moved in interstate commerce for slaughter and would provide a means for Veterinary Services to verify that the animals listed in the permit are actually slaughtered. The permit would also be necessary to insure that only those cattle meeting the requirements of the proposed regulations are moved interstate and to provide information necessary to trace the movement of the cattle. When the cattle are treated for cattle scabies, the permit would also include the date treated, pesticide used, and required delay between treatment

and slaughter. The information on the permit regarding treatment would insure that the cattle covered thereby are not slaughtered for food purposes prior to the required delay on the label of the pesticide.

The term "Recognized slaughtering establishment" would be defined in § 73.1(m) as any facility where cattle are slaughtered under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or a State inspected facility. This would be necessary for disease control because it provides Veterinary Services greater certainty that cattle which are consigned to slaughter are actually slaughtered and do not re-enter livestock market channels. Such establishments have State or Federal regulatory personnel who would insure that cattle entering the establishment are slaughtered.

The word "herd" would be defined in § 73.1(n) as a group of cattle on common ground, or two or more groups of cattle under common ownership or supervision, geographically separated, but which have an interchange or movement of cattle without regard to whether the animals are infested with or exposed to scabies. This definition would eliminate the possibility of a cattle owner who has groups of cattle in several pastures, which are interchanged periodically, from designating each group as a herd. Geographically separated may mean a fence, several feet or even miles, but if the cattle have periodic interchange or movement without regard to whether the cattle are infested with or exposed to scabies, they should be considered as one herd. These animals must be treated as one unit for disease eradication purposes, because the scabies mite is transmitted by physical contact. The term "common ground" as used in proposed § 73.1(n) would be defined in proposed § 73.1(y) as the ground, areas, buildings shared by any specific group or groups of cattle.

The word "lot" would be defined in § 73.1(o) as any group of cattle which are maintained for any purpose in a pasture, on a range, on a farm, in a market, in a feedlot, or a concentration point. This definition may be somewhat overlapping with the definition of "herd," but ownership has no bearing in determining the disease status of the cattle. Wherever cattle are so maintained the possibility exists that the scabies mite can be transferred from one animal to another and such animals must be considered infested as a single unit for disease status purposes.

The term "cattle infested with cattle scabies" would be defined in § 73.1(p) as cattle from which the scabies mite

has been collected or a member of an infested herd or lot. The scabies mite may be collected by anyone, but usually is done by a Veterinary Services inspector, State inspector, or accredited veterinarian. The symptoms of scabies varies considerably and a deep skin scraping is generally necessary from the skin area most likely to contain the mite. The mite is so small it generally takes a person trained in mite identification to detect it in the scraping. Cattle which have been treated twice 10 to 14 days apart and which have been released from any existing State of Federal quarantine would not be considered to be infested with cattle scabies since such treatment would kill any scabies mite on the cattle and free such animals from the disease of cattle scabies.

The word "infested" is used in the proposed regulation in place of the word "infected" to more accurately describe the type of disease covered in this regulation. The medical definition of infestation states "To occupy a site and dwell ectoparasitically on the external surface, as opposed to dwelling within a host (infection)."

The term "infested herd" would be defined in § 73.1(q) as any herd in which the scabies mite has been collected from one or more cattle. The term "infested lot" would be defined in § 73.1(r) as any lot in which the scabies mite has been collected from one or more cattle. The cattle scabies mite is transmitted by physical contact from animal to animal, and is very difficult to demonstrate in some cases (ex. low number of mites per animal). If the scabies mite is collected from at least one animal, all animals in the herd are assumed to also have the scabies mite.

The term "cattle exposed to cattle scabies" would be defined in § 73.1(s) as any cattle which are not infested with cattle scabies but which have been in physical contact with cattle infested with cattle scabies or which have been in physical contact with fences, trucks, pens, chutes, and/or alleys with which cattle infested with cattle scabies have been in physical contact within the preceding 10 days, and the fences, trucks, pens, chutes, and alleys were not cleaned and sprayed with a permitted dip in accordance with proposed § 73.14 of this part. One of the symptoms of cattle scabies is irritation which is manifested in several ways. One of these is rubbing against anything available to try and relieve the itching caused by the mite activity on the animal. It has been shown that this rubbing may transfer mites to the object rubbed against. It has also been demonstrated that an animal coming in

contact with this object can pick up the mites from this object and start a new life cycle of the mite. The length of time the mite can survive off the host animal has been determined to be approximately 10 days, except in very unusual environmental circumstances. Therefore, 10 days is believed to be the most logical time to use to keep restrictions as minimal as possible and still maintain good disease control procedures. Objects which are cleaned and sprayed with a permitted dip in accordance with proposed § 73.14 would not present a disease risk to cattle coming in contact with such objects. Further, cattle which have been treated once with a permitted limesulfur dip or toxaphene dip or twice, 10 to 14 days apart with a permitted dip other than limesulfur or toxaphene and from which any existing State and/or Federal quarantine is removed would not be considered to be exposed to cattle scabies since such treatment would kill any scabies mite on the cattle and free such animal from the disease of cattle scabies.

The word "State" would be defined in § 73.1(t) as any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas Islands or any other territory or possession of the United States. It is meant to include all 50 of the States making up the United States of America, the territories and possessions under the jurisdiction of the United States of America, the District of Columbia and Puerto Rico.

The word "interstate" would be defined in § 73.1(u) as from any State into or through any other State.

The term "cattle from a quarantined area" would be defined in § 73.1(v) as any cattle originating from a quarantined area or any cattle which have moved through a quarantined area. Cattle from such areas or which moved into such areas are of greater disease risk than cattle from free areas which are not infested with or exposed to cattle scabies. Therefore, such cattle must be distinguished from others not presenting such a high risk of scabies. This definition covers all areas as listed in proposed § 73.5 of this part. Areas which have been quarantined by States because of cattle scabies would not be included in this definition unless such areas are specifically listed in proposed § 73.5 of this part.

The word "supervision" would be defined in § 73.1(w) as the physical presence to inspect the entire process in question. This definition tries to distinguish between being responsible

for the process in question whereby physical presence may not be necessary and supervision whereby the actual physical presence of the person doing the supervising is necessary.

The term "certified pesticide applicator" would be defined in § 73.1(x) as a person certified in accordance with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, (7 U.S.C. 135 *et seq.*) to apply pesticides. Before a certificate is issued, a person must take an examination to indicate that such person has knowledge as to when, how, and where pesticides should be used and the proper disposal of pesticides. The certificate alone does not guarantee that the applicator will use the pesticide exactly as directed, but does insure that the person has an understanding of proper pesticide use.

Under present §§ 73.1(a), (b), and (c), cattle affected with or exposed to cattle scabies and cattle from an area quarantined for cattle scabies are prohibited from movement interstate except as provided by Part 73. This proposal would simplify and broaden these restrictions by providing a general restriction in proposed § 73.2 which would prohibit the interstate movement of all cattle except in compliance with regulations in proposed Part 73.

The present regulations do not refer to cattle scabies free areas. Proposed § 73.3 would clearly identify those areas which are cattle scabies free areas as all areas in the United States except those listed as quarantined areas in proposed § 73.5. It was necessary to distinguish the cattle scabies free areas from quarantined areas since there is no cattle scabies disease risk with respect to cattle from a cattle scabies free area which are not infested with or exposed to cattle scabies. The proposed regulations would exempt cattle from a cattle scabies free area which are not infested with or exposed to cattle scabies from restrictions under this part.

Present § 73.1b states the authority for the Secretary of Agriculture to quarantine any State, or any portion of any State, under the Act of March 3, 1905, as amended (21 U.S.C. 123), and the policy of the Department regarding areas quarantined or to be quarantined because of cattle scabies. Proposed § 73.4 would retain this statement of authority and policy with only minor, non-substantive changes.

Present § 73.1a contains a notice of quarantine under which areas quarantined are listed. The proposal would list those areas quarantined in § 73.5. Periodic changes to this part would be made to add or delete quarantined areas as they occur.

The present regulations make it difficult to determine how cattle may be moved interstate. The requirements for interstate movements are covered in present §§ 73.2, 73.3, 73.4, 73.5, and 73.7 and have been confusing to some persons. This proposal would place the general restrictions on interstate movements under § 73.6. This change would be made so that a person can easily identify the requirements for movement interstate as it applies to that person's particular situation.

The present regulations do not refer to cattle scabies free areas. As stated above, the proposed regulations would distinguish cattle scabies free areas from quarantined areas. Proposed § 73.6(a) would provide that cattle from a cattle scabies free area which are not infested with or exposed to cattle scabies may be moved interstate without restriction under this part. These cattle present no risk with respect to the spread of cattle scabies and, therefore, do not require restrictions on their movement under this part.

Presently, § 73.2(d) allows cattle from herds from the quarantined area which are not diseased with scabies to be moved interstate for immediate slaughter after inspection by a Veterinary Services or State inspector within 10 days prior to the date of shipment and when accompanied by a certificate from such inspector showing the cattle to be free from disease. Proposed § 73.6(b)(1) would retain the same basic requirements for the interstate movement of cattle from a quarantined area which are found by a Veterinary Services inspector or State inspector not to be infested with or exposed to cattle scabies and which are to be moved to a recognized slaughtering establishment for immediate slaughter. However, the certificate must only state that the cattle were not infested with or exposed to cattle scabies at the time of inspection since this is the only disease of interest under these regulations.

Presently, § 73.5 allows the interstate movement of cattle which are not diseased with scabies from herds in a quarantined area for any purpose if such cattle are inspected by a Veterinary Services or State inspector 10 days prior to the date of shipment and are accompanied by a certificate from such inspector showing the cattle to be free from cattle scabies or exposure thereto. As stated above, proposed § 73.6(b)(1) would retain these requirements for the interstate movement of cattle from a quarantined area which are found by a Veterinary Services inspector or State inspector not to be infested with or

exposed to cattle scabies and which are to be moved to a recognized slaughtering establishment for immediate slaughter. However, for such cattle which are moved interstate other than for slaughter, proposed § 73.6(b)(2) would, in addition to the inspection and certificate requirements, require that within 10 days after inspection and prior to interstate movement, the cattle be treated under the supervision of a Veterinary Services inspector or State inspector and such fact be stated on the certificate.

The Department believes that cattle from a quarantined area going to immediate slaughter which are not found on inspection to be infested with or exposed to cattle scabies will not present a danger to the livestock industry under these conditions, but, because of the dangers of missing infested animals by visual inspection alone, it is necessary to require at least one treatment for such cattle that otherwise enter trade channels and might infest other cattle.

Presently, § 73.5 makes provision for the interstate movement of cattle going to immediate slaughter with only an owner's or shipper's statement when it is determined by the Deputy Administrator, Veterinary Services, that all cattle in a quarantined area have been inspected by a Veterinary Services or State inspector, that all infested or exposed herds have been identified, that all infested herds have been dipped twice, and that all exposed herds have been dipped once. This condition would be dropped from the proposal because it is the policy of the Deputy Administrator to release any area from quarantine that has met these requirements.

Present § 73.2(c) and § 73.4 impose requirements for the interstate movement of cattle which are not visibly diseased with scabies. In present § 73.2(c), cattle of the free area not visibly diseased with scabies, but which may be part of a diseased herd, may be moved for immediate slaughter to any recognized slaughtering center where separate pens are provided for yarding exposed cattle, provided that the means of conveyance in which the cattle are transported are placarded and the billing is marked "Cattle Exposed to Scabies." In present § 73.4 cattle not visibly diseased with scabies, but which are known to be part of a diseased herd or to have come in contact with diseased cattle or an infectious means of conveyance or premises may be moved interstate for any purpose if dipped at the point of origin under the supervision of a Veterinary Services inspector or

State inspector, in a permitted dip, or dipped enroute by special permission obtained from the Deputy Administrator. Further, the means of conveyance must be placarded and the billing marked "Cattle Exposed to Scabies." The cattle shall also not be allowed to mingle with other cattle.

The Department believes that these regulations which cover exposed cattle are confusing, especially when one considers that there is no definition of cattle exposed to scabies in present Part 73. Therefore, as stated above, proposed § 73.1(s) would define cattle exposed to cattle scabies. Proposed § 73.6(c) would provide a clearer set of requirements under which cattle exposed to cattle scabies from any area would be allowed to move interstate.

Proposed § 73.6(c)(1) would permit the interstate movement of cattle exposed to cattle scabies directly to a recognized slaughtering establishment only if: (1) The cattle are inspected by a Veterinary Services inspector or State inspector within 10 days prior to the movement and are found by the inspector not to be infested with cattle scabies; (2) the cattle are accompanied by a permit which includes a certification by a Veterinary Services inspector or State inspector that the cattle described on the permit were not infested with cattle scabies at the time of inspection; and (3) the cattle are moved in a vehicle placarded in accordance with proposed § 73.10.

The inspection requirement would be imposed to insure that the cattle are not visibly infested with cattle scabies. Infested cattle would, of course, constitute a greater risk of the spread of cattle scabies and would, therefore, have to meet more stringent requirements for interstate movement for slaughter. The requirement that inspection take place within 10 days of movement is to reduce the risk of the cattle becoming infested with cattle scabies between the date of inspection and the date of movement. A permit would be required to accompany the exposed cattle to aid the Department in tracing such cattle and in ascertaining whether such cattle are being moved or have been moved in compliance with proposed Part 73. The requirement that exposed cattle be moved interstate for slaughter in a placarded vehicle would be retained.

Proposed § 73.6(c)(2) would provide two alternative methods under which cattle exposed to cattle scabies may be moved interstate other than for slaughter. Proposed § 73.6(c)(2)(i) would require that (1) the cattle are inspected by a Veterinary Services inspector or State inspector within 10 days prior to

the movement and are found by a Veterinary Services inspector or State inspector not to be visibly infested with cattle scabies; (2) after such inspection, the cattle must be treated under the supervision of a Veterinary Services inspector or State inspector within the 10-day period between inspection and movement with a permitted lime-sulphur dip or toxaphene dip; and (3) the cattle must be accompanied by a certificate which includes a certification by a Veterinary Services inspector or State inspector that the cattle described on the certificate were not infested with cattle scabies at the time of inspection, and have been treated under the supervision of a Veterinary Services inspector or State inspector.

The inspection and certificate requirements would be imposed for the same reasons as stated above for the inspection and permit requirements in proposed § 73.6(c)(1). Cattle exposed to cattle scabies moving interstate other than for slaughter may very likely enter trade channels. Therefore, the Department would retain the requirement that such cattle be treated under the supervision of a Veterinary Services or State inspector. It has been determined that the scabies mite can be controlled on cattle exposed to cattle scabies with a single treatment with a permitted lime-sulfur or toxaphene dip. Therefore, one treatment with a permitted lime-sulfur or toxaphene dip would be required within the 10-day period between inspection and movement. Once cattle leave the point of origin, it is difficult to insure that the cattle are treated enroute. Therefore, this proposal would not provide for treatment enroute as it exists in the present regulations. However, proposed § 73.15, as discussed below, would allow the Deputy Administrator to permit interstate shipments of cattle exposed to cattle scabies where the treatment takes place enroute if circumstances warrant. However, these circumstances must be of such a nature that they cannot be reasonably anticipated in advance and can only be used in unique situations.

The second alternative for the interstate movement of cattle exposed to cattle scabies other than to slaughter would be contained in proposed § 73.6(c)(2)(ii). This option would differ from the requirement in § 73.6(c)(2)(i) in that it would provide for the treatment of the cattle in a permitted dip other than lime-sulfur or toxaphene. Two treatments would be required when permitted dips other than lime-sulfur or toxaphene are used, because there is no evidence that one treatment with other permitted dips is effective against the

scabies mite. The proposal would also require that the two treatments take place 10 to 14 days apart. The Department believes that a period of 10-14 days between dippings enhances the effectiveness of the treatment. The 10 to 14 day period between dippings is necessary because of the life cycle of the scabies mite. The first treatment will not always render the eggs of the scabies mite sterile. Therefore, the second treatment is necessary to kill the scabies mites that hatch before they reach sexual maturity. The other differences between proposed § 73.6(c)(2)(i) and proposed § 73.6(c)(2)(ii) result from the increased time needed to treat the cattle twice 10 to 14 days apart under proposed § 73.6(c)(2)(ii). Presently § 73.2(a) specifies conditions for moving infested cattle interstate for immediate slaughter. Such cattle must be dipped in a permitted dip other than toxaphene under the supervision of a Veterinary Services inspector or State inspector, within 10 days prior to the date of shipment to a recognized slaughtering center. Under the present regulations, these cattle cannot be diverted enroute and the conveyance must be placarded and the billing must be marked.

Proposed § 73.6(d)(1) would provide two alternative methods under which cattle infested with cattle scabies may be moved interstate directly to a recognized slaughtering establishment for slaughter. Proposed § 73.6(d)(1)(i) would require that (1) the cattle be treated under the supervision of a Veterinary Services inspector or State inspector within 10 days prior to the movement with a permitted lime-sulfur dip, coumaphos dip or other permitted dip which requires no withholding period between treatment and slaughter; (2) the cattle are accompanied by a permit; and (3) the cattle are moved in a vehicle placarded in accordance with proposed § 73.10. Proposed § 73.6(d)(1)(i) closely parallels present § 73.2(a).

The requirement that vehicles be placarded would be retained. The treatment requirement would differ only in that it specifies that a permitted lime-sulfur dip, coumaphos dip or other permitted dip that requires no withholding period between treatment and slaughter be used. At the time the present regulations were written, toxaphene was the only permitted dip requiring a withholding period and, therefore, was the only permitted dip which could not be used under present § 73.2(a). Since that time, other dips requiring withholding periods have been approved. Proposed § 73.6(d)(1)(i)(A),

therefore, would list the two permitted dips which require no withholding period between treatment and slaughter and allow the use of any other dips which may be developed and approved in the future which require no withholding period between treatment and slaughter. Proposed § 73.6(d)(1)(i) would also add a requirement that the cattle be accompanied by a permit. As stated earlier, this permit requirement would enable the Department to trace cattle and to ascertain whether they are moving interstate in compliance with proposed Part 73.

The second alternative for the interstate movement of cattle infested with cattle scabies directly to a recognized slaughtering establishment for immediate slaughter would be contained in proposed § 73.6(d)(1)(ii). This option would differ from the requirements in § 73.6(d)(1)(i) in that it would apply only to cattle infested with cattle scabies which are inspected by a Veterinary Services inspector or State inspector within 10 days prior to the movement and are found by the Veterinary Services inspector or State inspector not to have visible lesions of scabies. Proposed § 73.6(d)(1)(ii), therefore, corresponds very closely with present § 73.2(c); however, § 73.2(c) only applies to cattle from a free area not visibly diseased with cattle scabies. The Department believes that the status of the area from which cattle infested with cattle scabies are moved would have no bearing upon the risk of the spread of cattle scabies.

Present § 73.2(c) requires that the vehicle in which cattle infested with cattle scabies with no visible lesions are transported be placarded. Proposed § 73.6(d)(1)(ii) would retain this requirement. Present § 73.2(c) requires that such cattle be moved only to a recognized slaughtering center where separate pens are provided for yarding exposed cattle. However, there are no separation requirements for such cattle prior to arrival at the recognized slaughtering center. Proposed § 73.6(d)(1)(ii) would strengthen the requirement that such cattle be kept physically separated from all other cattle. In this regard, the proposal would require that immediately after inspection such cattle are physically separated from all other cattle and remain physically separated during shipment and at the recognized slaughtering establishment. The Department believes that such a strengthened separation requirement is necessary to reduce the risk of the spread of cattle scabies. Proposed § 73.6(d)(1)(ii) would add a requirement

that such cattle be accompanied by a permit. As previously stated, this requirement would enable the Department to trace such cattle and to ascertain whether they are moving in compliance with the requirements of proposed Part 73.

Presently § 73.3 lists conditions under which cattle affected with scabies may move interstate for any purpose. Present § 73.3 requires that cattle be dipped twice in a permitted dip 10 to 14 days apart. However, the section also provides for dipping once at point of origin with the option of a second dipping enroute or at destination. If the second dipping is enroute or at destination, the vehicle must be placarded and the billing marked "Dipped Scabby Cattle." Proposed § 73.6(d)(2) would retain the dipping requirements but would require that the second dipping also be performed at the point of origin. The Department believes that the second dipping at the point of origin is necessary to improve eradication procedures. Once cattle leave the point of origin, it is a great deal more difficult to insure that the second dipping is accomplished and personnel are not available to monitor the cattle during shipment. Therefore, proposed § 73.6(d)(2) would require that both treatments be completed at point of origin before shipment begins. Since cattle could no longer be dipped enroute or at destination, the requirement for having a vehicle carrying such animals placarded and the billing marked would no longer be necessary and has been dropped from the proposed regulations.

Presently, § 73.2(b) requires that cattle shipped interstate pursuant to the provisions of § 73.2(a) (cattle affected with scabies which have been dipped once) must be slaughtered within 14 days from the date of dipping or such cattle must be dipped again by the owner. Proposed § 73.7 would expand this requirement to cover cattle from a quarantined area and cattle infested with and exposed to cattle scabies. Specifically, proposed § 73.7(a) would require that cattle infested with cattle scabies which have been moved interstate under proposed § 73.6(d)(1)(ii), cattle from a quarantined area, and cattle exposed to cattle scabies which have been moved interstate for immediate slaughter, but which have not been slaughtered within 14 days after inspection, be treated once with a permitted lime-sulfur dip or twice with a permitted coumaphos dip 10 to 14 days apart under the supervision of a Veterinary Services inspector or State inspector. Proposed § 73.7(b) would require that cattle infested with cattle

scabies which have been moved interstate for immediate slaughter under proposed § 73.6(d)(1)(i), but which have not been slaughtered within 14 days after being treated shall be treated again under the supervision of a Veterinary Services inspector or State inspector.

The Department believes that proposed § 73.7 would not be burdensome to the packers since it is economically unsound to feed slaughter cattle longer than necessary before slaughter, and the 14-day period should give recognized slaughtering establishments ample opportunity to arrange slaughter schedules to comply with this requirement. Proposed § 73.7 would expand this requirement to cattle from a quarantined area and cattle exposed to cattle scabies and retain the requirement for cattle infested with cattle scabies because these cattle present a risk of spread of the disease. The Department believes that there is a possibility that these cattle, if not slaughtered within 14 days, could re-enter trade channels or become heavily infested and infest other cattle on the premises which could re-enter trade channels.

There is no provision for approving treatment facilities in the present regulations. Several States require treatment of cattle in the State of origin before movement to their State. Meetings and discussions were held concerning the growing concern over the cattle scabies situation, and invariably State animal health officials and cattle industry representatives requested that Veterinary Services set up a treatment facility approval system. These requests resulted in § 73.8 being added to this proposal which would provide for specifically approved treatment facilities.

Proposed § 73.8(a)(1) would give the Deputy Administrator specific authority to approve treatment facilities for the purpose of proposed Part 73 and to publish notice in the Federal Register listing such treatment facilities when he determines that the facilities meet the standards in proposed § 73.8(b). The approval of the treatment facility would also be contingent upon the determination by the Deputy Administrator that there are sufficient funds and adequate personnel available to provide the services which would be required under this proposed part at such facilities. Lists of treatment facilities which have been specifically approved for the purposes of this proposed part would be available from the appropriate Veterinary Services Area Veterinarian in Charge or State animal health official.

Proposed § 73.8(a)(2) would allow an owner of a treatment facility to cancel approval upon request. Approval would be cancelled upon receipt by the Deputy Administrator of a written notice from the owner of a treatment facility requesting cancellation of approval. The Department believes that an individual should have the ability to ask for approval and removal of approval.

Proposed § 73.8(a)(3) would give the Deputy Administrator authority to withdraw approval of a treatment facility upon his determination that any of the standards for specially approved treatment facilities or requirements of the agreement set forth in proposed § 73.8(b) are not being met. However, prior to the withdrawal of approval the owner or operator of the treatment facility would be given written notice of the reasons for withdrawal of approval, and would have an opportunity to present his views. In instances where there is a conflict as to the facts, a hearing would be held to resolve such conflict. However, when it is in the public interest to prevent the spread of cattle scabies, proposed § 73.8(a)(3) would give the Deputy Administrator authority to suspend approval of any treatment facility pending the outcome of the hearing. It is not the intention of the Department to withdraw approval without cause, however, where the minimum standards or the agreement which would be set forth in proposed § 73.8(b) are not being met, the risk of the spread of cattle scabies is increased. Therefore, a procedure for withdrawal and suspension of approval appears necessary.

Proposed § 73.8(b) would contain the minimum standards which the Department believes are necessary to properly treat cattle for cattle scabies (i.e., effectively kill the scabies mite) and to assure that Environmental Protection Agency regulations regarding pesticides are not violated. However, specific standards for the dimensions, construction and materials could not be mandated by this proposed part because of the variables involved. Specific dimensions cannot be stated for these treatment facilities due to the wide variation in animal sizes and number of animals being treated. Approved treatment facilities consist of several different types of construction and the use of different materials so that it is impossible to set specific standards regarding construction and materials. The most important items to keep in mind when setting up a treatment facility, is that the treatment must effectively kill the scabies mite. This requires that the animals treated be

completely wetted to the skin with a permitted dip of proper concentration. Further, the treatment facility must be built so as to prevent contamination of the environment with the permitted dip.

Proposed § 73.8(b)(1), (2) and (3) would set forth the minimum standards for permanent swim vats, portable swim vats, portable cage vats, and spray dip machines. These types of treatment facilities are the only ones that have been proven effective for the treatment of cattle scabies mites.

Proposed § 73.8(b)(1) would list requirements for permanent and portable swim vats. Proposed § 73.8(b)(1)(i) would require such vats to be water tight to maintain proper pesticide concentrations and prevent possible pesticide contamination of surrounding areas including surface water and underground water sources. Due to differences in the size of cattle treated, density of hair coat, amount of dust or mud on the animal, the exact length and depth of the vat cannot be specifically stated. The length of the vat should be such that, as the animal swims through, it remains in the vat long enough for the liquid in the vat to penetrate to the skin. The depth should be such that the animal will be completely submerged upon entry into the vat and must swim and not be able to walk the length of the vat. The scabies live on the surface or just under the surface of the skin, so proposed § 73.8(b)(1)(i) would require the length and depth of vats be such that complete wetting to the skin is accomplished. Only after the animal emerges from the vat and a visual inspection made, can it be determined whether the animal is wet to the skin. Proposed § 73.8(b)(1)(iii) would require accurate calibration of the vat to show full, seven-eighths and three-quarters capacity. This calibration is necessary to determine the accurate amount of pesticide to be added when the initial charge is made in order to have the correct concentration of pesticide. The vat should be refilled with the correct proportion of pesticide and water whenever the vat reaches the seven-eighths level. This is because some pesticides have a tendency to adhere to hair more so than water, causing a disproportionate carryout when the animals leave the vat. Proposed § 73.8(b)(1)(iv) would require that such vats have a premix tank able to hold at least a one-eighth capacity of the vat. The pesticide concentration is a very critical part of any treatment procedure, for the mites must be killed so that pesticide tolerance or resistance will not become established in the mite. The one-eighth capacity of the premix

tank corresponds to the seven-eighths level of the vat and is a necessary method to keep pesticide concentrations within the prescribed limits. Proposed § 73.8(b)(1)(v) would require that permanent and portable swim vats have accurate water meters to measure the flow of water into the vat and premix tank. The amount of water determines the amount of pesticide to add. An accurate water meter is the simplest and most accurate means of measuring water. Proposed § 73.8(b)(1)(vi) would require that permanent and portable swim vats have a compressed air agitation system and water inlets and outlets that are leak proof and locked. It has always been difficult to keep pesticides evenly distributed throughout the entire volume of the vat, especially when the vat is not used for a period of time. Several methods of agitation are available, but air agitation has proven to be the most reliable. Mechanical agitation used in the past required at least 15 minutes of hard labor and was not always reliable. Leak proof water inlets and outlets are necessary to prevent contamination of the water supply with pesticides and to maintain proper pesticide concentrations within the vat. These inlets and outlets would be required to be locked in order that unauthorized persons cannot tamper with them and alter the pesticide concentrations within the vat or allow vat contents to escape from the vat. Proposed § 73.8(b)(1)(vii) would require that permanent and portable swim vats are located and constructed so as to prevent the entrance of surface and rain water into the vat and drain pen area. This would help assure that proper pesticide concentrations are maintained. The entrance of surface or rain water can dilute pesticide concentrations and in the case of excess surface or rain water it may cause overflow and result in pesticide contamination of surrounding areas.

Proposed § 73.8(b)(2) would set forth the minimum standards for approval of a portable cage vat. Cage vats are designed so that one animal at a time enters the cage that is held above a tank of permitted dip. When the cage is closed, the animal is completely confined within the cage. Proposed § 73.8(b)(2)(i) would require that the portable cage vat have a tank with a capacity to completely submerge adult cattle without overflow of the permitted dip. Complete submergence is necessary so that all scabies mites are exposed to the pesticide. When the cage is lowered into the dip liquid the top of the cage should be below the seven-eighths level of the tank holding the dip

concentration. This will insure complete submergence of the animal. The tank must be deep enough so that when the animal is completely submerged, no dip liquid will escape from the tank and contaminate surrounding areas. Proposed § 73.8(b)(2)(ii) would require that the tank or portable cage vats be water tight to prevent pesticide waste and contamination. Proposed § 73.8(b)(2)(iv) would require that the portable cage vat have an accurate water meter to measure the flow of water into the tank. The amount of water determines the amount of pesticide which must be added. An accurate water meter is the simplest and most accurate means of measuring water so that the proper amount of pesticide can be added to maintain proper pesticide concentrations. Proposed § 73.8(b)(2)(iii) would require that the portable cage vat have a tank which is calibrated accurately to show full, seven-eighths and three-quarters capacity. This calibration is necessary to determine the accurate amount of pesticide to be added when the initial charge is made in order to have the correct concentration of pesticide. Further, as animals are dipped, a certain amount of liquid will be carried out by the animal, gradually lowering the dip level. When the dip level reaches the seven-eighths level, it should be replenished with the proper dip concentration.

Proposed § 73.8(b)(3) would set forth the minimum requirements for approval of a spray dip machine. Again, these were believed to be the minimum standards for maintaining proper pesticide concentrations and wetting animals to the skin. It has been determined through field trials that it is necessary to have a minimum of 760 liter (200 gallons) for the storage tank in order to maintain proper pesticide concentration and eliminate the necessity for frequent replenishments. Therefore, proposed § 73.8(b)(3)(i) would require that a spray dip machine have a water tight storage tank with at least a 760-liter (200-gallon) capacity. Proposed § 73.8(b)(3)(ii) would require that the storage tank be calibrated accurately to show full, seven-eighths and three-fourths capacity. Proposed § 73.8(b)(3)(iii) would require that the spray dip machine have a method to accurately measure the water placed into the storage tank. The requirements that the tank be water tight and calibrated and have a method to accurately measure water placed into the storage tank are necessary for the same reasons as discussed above with respect to proposed § 73.8(b)(1) and (2).

The motor, pump, and spray nozzles vary in size and efficiency. No endorsement of any particular brand is intended so § 73.8(b)(3)(iv) would only require that the spray dip machine have a motor, pump and spray nozzles with sufficient pressure to wet the animal to the skin.

Proposed § 73.8(b)(4) would require permanent and portable swim vats to have drip pens which are constructed so that the majority of the permitted dip is allowed to drain off the cattle treated and return to the vat. Cattle must be held in the drip pens long enough so that the permitted dip no longer runs off the animals in rivulets. The cattle treated in cage vats or spray dip machines are directly over the permitted dip holding tank, and therefore should be held in the cage vat or spray dip machine after treatment a sufficient length of time to allow the dip material to drain back into the tank. Length and thickness of hair coat varies with breed of animal and season of the year, but approximately one minute is an average time necessary to insure that most of the permitted dip returns to the tank. The requirements in proposed § 73.8(b)(4) are necessary to prevent contamination of the soil and water supply.

Proposed § 73.8(b)(5) would require a treatment supervisor (certified pesticide applicator) to be present at all times treatment is in progress. This is to insure that a competent person is present at all times treatment of cattle is being carried out. Proposed § 73.8(b)(5) would also require the treatment supervisor to record information regarding all treatments. The records which would be required under this section will facilitate proper tracing and investigations in regard to cattle scabies outbreaks. The records required for such tracing consist of the numbers of any permits or certificates issued, the name and address of the owner of the cattle treated, number of cattle treated, reason for treatment, permitted dip brand name, lot number used for treatment, destination of cattle treated and laboratory results of dip vat samples.

Proposed § 73.8(b)(6) would require that fees charged by the owner or operator of a specifically approved treatment facility to the owner of cattle to be treated be nondiscriminatory and reasonable as determined by the Deputy Administrator.

Proposed § 73.8(b)(7) would require the owner of the treatment facility to enter into an agreement with Veterinary Services and the State animal health official of the State in which the facility is located so that the owner is aware of the responsibilities associated with having an approved treatment facility.

§ 73.8(b)(7)(i) would require that the owner provide a certified pesticide applicator as the treatment supervisor who is knowledgeable in handling cattle and treatment of scabies as specified in Veterinary Services Memorandum No. 556.1 and the appropriate supplements. It is extremely important that a person knowledgeable in the proper handling of cattle and the treatment of cattle for cattle scabies be present at all times during treatment so that the treatment will be performed in an effective manner in order to kill all the scabies mites. Proposed § 73.8(b)(7)(ii) would require the treatment records required by proposed § 73.8(b)(5) to be maintained for 12 months. These records are necessary for tracing and compliance purposes as explained previously under § 73.8(b)(3). The Department believes that any tracing or investigations may be necessary up to a 12-month period after treatment. The working hours of most treatment facilities will be very erratic depending on the volume of treatment; therefore, proposed § 73.8(b)(7)(ii) would require that the owner of the treatment facility agrees to afford Veterinary Services inspectors access to such records at all reasonable times. Inspectors should consult with the owner or treatment supervisor and mutually agree upon times that these records will be available. Only permitted dips at proper concentrations as stated in § 73.8(b)(7)(iii) would be used when treating cattle for cattle scabies because they are the only ones approved for such use by the Environmental Protection Agency and proven to be effective against the cattle scabies mite. Proposed § 73.8(b)(7)(iv) would require the disposal of permitted dip in accordance with national, State, and local environmental laws and regulations. Proposed § 73.8(b)(7)(iv) would require the disposal of permitted dip in accordance with national, State, and local environmental laws and regulations. Proposed § 73.8(b)(7)(v) would require that dip-vat samples collected by the treatment supervisor during each treatment be submitted to the National Veterinary Services Laboratory, Ames, Iowa. The submission of dip-vat samples is the only means of monitoring the permitted dip concentrations to insure that treatment is effective and in compliance with EPA requirements.

Under the present regulations, there is no provision for handling permits or certificates after the movement of cattle is completed. This has inhibited the Department's ability to trace animals and to determine when, where, or if inspections or treatments were

completed to comply with requirements for interstate movement. Therefore, proposed § 73.9(a) would require that documents which would be required to accompany cattle interstate under this part be delivered by the carrier to the consignee or his representative at the point of destination. The consignee would be required to retain such documents for 12 months after receipt. Proposed § 73.9(b) would require the Veterinary Services inspector or State inspector issuing a document which would be required for the interstate movement of cattle under this part to forward a copy thereof to the State animal health official of the State of destination within 24 hours of the issuance of the document. The requirements in proposed § 73.9 are necessary to enable the Department to trace animals to their point of origin, to determine the source of an outbreak of cattle scabies, and to determine when, where, or if inspections or treatments were completed in compliance with the regulations governing their interstate movement.

Presently, § 73.6 requires placarding means of conveyance and marking billing of shipments of dipped scabby cattle or cattle exposed to scabies. Proposed § 73.10 would retain that requirement with minor nonsubstantive changes which will simplify and clarify these requirements.

Presently, § 73.8 describes the handling of cattle which become infested with or exposed to cattle scabies during transit. Under this proposal, § 73.11 would retain the same requirements as the present regulations, but would make it easier to understand. Further, this proposal would remove from this section the requirement that "the means of conveyance and the chutes, alleys, and pens which have been occupied by diseased animals shall be cleaned and disinfected" as provided in §§ 71.4-71.11. The Department believes that proposed § 73.14 which would require that all conveyances, premises and other facilities having contained cattle infested with or exposed to cattle scabies be cleaned and sprayed with a permitted dip will eliminate the risk of spread of cattle scabies via conveyances and premises from cattle found to be infested with or exposed to cattle scabies during transit.

Presently, § 73.9 requires the owner to assume responsibility for dipping or treatment, and the owner must execute an agreement with Veterinary Services assuming this responsibility. This proposal would retain that requirement in § 73.12 with minor, nonsubstantive changes which were made for clarity.

Presently, § 73.10 lists the permitted dips for the treatment of cattle scabies. The proposal in § 73.13 would not change the substances allowed as permitted dips. Section 73.13(b)(3) would change the treatment bath concentration for coumaphos (Co-Ral<sup>®</sup>) from 0.30 to between 0.28 and 0.32. A single concentration such as 0.30 is impossible to maintain in a treatment bath and studies since the present regulation was written have shown that a concentration between 0.28 and 0.32 will effectively kill the scabies mite and is not injurious to the animal being treated. This section would be reorganized and other minor changes would be made for clarity.

Presently, § 73.11 requires the treatment of conveyances, facilities, and premises having contained cattle infested with cattle scabies. This proposal would retain the same requirements under § 73.14, but would also require that such facilities which have contained cattle exposed to cattle scabies be cleaned and sprayed with a permitted dip. The Department believes that there is risk of the spread of cattle scabies from facilities or premises which have contained cattle exposed to cattle scabies which is large enough to warrant such cleaning and spraying. Other minor nonsubstantive changes would be made in order to clarify this section.

There is presently no provision in the regulations for allowing cattle to move interstate except in compliance with Part 73. It is conceivable that at some time a condition may exist whereby it would be mutually beneficial to the cattle industry and to Veterinary Services to allow cattle to move interstate without complying with Part 73. These would be isolated cases and should occur only rarely. The proposal in § 73.15 would allow the Deputy Administrator to authorize other movements in unique situations under conditions which he has determined would not contribute to the spread of cattle scabies. However, these circumstances must be of such a nature that they cannot be reasonably anticipated in advance and can only be used in unique situations. Other minor additional changes would be made for clarity.

Accordingly, it is proposed that Part 73, Title 9, Code of Federal Regulations be revised as follows:

#### PART 73—SCABIES IN CATTLE

Sec.

- 73.1 Definitions.
- 73.2 General restrictions.
- 73.3 Cattle scabies free areas.
- 73.4 Quarantine policy.
- 73.5 Quarantined areas.

- 73.6 Cattle moved interstate.
- 73.7 Cattle moved for immediate slaughter but not slaughtered within 14 days after inspection or treatment.
- 73.8 Specifically approved treatment facilities.
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- 73.13 Substances allowed as permitted dips.
- 73.14 Cleaning and spraying means of conveyance, facilities, and premises.
- 73.15 Other movements.

Authority: 5 U.S.C. 553; 7 U.S.C. 450 and 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b and 134f.

#### § 73.1 Definitions.

For purposes of this Part, the following terms shall have the meaning set forth in this section:

(a) *Deputy Administrator*. The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(b) *Veterinary Services*. Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

(c) *State animal health official*. The State animal health responsible for disease control and eradication programs.

(d) *Veterinary Service inspector*. A person employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

(e) *State inspector*. A person employed by a State or a political subdivision therefore, who is authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

(f) *Accredited veterinarian*. A veterinarian approved by the Deputy Administrator in accordance with Part 161 of Title 9, Code of Federal Regulations, to perform functions specified in Part 11 of Subchapter A, and Subchapters, B, C, and D of this Chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

(g) *Cattle scabies free areas*. Those States or portions of States not

quarantined by the Secretary of Agriculture for the presence of cattle scabies.

(h) *Quarantined area*. An area in which an outbreak of cattle scabies has occurred and on which an official Federal quarantine has been placed.

(i) *Permitted dip*. A pesticide chemical permitted by the Department for treatment of cattle scabies as listed in § 73.13.

(j) *Treated*. Treated with a permitted dip in a specifically approved treatment facility.

(k) *Certificate*. An official document issued by a Veterinary Services inspector or State inspector at the point of origin of a shipment of cattle to be moved under this part which shows: the identification tag, tattoo, or registration number or similar identification of each animal to be moved, the age, sex and breed of each animal to be moved, the points of origin and destination, the name and address of the owner, consignor and consignee, the name and address of the carrier, the date of the issuance of the certificate, and, when treated for cattle scabies, the date treated, the permitted dip used, and the required delay, if any, between treatment and slaughter.

(l) *Permit*. An official Veterinary Services permit for Movement of Animals, VS Form 1-27, or a similar State form issued by a Veterinary Services inspector or State inspector at the point of origin of a shipment of cattle to be moved under this part which shows: the identification tag, tattoo, backtag, or registration number or similar identification of each animal to be moved, the number of animals covered by the document, the purpose for which the animals are to be moved, the points of origin and destination, the consignor and consignee, and, when treated for cattle scabies, the date treated, the permitted dip used, and the required delay, if any, between treatment and slaughter.

(m) *Recognized slaughtering establishment*. Any facility where cattle are slaughtered under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State-inspected facility.

(n) *Herd*. A group of cattle maintained for any purpose on common ground, or two or more groups of cattle under common ownership or supervision, geographically separated, but which have an interchange or movement of cattle without regard to whether the cattle are infested with or exposed to cattle scabies.

(o) *Lot*. Group of cattle maintained for any purpose in a pasture, on a range, on a farm, in a market, in a feedlot, or a

concentration point which have the opportunity to come into physical contact with one another.

(p) *Cattle infested with cattle scabies.* Cattle from which the scabies mite has been collected or a member of an infested herd or infested lot; except that cattle which have been treated twice 10 to 14 days apart and from which any existing State and/or Federal quarantine is removed are not considered to be infested with cattle scabies.

(q) *Infested herd.* Any herd in which the scabies mite has been collected from one or more cattle.

(r) *Infested lot.* Any lot in which the scabies mite has been collected from one or more cattle.

(s) *Cattle exposed to cattle scabies.* Any cattle which are not infested with cattle scabies but which (1) have been in physical contact with cattle of an infested herd or lot, or (2) which have been in physical contact with fences, trucks, pens, chutes, or alleys with which cattle infested with cattle scabies have been in physical contact within the preceding 10 days and the fences, trucks, pens, chutes, or alleys were not cleaned and sprayed with a permitted dip in accordance with § 73.14 of this part. Cattle which have been treated once with a permitted lime-sulfur dip or toxaphene dip or treated twice, 10 to 14 days apart, with a permitted dip other than lime-sulfur or toxaphene and from which any existing State and/or Federal quarantine is removed, are not considered to be exposed to cattle scabies.

(t) *State.* Any State, of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

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

(v) *Cattle from a quarantined area.* Any cattle originating from a quarantined area or any cattle moved through a quarantined area.

(w) *Supervision.* Physical presence to inspect the entire process in question.

(x) *Certified pesticide applicator.* A person certified in accordance with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, (7 U.S.C. 136 *et seq.*) to apply pesticides.

(y) *Common ground.* The ground, areas, or buildings shared by any specific group or groups of cattle.

### § 73.2 General restrictions.

Cattle may not be moved interstate except in compliance with the regulations in this Part.

### § 73.3 Cattle scabies free areas.

All areas in the United States, except those specifically listed in § 73.5, are hereby designated as cattle scabies free areas.

### § 73.4 Quarantine policy.

The Act of March 3, 1905, as amended (21 U.S.C. 123), authorizes the Secretary of Agriculture to quarantine any State, or any portion of any State, when he determines the fact that any animals in such jurisdiction are affected with any contagious, infectious, or communicable disease of livestock or that the contagion of any such disease exists, or that vectors which may disseminate any such disease exist in such jurisdiction. Pursuant to this authority, the Department has quarantined areas because of cattle scabies and has issued the regulations in this part governing the interstate movement of cattle from such areas. It is the policy of the Department to quarantine those portions of any State in which cattle scabies or the mites which are the contagion of said disease is found to exist by a Veterinary Services inspector or State inspector and not to quarantine an entire State for cattle scabies if the State adopts and enforces requirements for the intrastate movement of cattle that are at least as stringent as the requirements in the regulations in this part for interstate movement of cattle. Further, it is the policy of the Department to remove the quarantine from any quarantined area when it is determined that cattle infested with cattle scabies and the mites which are the contagion of the scabies no longer exist in such area.

### § 73.5 Quarantined areas.

Notice is hereby given that cattle scabies exists in the following areas and they are hereby quarantined:

(a) *Texas.* That portion of Potter County consisting of Lot 691, Section 164, Block 2.

### § 73.6 Cattle moved interstate.

(a) *Movement of cattle which are not infested with or exposed to cattle scabies from a cattle scabies free area.* Cattle from a cattle scabies free area which are not infested with or exposed to cattle scabies may be moved interstate without restriction under this part.

(b) *Movement of cattle which are not infested with or exposed to cattle scabies from a quarantined area.* (1) *Cattle moved for immediate slaughter.* Cattle from a quarantined area which are not infested with or exposed to cattle scabies may be moved interstate directly to a recognized slaughtering

establishment for immediate slaughter only if:

(i) The cattle are inspected by a Veterinary Services inspector or State inspector within 10 days prior to the movement and are found by a Veterinary Services inspector or State inspector not to be infested with or exposed to cattle scabies; and

(ii) The cattle are accompanied by a certificate which includes a certification by a Veterinary Services inspector or State inspector that the cattle described on the certificate were not infested with or exposed to cattle scabies at the time of inspection.

(2) *Cattle moved other than for slaughter.* Cattle from a quarantined area which are not infested with or exposed to cattle scabies may be moved interstate other than for slaughter only if:

(i) The cattle are inspected by a Veterinary Services inspector or State inspector within 10 days prior to the movement and are found by a Veterinary Services inspector or State inspector not to be infested with or exposed to cattle scabies; and

(ii) After the inspection, the cattle are treated once under the supervision of a Veterinary Services inspector or State inspector within the 10-day period between inspection and movement; and

(iii) The cattle are accompanied by a certificate which includes a certification by a Veterinary Services inspector or State inspector that the cattle described on the certificate were not infested with or exposed to cattle scabies at the time of inspection and have been treated under the supervision of a Veterinary Services inspector or State inspector.

(c) *Movement of cattle exposed to cattle scabies.* (1) *Cattle moved for immediate slaughter.* Cattle exposed to cattle scabies may be moved interstate directly to a recognized slaughtering establishment for immediate slaughter only if:

(i) The cattle are inspected by a Veterinary Services inspector or State inspector within 10 days prior to the movement and are found by a Veterinary Services inspector or State inspector not to be infested with cattle scabies; and

(ii) The cattle are accompanied by a permit which includes a certification by a Veterinary Services inspector or State inspector that the cattle described on the permit were not infested with cattle scabies at the time of inspection; and

(iii) The cattle are moved in a vehicle placarded in accordance with § 73.10.

(2) *Cattle moved other than for slaughter.* Cattle exposed to cattle scabies may be moved interstate other than for slaughter only if:

(i)(A) The cattle are inspected by a Veterinary Services inspector or a State inspector within 10 days prior to the movement and are found by a Veterinary Services inspector or State inspector not to be infested with cattle scabies, and

(B) After the inspection, the cattle are treated under the supervision of a Veterinary Services inspector or State inspector within the 10-day period between inspection and movement with a permitted lime-sulphur dip or toxaphene dip, and

(C) The cattle are accompanied by a certificate which includes a certification by a Veterinary Services inspector or State inspector that the cattle described on the certificate were not infested with cattle scabies at the time of inspection and have been treated under the supervision of a Veterinary Services inspector or State inspector; or

(ii)(A) The cattle are inspected by a Veterinary Services inspector or State inspector within 20 days prior to the movement and are found by the Veterinary Services inspector or State inspector not to be infested with cattle scabies; and

(B) After inspection, the cattle are treated twice under the supervision of a Veterinary Services inspector or State inspector 10 to 14 days apart with a permitted dip other than lime-sulfur or toxaphene, and

(C) The cattle are moved within 10 days after the second treatment, and

(D) The cattle are accompanied by a certificate which includes a certification by a Veterinary Services inspector or State inspector that the cattle described on the certificate were not infested with cattle scabies at the time of inspection and have been treated twice under the supervision of a Veterinary Services inspector or State inspector.

(d) *Movement of cattle infested with cattle scabies.* (1) *Cattle moved for immediate slaughter.* Cattle infested with cattle scabies may be moved interstate directly to a recognized slaughtering establishment for immediate slaughter only if:

(i)(A) The cattle are treated under the supervision of a Veterinary Services inspector or State inspector within 10 days prior to the movement with a permitted lime-sulfur dip, coumaphos dip, or other permitted dip which requires no withholding period between treatment and slaughter, and

(B) The cattle are accompanied by a permit, and

(C) The cattle are moved in a vehicle placarded in accordance with § 73.10; and

(ii)(A) The cattle are inspected by a Veterinary Services inspector or State inspector within 10 days prior to the

movement and are found by the Veterinary Services inspector or State inspector not to have visible lesions of scabies, and

(B) After the inspection, the cattle are immediately physically separated from all other cattle and are kept physically separated during movement; and

(C) Upon arrival at the recognized slaughtering establishment, the cattle are kept physically separated from all other cattle at the recognized slaughtering establishment, and

(D) The cattle are accompanied by a permit, and

(E) The cattle are moved in a vehicle placarded in accordance with § 73.10.

(2) *Cattle moved other than for slaughter.* Cattle infested with cattle scabies may be moved interstate other than for slaughter only if:

(i) The cattle are treated twice, 10 to 14 days apart under the supervision of a Veterinary Services inspector or State inspector; and

(ii) The cattle are moved within 10 days after the second treatment; and

(iii) The cattle are accompanied by a certificate which includes a certification by a Veterinary Services inspector or State inspector that the cattle described on the certificate have been treated twice, 10 to 14 days apart, under the supervision of a Veterinary Services inspector or State inspector.

§ 73.7 *Cattle moved for immediate slaughter but not slaughtered within 14 days after inspection or treatment.*

(a) *Cattle from a quarantined area or cattle exposed to cattle scabies.* Cattle infested with cattle scabies which have been moved interstate for immediate slaughter under § 73.6(d)(1)(ii), cattle from a quarantined area, and cattle exposed to cattle scabies which have been moved interstate for immediate slaughter, but which have not been slaughtered with a permitted coumaphos dip 10 to 14 days apart under the supervision of a Veterinary Services inspector or State inspector.

(b) *Cattle infested with cattle scabies.* Cattle infested with cattle scabies which have been moved interstate for immediate slaughter, under § 73.6(d)(1)(i), but which have not been slaughtered within 14 days after being treated shall be treated again by the packer under the supervision of a Veterinary Services inspector or State inspector.

§ 73.8 *Specifically approved treatment facilities.*

(a)(1) The Deputy Administrator is authorized specifically to approve

\* Lists of specifically-approved treatment facilities for the purposes of the regulations in this part are

treatment facilities for the purpose of the regulations in this part and to promulgate notices listing such treatment facilities in accordance with this section when he determines that the treatment facilities meet the standards in paragraph (b) of this section; *Provided however,* that the approval of the treatment facility shall be contingent on the determination of the Deputy Administrator that there are sufficient funds and adequate personnel available to provide services required at such facilities.

(2) Approval of a treatment facility shall be canceled upon receipt by the Deputy Administrator of written notice from the owner of the treatment facility requesting cancellation of approval.

(3) Approval of any treatment facility may be withdrawn by the Deputy Administrator upon his determination that any of the standards for specifically approved treatment facilities or requirements of the agreement in paragraph (b) of this section are not being met by that facility. Prior to withdrawal of approval, the owner or operator of the treatment facility shall be given written notice of the reasons for the withdrawal of approval, and shall have an opportunity to present his views thereon. In those instances where there is a conflict as to the facts, a hearing shall be held to resolve such conflict. The Deputy Administrator may suspend approval of any treatment facility pending the outcome of the hearing if he determines that such suspension is in the public interest to prevent the spread of cattle scabies.

(b) *Standards for specifically approved treatment facilities.* Specifically approved treatment facilities shall be one of three types, a permanent or portable swim vat, a portable cage vat or a spray dip machine. The standards for the respective types of specifically approved treatment facilities are set forth in paragraph (1).

(1) Permanent and portable swim vats shall: (i) Be constructed so that they are water tight;

(ii) Be of sufficient length and depth to completely submerge and wet adult cattle to the skin and prevent overflow of permitted dip;

(iii) Be calibrated accurately to show full, seven-eighths and three-fourths capacity;

(iv) Have an accurately measured premix tank able to hold at least one-eighth of the capacity of the vat;

available through the Veterinary Services Area Veterinarian in Charge or the State animal health official.

- (v) Have an accurate water meter to measure the flow of water into the vat and the pre-mix tank;
- (vi) Have a compressed air agitation system and water inlets and outlets leak proof and locked; and
- (vii) Be located and constructed so as to prevent entrance of surface and rain water into the vat and drain pen area.
- (2) Portable cage vats shall:
- (i) Have a tank of sufficient capacity to submerge adult cattle completely without overflow of the permitted dip;
- (ii) Have a tank which is constructed so that it is water tight;
- (iii) Have a tank which is accurately calibrated to show full, seven-eighths and three-fourths capacity; and
- (iv) Have an accurate water meter to measure the flow of water into the tank.
- (3) Spray dip machine shall:
- (i) Have a water tight storage tank with at least a 760-liter (200-gallon) capacity;
- (ii) Have a storage tank accurately calibrated to show full, seven-eighths and three-fourths capacity;
- (iii) Have a method to accurately measure the water placed into the storage tank; and
- (iv) Have a motor, pump, and spray nozzles with sufficient pressure to wet the animals to the skin.
- (4) Permanent and portable swim vats shall have a drip pen. Drip pens shall be of such construction and size to hold mature cattle and allow the permitted dip to drain back into the main vat or tank. Drip pens shall have floors and curbs which shall be constructed of impervious material and can withstand repeated wear and tear from the hoofs of cattle treated. Cattle shall be held in the drip pens long enough so that the permitted dip no longer runs off the animal in rivulets. In the case of portable cage vats or spray dip machines, the animal shall be held in the cage or spray dip machine for a period of approximately one minute after being treated.
- (5) The treatment supervisor (certified pesticide applicator) shall be present at all times treatment is in progress. The treatment supervisor shall record all treatments listing the permit number, certificate number, date of treatment, name and address of the owner of the cattle treated, number of cattle treated, reason for treatment, chemical brand name and lot number used for treatment, and destination of cattle treated.
- (6) Fees charged by the owner or operator for use of such facility shall be provided in private agreements between the owner or operator of the facility and the owner of the cattle to be treated. Such fees shall be nondiscriminatory

and reasonable as determined by the Deputy Administrator.

(7) The owner of the treatment facility shall enter into an agreement with Veterinary Services and the State animal health official of the State in which the facility is located agreeing to:

(i) Provide a certified pesticide applicator as treatment supervisor who is knowledgeable in handling cattle and treatment of scabies as specified in Veterinary Services Memorandum No. 556.1<sup>2</sup> and the appropriate supplements as they relate to cattle scabies.

(ii) Maintain for a period of 12 months after treatment the records required in § 73.8(b)(5) and afford Veterinary Services inspectors and State inspectors access to such records at all reasonable times.

(iii) Use only permitted dips at proper concentrations as specified in § 73.13, or label directions for precautionary treatment.

(iv) Dispose of permitted dips in accordance with national, State, and local environmental laws and regulations.

(v) Submit permitted dip-vat samples, which shall be collected by the treatment supervisor during each treatment, to National Veterinary Services Laboratory, Ames, Iowa.

#### § 73.9 Documents to be presented with cattle at destination.

(a) Whenever the regulations in this part require a document to accompany cattle interstate, the document shall be delivered by the carrier to the consignee or his representative at the point of destination and be retained by the consignee or his representative for a period of at least 12 months.

(b) The Veterinary Services inspector or State inspector issuing a document required for the interstate movement of cattle in this part shall forward a copy thereof to the State animal health official of the State of destination within 24 hours of the issuance of the document.

#### § 73.10 Placarding means of conveyance and marking billing of shipments of treated scabby cattle or cattle exposed to scabies.

When cattle which have been infested with cattle scabies or are exposed to cattle scabies are moved interstate for slaughter, the carrier shall affix to and maintain upon both sides of each means of conveyance carrying such cattle a placard, not less than 14 by 20 centimeters (5½ × 8 inches) in size, on which shall be printed in permanent black ink in bold-faced letters, not less

than 3.8 centimeters (1½ inches) in height, the words "Dipped Scabby Cattle," or "Cattle Exposed to Scabies," as the case may be. These placards shall also show the name of the points of origin and destination, the date of the shipment, and the name of the carrier. The carrier issuing the waybills, conductor's manifests, memoranda, and bills of lading pertaining to such shipments shall plainly write or stamp upon the face of each such paper the words, "Dipped Scabby Cattle" or "Cattle Exposed to Scabies" as the case may be. If for any reason the placards required by this part have not been affixed to the means of conveyance as aforesaid, or the placards have been removed, destroyed, or rendered illegible, or are transferred to other means of conveyance, the placards shall be immediately affixed or replaced by the carrier, and the new waybills shall be marked as aforesaid by the carrier issuing them, the intention being that the billing accompanying the shipment shall be marked and the means of conveyance containing the cattle shall be placarded "Dipped Scabby Cattle" or "Cattle Exposed to Scabies" as the case may be, from the time of shipment until the cattle arrive at destination or point of treatment.

#### § 73.11 Cattle infested with or exposed to cattle scabies during transit.

(a) Cattle moved interstate which are found by a Veterinary Services inspector or State inspector enroute to be infested with cattle scabies shall thereafter be handled in the same manner as cattle infested with cattle scabies under this part.

(b) Cattle moved interstate which are found by a Veterinary Services inspector or State inspector enroute to be exposed to cattle scabies shall thereafter be handled in the same manner as cattle exposed to cattle scabies under this part.

#### § 73.12 Owner waives claims against the United States.

To be eligible for treatment of cattle under Veterinary Services supervision, the owner of the cattle or the owner's duly authorized agent must first execute and deliver to a Veterinary Services inspector a VS Form 2-24D, "Application for Supervision of Dipping of Animals and Waiver for Loss or Damage Therefrom"<sup>3</sup> listing date, type of animal, purpose of treatment, location of treatment, and name and address of owner. VS Form 2-24D<sup>3</sup>, shall also include an agreement by the owner of

<sup>2</sup> Veterinary Services Memorandum No. 556.1 is available from the Veterinary Services Area Veterinarian in Charge.

<sup>3</sup> VS Form 2-24D available from Veterinary Services Area Veterinarian in Charge or Veterinary Services Inspector.

the cattle or the owner's duly authorized agent to waive all claims against the United States for any loss or damage to said cattle occasioned by or resulting from dipping or other treatment under this part or from the fact that the cattle are found to be infested with cattle scabies after being treated and also for all subsequent loss or damage to any other cattle in the possession or control of such owner which may come into contact with the cattle so treated.

**§ 73.13 Substances allowed as permitted dips.**

(a) Dips may be used under this part only if:

(1) the dip has been registered by the Environmental Protection Agency, in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*) for such use; and

(2) the dip has been approved by the Deputy Administrator for use under this part.

(b) Dips approved by the Deputy Administrator for use under this part are as follows:

(1) *Proprietary brands of lime-sulfur dips.*<sup>4</sup> The treatment bath must be kept at a temperature of 36.5 degrees to 40 degrees centigrade (95 degrees to 105 degrees Fahrenheit) and must be maintained throughout the treatment operation at a concentration of not less than 2 percent "sulphide sulfur," as indicated by the field test for lime-sulfur treatment baths approved by Veterinary Services.<sup>5</sup>

(2) *Proprietary brands of toxaphene dips.*<sup>6</sup> The treatment bath must be at a concentration between 0.50 and 0.60 percent toxaphene.

(3) *Proprietary brands of coumaphos (Co-Ral®)*<sup>7</sup> The treatment bath must be at a concentration between 0.28 and 0.32 percent coumaphos.

(4) *Proprietary brands of organophosphorous insecticides*

<sup>4</sup> Before a dip will be specifically approved by the Deputy Administrator as a permitted dip for the eradication of scabies in cattle, Veterinary Services will require that the product be registered under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*) that the efficacy and stability has been demonstrated; that trials have been conducted to determine that its concentration can be maintained; and that under actual field conditions the treatment of cattle in a bath of definite strength will effectually eradicate scabies infection without injury to the cattle treated.

<sup>5</sup> The names of such dips may be obtained from Veterinary Services Area Veterinarian in Charge or a Veterinary Services Inspector.

<sup>6</sup> The test kit for treatment with heated lime-sulfur may be secured from the National Veterinary Services Laboratories, Box 844, Ames, IA 50010, by a Veterinary Services Inspector, and all official tests shall be conducted by a Veterinary Services Inspector just prior to and during the treatment

(*Prolate®*)<sup>8</sup> The treatment bath must be at a concentration of between 0.15 and 0.25 percent active ingredient.

**§ 73.14 Cleaning and spraying means of conveyance, facilities, and premises.**

All means of conveyance, yards, pens, sheds, chutes, or other facilities and premises which have contained cattle infested with or exposed to cattle scabies shall be cleaned and sprayed within 72 hours of use and prior to further use with a permitted dip under the supervision of a Veterinary Services inspector, State inspector, or accredited veterinarian.

**§ 73.15 Other movements:**

The Deputy Administrator may, upon request in specific cases, permit the interstate movement of cattle not otherwise provided for in this part under such conditions as the Deputy Administrator may prescribe in each case to prevent the spread of cattle scabies. The Deputy Administrator, Veterinary Services, will promptly notify the State animal health official of the States involved of any such action. Veterinary Services intends that such authority be used only in situations and under circumstances presenting problems that could not have been reasonably anticipated in advance and in unique situations. Veterinary Services does not intend that such authority be used repeatedly to cover the same problem, but that the regulations be amended to conform with needed changes as they arise.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 737, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Draft Impact Analysis is available from Program Services Staff, Veterinary Services, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, (301) 436-8695. Executive Order 12044 also requires that all regulations be reviewed for continuing relevance every five years. Since this proposal is the result of a complete review of 9 CFR Part 73, it is part of the process which meets the cyclical review requirement.

Done at Washington, D.C., this 25th day of February 1980.

P. R. Smith,

*Assistant Secretary for Marketing and Transportation Services.*

[FR Doc. 80-5358 Filed 3-3-80; 8:45 am]

BILLING CODE 3410-34-M

**CIVIL AERONAUTICS BOARD**

**14 CFR Part 205**

[Economic Regulation Docket 37531; EDR-395A]

**Insurance Requirements for U.S. and Foreign Air Carriers; Extension of Comment Period**

Dated: February 27, 1980.

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Supplemental Notice of Proposed Rulemaking.

**SUMMARY:** This notice extends the comment period in the CAB's rulemaking proceeding to revise its policy and requirements for liability insurance for all U.S. and foreign direct air carriers.

**DATES:** Comments by: April 15, 1980; Reply Comments by: May 6, 1980.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

**ADDRESSES:** Twenty copies of comments should be sent to Docket 37531, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

**FOR FURTHER INFORMATION CONTACT:**

Concerning foreign air carrier requirements, Richard Loughlin, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5880; concerning U.S. air carrier requirements, J. Kevin Kennedy, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5918.

**SUPPLEMENTARY INFORMATION:**

By Notice of Proposed Rulemaking EDR-395 (45 FR 7566, February 4, 1980), the Board proposed to revise its policy and requirements for liability insurance for all U.S. and foreign direct air carriers. In summary the proposal would: (1) establish passenger and public liability insurance requirements that would apply uniformly to all direct air carriers; (2) establish for the first

time liability insurance requirements for certificated route carriers; (3) increase the existing passenger liability insurance requirements and apply them uniformly to all direct air carriers, U.S. and foreign, irrespective of the size of the aircraft; and (4) establish uniform public (third-party) liability insurance requirements based on the size of the aircraft.

The Shippers National Freight Claim Council, Inc., has asked for an extension of the comment period until April 15. The basis for this request is that, because of the importance of the Board's proposal to shippers, the Council needs additional time in order to consult its entire membership. The Council's annual meeting is scheduled for March 10 through 12. Since March 12 is the present due date for the filing of initial comments, the Council has asked for an additional 30 days to submit comments.

There have been no previous extensions requested in this proceeding, and no specific target date has been set for Board action. Also, the granting of this extension would not interfere with the rights of any parties or with the procedures of the Board. This is an important rulemaking, as the Council stated, and the Board would like the full views of as many members of the public as possible on the issues raised in the proceeding.

For these reasons, I find good cause to grant the request for an extension of time for preparation of initial comments. The time for the filing of reply comments is being extended, accordingly.

Therefore, under authority delegated by the Board in 14 CFR 385.20(d), the time for filing initial comments is extended to April 15, 1980, and time for filing reply comments is extended to May 6, 1980.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

Richard B. Dyson,  
*Associate General Counsel, Rules and Legislation.*

[FR Doc. 80-0682 Filed 3-3-80; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 806

#### Direct Investment Surveys; Mandatory Reporting Requirements; Public Hearing

**AGENCY:** Bureau of Economic Analysis, Department of Commerce.

**ACTION:** Notice of public hearing to consider proposed rulemaking involving public use report forms.

**SUMMARY:** The purpose of the public hearing is to discuss and receive comments from the public on the proposed rulemaking which appeared in the Federal Register, Vol. 45, No. 3, Friday, January 4, 1980, pages 1049-1080, which includes a reproduction of the proposed new report form. That notice proposed to abolish the present mandatory reporting requirement for one annual statistical survey, the BE-133, Sources and Applications of Funds of U.S. Direct Investment Abroad, and to establish a mandatory reporting requirement for a new statistical survey, the BE-11, Annual Survey of U.S. Direct Investment Abroad, in order to further implement the President's responsibilities for collecting data on U.S. direct investment abroad under the International Investment Survey Act of 1976. The hearing will be chaired by the Deputy Director, Economics, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce. That Office was assigned review responsibility for the report form by the Office of Management and Budget.

**DATE:** The public hearing will be held on March 26, 1980, commencing at 9:30 a.m. in Room 6802, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. (enter at center entrance on 14th Street).

**ADDRESS:** Additional comments on the January 4, 1980 proposal should be sent to: U.S. Department of Commerce, Bureau of Economic Analysis, International Investment Division (BE-50), Washington, D.C. 20230. All comments, material, questions, etc., in response to the proposal will be available for public inspection from 8:00 a.m. to 4:00 p.m., in Room 608, 1401 K Street, NW., Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** George R. Krueger, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, (202) 523-0657.

Courtenay M. Slater,  
*Chief Economist for the Department of Commerce.*

[FR Doc. 80-0629 Filed 3-3-80; 8:45 am]

BILLING CODE 3510-06-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

#### 21 CFR Part 320

[Docket No. 79N-0464]

#### Vitamin K-Type Coagulants; Proposed Bioequivalence Requirements

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** This proposal would establish bioequivalence requirements for certain oral drug products categorized as vitamin K-type coagulants used in treatment and control of hypoprothrombinemia. This action is taken because available data suggest that the various marketed brands of the vitamin K-type coagulants may not have comparable therapeutic effects. The proposed regulations would ensure the bioequivalence of different brands of these vitamin K-type coagulants drug products.

**DATES:** Comments by May 5, 1980. The Director of the Bureau of Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

**ADDRESS:** Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Henry J. Malinowski, Bureau of Drugs (HFD-522), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1640.

**SUPPLEMENTARY INFORMATION:** FDA has promulgated regulations in Subpart C of Part 320 (21 CFR Part 320) setting forth procedures by which the agency may, on its own initiative or in response to a petition from an interested person, propose and promulgate regulations to establish bioequivalence requirements for drug products containing identical amounts of the same active ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect and for which there is a known or potential bioequivalence problem. The authority to issue bioequivalence regulations was delegated to the Director and Deputy Director of the Bureau of Drugs by § 5.79 (921 CFR 5.79).

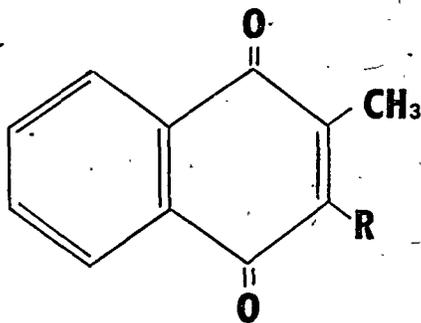
Data available to FDA suggest that, based on the criteria set forth in § 320.52 (21 CFR 320.52), there is well-documented evidence of actual

bioequivalence differences in oral formulations of vitamin K-type coagulants among currently marketed brands.

Therefore, the Director of the Bureau of Drugs, on his own initiative tentatively concludes that a bioequivalence requirement involving in vivo testing in humans and in vitro dissolution testing should be established for oral vitamin K-type coagulants containing menadiol sodium diphosphate. The Director also tentatively concludes that, because in vitro methodology is lacking for menadione and phytonadione, a bioequivalence requirement involving only in vivo testing in humans should be established for oral vitamin K-type coagulants containing menadione and phytonadione. The evidence on which the Director bases his tentative conclusion and the proposed bioequivalence requirements are discussed below.

#### Background

An adequate supply of vitamin K is needed for the proper synthesis and release of clotting factors II, VII, IX, and X by the liver. Vitamin K exists in three major forms containing the following general structural formula:



The substituents for R for the three major forms of vitamin K are shown in Table 1.

Table 1

R

Vitamin K<sub>1</sub> CH<sub>2</sub> CH=C(CH<sub>3</sub>)(CH<sub>2</sub>CH<sub>2</sub>CH<sub>2</sub>CH(CH<sub>3</sub>))<sub>2</sub>CH<sub>3</sub>

Vitamin K<sub>2</sub> (CH<sub>2</sub>CH=C(CH<sub>3</sub>)CH<sub>2</sub>)<sub>n</sub>H  
Vitamin K<sub>3</sub> H

Vitamin K<sub>1</sub>, phytonadione or phylloquinone (2-methyl-3-phytyl-1,4-naphthoquinone) is produced by the photosynthetic portions of plants (Ref. 1). Vitamin K<sub>1</sub> is a yellow viscous oil, insoluble in water, sparingly-soluble in

methanol, soluble in ethanol, acetone, benzene, petroleum ether, hexane, dioxane, chloroform, ether, other fat solvents, and vegetable oils. Solutions of vitamin K<sub>1</sub> are neutral. The compound is stable in air, but decomposes in sunlight (Ref. 2). One manufacturer markets a colloidal solution of Vitamin K<sub>1</sub>.

Vitamin K<sub>2</sub> or menaquinone (2-methyl-3-all-trans-polypprenyl-1,4-naphthoquinone) is synthesized by many strains of bacteria. While side chain lengths vary from C<sub>5</sub> (N=1) to C<sub>65</sub> (N=13), the major homologs are C<sub>35</sub> to C<sub>45</sub> (N=7, 8 or 9). Vitamin K<sub>2</sub> forms light yellow crystals and is slightly less soluble than Vitamin K<sub>1</sub> in the same organic solvents (Ref. 2).

Vitamin K<sub>3</sub> or menadione (2-methyl-1,4-naphthalenedione) is produced synthetically. It occurs as bright yellow crystals and is insoluble in water, but soluble in organic solvents. It is possible to make active water-soluble derivatives of menadione by forming salts or esters. These salts and esters are converted biologically to menadione. An example of such a derivative is the water-soluble menadiol sodium diphosphate.

Generally, in normal humans, even large amounts of vitamin K and its congeners are nontoxic. Also, in humans with normal body stores of prothrombin clotting factors and normal liver function, moderate doses of vitamin K have no pharmacologic effect. Patients with liver disease, however, may exhibit side effects. The physiological effects of vitamin K in patients with hypoprothrombinemia are profound. In deficient states, and by an unknown mechanism, vitamin K promotes formation of prothrombin and several clotting factors. Hypoprothrombinemia secondary to intrahepatic or extrahepatic biliary obstruction, dietary deficiency of vitamin K, or treatment with anticoagulant drugs such as bishydroxycoumarin respond to treatment with vitamin K. However, hypoprothrombinemia secondary to hepatocellular disease usually is unresponsive to vitamin K (Ref. 3).

The intestinal absorption of vitamin K congeners varies with their lipid solubility. Naturally occurring vitamins K<sub>1</sub> and K<sub>2</sub>, which are lipid soluble, are absorbed only in the presence of bile salts and enter the circulation via the lymphatic system. Menadione and its water-soluble congeners are absorbed even in the absence of bile and enter the blood stream directly. Vitamin K does not accumulate in tissue (Ref. 4).

Approximately 0.1 milligram vitamin K<sub>1</sub> will counteract 10 milligrams dicoumarin. Menadione, menadione sodium bisulfite, and menadiol sodium diphosphate are approximately equally effective, but less effective than vitamin K<sub>1</sub> when administered intravenously (Ref. 5).

#### Evidence to Establish a Bioequivalence Requirement

The Director considered the following criteria as set forth in § 320.52 in determining that a bioequivalence requirement should be established for these drug products:

1. *Competent medical determination that a lack of bioequivalence would have a serious adverse effect in the treatment or prevention of a serious disease or condition.* The various congeners of vitamin K used in the treatment of hypoprothrombinemia, a condition leading to potentially life-threatening bleeding, are titrated to the individual patient. Substitution of a poorly bioavailable drug product in the regimen of a patient controlled on a fully available drug product would result in failure to control life-threatening bleeding. (Ref. 3).

2. *Physicochemical evidence that: The active drug ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter, or, if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the volume of fluids present in the stomach (taken to be 100 milliliters for adults and prorated for infants and children).* Vitamin K<sub>1</sub> (phytonadione), K<sub>2</sub> (menaquinone), and K<sub>3</sub> (menadione) are lipid-soluble drugs that are insoluble in water. (Ref. 2 and 3).

3. *Pharmacokinetic evidence that the degree of absorption of the active drug ingredient, therapeutic moiety, or its precursor is poor, e.g., less than 50 percent, ordinarily in comparison to an intravenous dose, even when it is administered in pure form, e.g., in solution.* Data show that a maximum of 80 percent of an oral dose of phytonadione is absorbed. However, in the absence of bile salts, 98 percent of an orally administered radioactive dose of phytonadione was found in the feces unchanged (Ref. 6).

#### The Bioequivalence Requirement

On the basis of these data, the Director tentatively concludes that the evidence meets one or more of the

criteria set forth in § 320.52, and he proposes to establish a bioequivalence requirement for single active ingredient oral dosage form drug products containing the following vitamin K-type coagulants: Menadione, menadiol sodium diphosphate, and phytonadione.

The proposed in vitro portion of the bioequivalence requirement would require each manufacturer of oral dosage forms of menadiol sodium diphosphate, except the manufacturer of the reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies that have been found acceptable by FDA, to conduct an in vitro dissolution test comparing its drug product with the specified reference material. Under this proposed requirement, drug products containing menadiol sodium diphosphate would be considered to meet the in vitro portion of the bioequivalence requirement if the in vitro data show that the dissolution rate for the drug product is not less than 50 percent in 15 minutes and not less than 80 percent in 30 minutes. The test is to be conducted in 900 milliliters of simulated gastric fluid at 37° C using USP apparatus 1 at 100 revolutions per minute. The number of dosage units to be tested is to be determined by reference to the official U.S.P. dissolution acceptance table.

Samples of the reference menadiol sodium diphosphate run in comparison to a test drug product are to be tested in the same manner as the test drug product. If the samples from one lot of the reference material do not meet the applicable dissolution specifications for the product, additional lots, up to a total of three, must be tested. If none of the three lots of reference material tested meet the applicable dissolution specification, the manufacturer would be required to notify FDA before any in vivo testing. Because of the manner of selecting the reference material, it is not expected that manufacturers would normally have to test more than one lot of the reference material.

The Director advises that, whenever possible, the reference material listed in the "Guidelines for in Vivo Bioavailability Study of Vitamin K-type Coagulants" is a drug product subject to an approved full new drug application (NDA) that contains in vivo data demonstrating the bioavailability of the drug product and in vitro dissolution data indicating that the drug product meets the proposed in vitro bioequivalence requirements. In exceptional cases, for example, in instances where no approved full NDA holder has conducted an acceptable

bioavailability study, other factors may be considered as deemed appropriate by the agency. The selection of a drug product as the reference material does not imply superiority of the drug product in any way, but is intended only to provide for a common standard for the determination of bioequivalence.

The proposed in vivo portion of the bioequivalence requirement would apply to all manufacturers of oral dosage form drug products containing menadione, menadiol sodium diphosphate, and phytonadione. It would require each manufacturer, except the manufacturer of the reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies that have been found acceptable by FDA, to conduct an in vivo bioavailability study comparing its drug product with a specified reference material. The in vivo data for all drug products subject to these requirements must show that the test drug product meets the following conditions:

1. The test drug product and the reference material do not differ by more than 20 percent as determined by comparing the mean values for measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma level (C<sub>max</sub>), rate of absorption (measured by time to peak plasma level (T<sub>max</sub>) or the absorption constant (K<sub>a</sub>)), and area under the plasma concentration-time curves (AUC); and

2. In at least 75 percent as of the subjects the test drug product is at least 75 percent as bioavailable as the reference material using each subject as his or her own control, that is, administering both the reference material and the test drug material to each subject using a cross-over procedure.

In addition, analytical and statistical techniques used must be of sufficient sensitivity to detect those differences in rate and extent of absorption that are not attributable to subject variability.

The Director proposes that the manufacturer of menadiol sodium diphosphate selected by FDA as the reference material or a manufacturer of this drug product that has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of that drug product that FDA has found acceptable under the provisions of the proposed section below, would be required to conduct an in vitro dissolution test on one batch of the drug product. The procedure to be used and the specifications to be met must conform to the in vitro

requirements for menadiol sodium diphosphate.

A manufacturer of a reference material that has not previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section would be required to conduct an in vivo bioavailability study comparing the reference material with an oral solution or oral suspension of an equivalent amount of vitamin K contained in the reference material.

A manufacturer of a drug product subject to this proposed section that has previously conducted in vivo bioavailability/bioequivalence studies, e.g., to meet requirements for approval of an ANDA for a drug product covered by a drug efficacy study implementation notice, may request FDA to evaluate such studies to determine whether they are adequate and conclusive to ensure the bioequivalence of the drug product in light of current scientific knowledge and methodology.

To obtain data necessary to correlate in vivo data with in vitro data on menadiol sodium diphosphate, the Director proposes that the same batch of the test product and the same batch of the reference material used in the in vitro test be used in the in vivo test, unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this proposed section. Manufacturers of phytonadione and menadione should save sufficient samples of the batch of test drug product and reference material used in the in vivo test for use in the in vitro dissolution test when it is required.

General guidelines for in vivo testing are set forth in § 320.25. Specific guidelines for in vivo testing of vitamin K-type coagulants and for in vitro dissolution testing of menadiol sodium diphosphate are on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, (address above) and are available on request. The reference material to be used in the in vivo and in vitro tests of each drug product subject to this proposed regulation is named in the guideline for in vivo bioavailability studies for vitamin K-type coagulants.

The Director proposes that the results of the required in vitro dissolution test be submitted to FDA on or before 60 days after the effective date of the final regulation and the results of the required in vivo test be submitted to FDA on or before 180 days after the effective date of the final regulation. The proposed effective date of the final regulation is 30 days after it is published in the Federal Register. The Director believes this will

be enough time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and submit them to FDA. The Director advises, however, that the agency may recommend that a manufacturer conduct a pilot study in certain instances, e.g., when an analytical assay methodology has not been used previously in an in vivo bioavailability/bioequivalence study, or where optimal sampling times have not been previously determined. A recommendation that a pilot study be conducted will be contained in the guidelines for the specific drug product. An extension of up to 180 days may be granted by the Director upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. In addition, FDA encourages the submission of protocols for conducting in vivo bioavailability studies. If a manufacturer submits a protocol for FDA to evaluate or can otherwise document the need for an extension, the Director will grant an extension of up to 180 days.

The Director advises that drug products subject to this proposal are regarded as new drugs as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)), requiring either an approved full or abbreviated new drug application as a condition to lawfully market the product. Marketing of such a drug product is to be in accordance with the requirements of § 320.58 (21 CFR 320.58).

The Director advises that a manufacturer of a drug product unable to meet either the in vitro or in vivo specification required by proposed § 320.165 will be required to reformulate the drug product.

After the effective date of the final regulation establishing a bioequivalence requirement, each manufacturer of menadiol sodium diphosphate, under § 320.56 (21 CFR 320.56), will be required to conduct the in vitro dissolution test on a sample of each batch to ensure batch-to-batch uniformity. The Director further proposes to require that the dissolution test be incorporated into a manufacturers' stability testing program. A batch of drug product whose dissolution falls below the specification required by this regulation after entering the marketplace is subject to regulatory action.

#### References

Copies of all references cited below are on public display in the office of the Hearing Clerk, FDA.

1. Hollander, D. and T. C. Truscott, "Mechanism and Site of Vitamin K<sub>2</sub> Small Intestinal Transport," *American Journal of Physiology*, 228:1516-1522, 1974.

2. *The Merck Index*, 9th Ed., edited by Windholz, M. Merck and Co., Inc., Rahway, NJ; 1976 pp. 5652, 9886.

3. Cohn, V. H., "Fat-Soluble Vitamins," in "The Pharmacological Basis of Therapeutics," 4th Ed., edited by Goodman, L. S. and A. Gilman, The MacMillan Co., New York, pp. 1690-1694, 1970.

4. Hollander, D. and E. Riu, "Factors Affecting the Absorption of Vitamin K-1 In Vitro," *Gut*, 71:450-455, 1976.

5. Collettine, G. E. and A. J. Quick, "Interrelationship of Vitamin K and Dicoumarin," *American Journal of Medical Science*, 222:7-12, 1951.

6. Shearer, M. J., A. McBurney, and P. Barkman, "Studies on the Absorption and Metabolism of Phylloquinone (Vitamin K<sub>1</sub>) in Man," in *Vitamins and Hormones Advances in Research and Applications*, 23:513-522, 540-542, edited by Harris, R. S., et al., Academic Press, New York, 1974.

The Director has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)) and, therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041-1042, 1050-1053 as amended, 1055, (21 U.S.C. 321(p), 352, 355, 371(a)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.79), it is proposed that Part 320 be amended by adding new § 320.165, to read as follows:

#### § 320.165. Oral vitamin K-type coagulants.

(a) *Applicability*—(1) *In vivo testing*. The requirements of this section for in vivo testing apply to all single active ingredient oral dosage form drug products containing menadione, menadiol sodium diphosphate and phytonadione.

(2) *In vitro testing*. The requirements of this section for in vitro testing apply to all single active ingredient oral dosage form drug products containing menadiol sodium diphosphate.

(b) *Initial Bioequivalence requirement for in vitro testing of drug products containing menadiol sodium diphosphate*—(1) *General*. Each manufacturer of a drug product subject to this section containing menadiol sodium diphosphate, except for the manufacturer of the reference material or a manufacturer of a product

previously tested in vivo to demonstrate bioavailability/bioequivalence which is subject to paragraph (d)(5) of this section, shall conduct an in vitro dissolution test by the dissolution procedure set forth in the official U.S.P. comparing samples from a lot of the drug product with samples from a lot of the reference material specified by the Food and Drug Administration. The

number of dosage units of the test drug product and the reference material to be tested is determined by reference to the U.S.P. dissolution acceptance table. If the samples from the lot of the reference material do not meet the applicable dissolution specification for the product, test additional lots of reference material, up to a total of three lots, until a reference lot which meets the applicable dissolution specification is tested. If none of the three lots of reference material tested meet the applicable dissolution specification, notify the Director, Division of Biopharmaceutics, Bureau of Drugs, Food and Drug Administration, before any in vivo testing.

(2) *Specific requirements for menadiol sodium diphosphate*. (i) The test is to be conducted using 900 milliliters of simulated gastric fluid at 37° C, U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute.

(ii) The test drug product and the reference material meet the in vitro portion of the bioequivalence requirement if each has a dissolution of not less than 50 percent in 15 minutes and 80 percent in 30 minutes.

(3) *Specific requirements for reference material*. The manufacturer of the specified reference material shall conduct an in vitro dissolution test on one batch of the reference material using the U.S.P. dissolution procedure and following the U.S.P. dissolution acceptance table in determining the number of samples to test. In addition, the requirements of paragraph (b)(2) of this section must be met.

(4) *Specific requirements for products tested in vivo to demonstrate bioavailability/bioequivalence*. Each manufacturer of a drug product subject to this section who has previously conducted in vivo bioavailability/bioequivalence studies in humans which have been found acceptable by the Food and Drug Administration under paragraph (d)(5) of this section, shall conduct an in vitro dissolution test on one batch of its drug product using the U.S.P. dissolution procedure and the U.S.P. dissolution acceptance table in determining the number of samples to be tested. In addition, the requirements of paragraph (b)(2) of this section must be met.

(5) *Submission of test results*. Each manufacturer of a drug product subject to this paragraph shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of the final regulation).

(c) *In vitro requirement for each batch of menadiol sodium diphosphate*. An in

vitro dissolution test is to be performed on each batch of drug product containing menadiol sodium diphosphate subject to this section. The test procedure, specifications to be met, and number of samples to be tested must meet the applicable requirements of paragraph (b) of this section. It is not necessary, however, to compare samples of the reference material with the batch of drug product being tested.

(d) *In vivo portion of the bioequivalence requirement.* (1) Each manufacturer of a drug product subject to this section, except a manufacturer of the reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies in humans which have been found acceptable under the provisions of paragraph (d)(5) of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product with the reference material.

(2) The test drug product shall be considered to meet the in vivo portion of the bioequivalence requirement if the following conditions are met:

(i) The test drug product and the reference material do not differ by more than 20 percent as determined by comparing the mean values for measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (C<sub>max</sub>), rate of absorption (measured by time to peak plasma level (T<sub>max</sub>) or the absorption constant (K<sub>a</sub>), and area under the plasma concentration-time curves (AUC).

(ii) In at least 75 percent of the subjects, the test drug product is at least 75 percent as bioavailable as the reference material using each subject as his or her own control, that is, administering both the reference material and the test drug product to each subject using a cross-over procedure.

(iii) Analytical and statistical techniques used are of sufficient sensitivity to detect those differences in rate and extent of absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material for in vivo studies that has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section before the effective date of the final regulation shall conduct an in vivo bioavailability study in humans comparing its product, i.e., the reference material, with an oral solution or oral suspension of an equivalent amount of vitamin K-type drug contained in the reference material.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of this section). The Food and Drug Administration will grant an extension of up to 180 days upon request when a manufacturer can document the need for an extension, by, for example, submitting a protocol for review or demonstrating that pilot studies are required before starting the tests.

(5) Any manufacturer of a drug product subject to this section that has conducted one or more in vivo bioavailability/bioequivalence studies before the effective date of this section may request an evaluation of such studies to determine whether the studies are adequate and conclusive to ensure the bioavailability/bioequivalence of the drug product in light of current scientific knowledge and methodology. Each request is required to contain the new drug application number, the established (generic) name of the product, the dosage form and strength of the drug product, and the date(s) of submission of the pertinent study information contained in the new drug application.

(6) Each manufacturer requesting this evaluation that holds an approved or pending full new drug application for the drug product shall submit the request for an evaluation to the Division of Cardio-Renal Drug Products (HFD-110), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Each manufacturer requesting the evaluation, who holds an approved or pending abbreviated new drug application for the drug product, shall submit a request for an evaluation to the Division of Generic Drug Monographs (HFD-530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(e) *Inclusion of bioequivalence data in full or abbreviated new drug application.* Each manufacturer of a drug product subject to this section currently marketed under a full or abbreviated new drug application shall submit the required in vitro and in vivo data in the form of a supplement to the application. Each manufacturer of a drug product subject to this section that is not marketed on the effective date of the final regulation shall include the required in vitro and in vivo data in the original full or abbreviated new drug application submitted to the Food and Drug Administration.

(f) *Failure to meet bioequivalence requirements.* A manufacturer unable to meet either the in vitro or in vivo

specifications required by this section will be required to reformulate the drug product.

(g) *Reference material and guidelines for testing.* (1) The reference material to be used in the in vivo and in vitro tests is specified in the "Guidelines for In Vivo Bioavailability Study for Vitamin K-type Coagulants." The same batch of the test drug product and the same batch of the reference material used in the in vitro test must be used in the in vivo test, unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this section.

(2) Guidelines for the conduct of in vivo and in vitro tests of Vitamin K-type coagulants are on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and are available on request to that office.

(h) *Modifications.* Alternative methods or modifications to the bioequivalence requirement for in vitro or in vivo testing as set forth in this section may be used if evidence is submitted demonstrating that the modifications will ensure the bioequivalence of the drug to an extent equal to, or greater than, the methods set forth in this section. The data should be submitted to, and approved before use by, the Director, Division of Biopharmaceutics (HFD-520), Food and Drug Administration. Any approved modification will be incorporated into the appropriate guidelines for the drug.

Interested persons may, on or before May 5, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 25, 1980.  
 Jerome A. Halperin,  
 Acting Director, Bureau of Drugs.  
 [FR Doc. 80-6623 Filed 3-3-80; 8:45 am]  
 BILLING CODE 4110-03-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

#### 24 CFR Part 51

[Docket No. R-80-774]

### Environmental Criteria and Standards; Siting of HUD Supported Projects in High Risk Areas Around Airports and Airfields

**AGENCY:** Department of Housing and  
 Urban Development.

**ACTION:** Advance notice of proposed  
 rulemaking.

**SUMMARY:** HUD is considering the  
 adoption of a new subpart D to 24 CFR  
 Part 51. This subpart would establish  
 HUD requirements and guidelines  
 governing assistance for housing  
 construction, insurance, community  
 development, or other projects located  
 in high risk areas around airports and  
 airfields.

**DATE:** Comments must be received on or  
 before May 5, 1980.

**ADDRESS:** Send comments to: Rules  
 Docket Clerk, Office of General Counsel,  
 Room 5218, Department of Housing and  
 Urban Development, 451 Seventh Street,  
 S.W., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:**  
 James F. Miller or Gretchen Van Hyning,  
 Office of Environmental Quality,  
 Department of Housing and Urban  
 Development, 451 7th Street, S.W.,  
 Washington, D.C. 20410 (202) 755-8909.  
 This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** HUD is  
 concerned about locating housing and  
 community development projects near  
 airports and airfields. To date, however,  
 much of the concern has been directed  
 towards the high noise levels to which  
 such projects are exposed. In July 1979,  
 HUD adopted regulations (24 CFR Part  
 51, Subpart B) establishing requirements  
 and guidelines for Noise Abatement and  
 Control.

Often areas which are exposed to high  
 accident risks are exposed also to high  
 noise levels, but there are some areas  
 where the accident risk zone exceeds  
 the noise zone. We are aware of these  
 risks because of our reviews of  
 Department of Defense Air Installation  
 Compatible Use Zone reports and we  
 expect that similar conditions will be  
 found around civil airports.

HUD is therefore considering: (a) The  
 need to establish a process for obtaining  
 delineations of high risk areas around  
 airports and airfields from the  
 appropriate agencies; (b) the  
 establishment of standards for  
 determining whether HUD will provide  
 assistance for housing construction,  
 insurance, or other activities involving  
 human occupancy in such areas; and (c)  
 means for applying such policies in a  
 systematic fashion including the  
 incorporation of such standards in the  
 environmental decision making of HUD  
 field offices and grantees which have  
 the delegated responsibility for  
 enforcement of environmental and  
 related laws and policies.

HUD expects that the regulation will  
 address designated high risk areas such  
 as the Accident Potential Zones defined  
 by the Department of Defense for  
 military airfields. (See Department of  
 Defense Instruction 4165.75, "Air  
 Installation Compatible Use Zone,"  
 dated November 8, 1977.)

Upon close of the comment period, if  
 the decision is not to proceed with the  
 rule under consideration, termination of  
 this proceeding will not prejudice or  
 foreclose any future rulemaking which  
 the Secretary may initiate with respect  
 to these matters.

HUD is considering the necessity for  
 preparing either an Environmental  
 Impact Statement or a Regulatory  
 Analysis or both.

(42 U.S.C. 3535(d))

Issued at Washington, D.C., February 25,  
 1980.

Moon Landrieu,  
 Secretary, Department of Housing and Urban  
 Development.

[FR Doc. 80-6630 Filed 3-3-80; 8:45 am]  
 BILLING CODE 4210-01-M

### Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

#### 24 CFR Ch. XX

[Docket No. R-80-775]

### Reimbursement for Expenses for Public Participation

**AGENCY:** Department of Housing and  
 Urban Development.

**ACTION:** Advance Notice of Proposed  
 Rulemaking.

**SUMMARY:** This Advance Notice invites  
 public comment on the need for, and  
 desirability of, a program to reimburse  
 members of the public for expenses  
 incurred in participating in agency  
 decisionmaking. The Department also

solicits comments on the most effective  
 means of implementing such a program.

**COMMENT DUE DATE:** Comments should  
 be submitted before May 5, 1980.

**ADDRESSES:** Comments should refer to  
 the docket number and date of  
 publication, and be sent to: Rules  
 Docket Clerk, Office of General Counsel,  
 Room 5218, Department of Housing and  
 Urban Development, 451 7th Street, SW.,  
 Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:**  
 Elena Van Meter, Issues Analysis  
 Division, NVACP, Department of  
 Housing and Urban Development,  
 Washington, D.C. 20410, (202) 755-5353.  
 (This is not a toll free number).

**SUPPLEMENTARY INFORMATION:** The  
 Department of Housing and Urban  
 Development is interested in  
 determining whether there is a need for  
 a program to provide payments to  
 organizations and individuals to help  
 them participate more effectively in  
 Departmental decisionmaking. Such a  
 program might provide reimbursement  
 for expert witness fees, attorney fees,  
 the cost of developing comments or  
 testimony on proposed regulations,  
 travel costs, or other expenses  
 associated with providing information  
 on proposed Department policies and  
 programs.

It has long been recognized that  
 effective governmental decisionmaking  
 depends upon the presentation of the  
 opinions and supporting information  
 developed by all of those who are  
 affected by a decision. In recent years it  
 has become apparent that some  
 agencies may lack the benefit of  
 significant information and opinion in  
 some decisionmaking processes because  
 financial constraints prevent the  
 participation of important sectors of the  
 affected public. Other agencies have  
 found that without funding on a regular  
 and systematic basis, public  
 participation tends to occur on an ad  
 hoc basis. Groups and individuals find  
 themselves unable to afford the time  
 necessary to produce opinion papers  
 which include the technical expertise  
 needed to back up and detail public  
 opinion. At the same time, other  
 participants may be over represented in  
 the decisionmaking process, because  
 they have both the incentive and the  
 financial means to develop effective  
 arguments and data. This imbalance in  
 representation may be reflected in a  
 bias in departmental decisions.

In recognition of the need to hear from  
 all sectors of the affected public, a  
 number of Federal agencies have  
 created programs for reimbursing the  
 public for participation in agency  
 proceedings. Among the agencies which

have implemented some form of reimbursement program are the Federal Trade Commission, the National Highway Traffic Safety Administration of the Department of Transportation, the Civil Aeronautics Board, the National Oceanic and Atmospheric Administration of the Department of Commerce, and the Environmental Protection Agency. HUD is also interested in developing ways to improve public access to our program decisions. However, many of the reimbursement programs initiated by other Federal agencies cover regulatory programs which, by law, require extensive fact-finding and legal adversary hearings in order to reach decisions. Most of the programs of this Department do not require formal rulemaking. Except for a few programs through which we regulate certain industries, (such as land sales disclosure, safety standards for mobile homes, and disclosure for real estate settlement) our decisionmaking is not generally the result of a formal gathering of views through public hearings. In many of its programs, HUD administers grants, loans, or guarantees which others use to provide for housing and to encourage community development. HUD's decisions are normally reflected in published regulations, and are made through consideration of the public comments on proposed regulations which have been published in the Federal Register.

As noted above, HUD's method of making decisions differs from that of the agencies which now fund expenses for public participation. HUD, therefore, believes it is necessary to explore the appropriateness of such a program for the Department by soliciting public comments through this Advance Notice of Proposed Rulemaking. After reviewing responses to this ANPR, HUD will determine whether a program to reimburse participants in the decisionmaking process is appropriate and needed at this time.

The most important issue to determine is whether a public participation funding program would make available to the Department significant information which is not now presented because of financial constraints on potential participants. A program of reimbursing the public for participating in agency proceedings can only be justified if it results in the presentation of opinions and information which would otherwise not be considered in the development of agency policy and programs.

A second important issue to be determined in any proposed payment program is the selection criteria. The

payment of expenses in present programs is discretionary, and agencies have the option of deciding not to make payments for participation in any given rulemaking. Therefore, the use of judgment is required in providing any payments. In most ongoing programs the selection criteria includes: an estimation of financial need; a determination of whether the organization or individuals represent an interest which would not otherwise be represented adequately; and a determination that their participation would substantially contribute to a full and fair determination of the issues involved. HUD must consider whether these selection criteria are applicable to any program it might implement, or whether our unique needs require other bases for making these decisions.

The public is requested to submit both general comments regarding the need for and desirability of a public participation payments program for the Department of Housing and Urban Development, and specific suggestions on how best to implement any procedure to address this Department's particular needs. The questions which we would particularly like the public to address include the following:

1. Is such a program needed because significant views are under-represented in Departmental decision-making? Is it needed for all of the Department's programs, or, from your experience, is it particularly needed for specific programs, such as public housing or mobile home standards?

2. Would a public participation funding program result in the presentation of important new information to HUD, and result in a significant improvement in the quality of HUD's decision-making process? Are there particular programs in which you believe this might be true?

3. What procedures and criteria should HUD adopt for (a) evaluating the quality of an applicant's potential contribution to the resolution of an issue; (b) determining the relevance and importance of the issue(s) to be heard; (c) assessing the degree of an applicant's interest and the uniqueness of a participant's point of view; (d) distinguishing among equally qualified participants; all of whom seek financial support for the same activity or proceedings; and (e) finally choosing who is eligible for compensation.

4. What financial eligibility criteria should be adopted for funding public participation?

5. How would HUD determine when someone is financially unable to participate, as opposed to unwilling to expend their own resources?

6. What should the criteria be for determining whether the cost of participation incurred is unreasonable and necessary to that participation? At what point should such decisions be made, and a commitment to provide payment be made? Should payments be determined by reference to a scale?

7. How would HUD determine who represents the public interest and whether a potential participant actually represents the interests it claims to represent?

8. What type of proceedings should be funded? What would be the extent of your participation if significant funds were made available? What elements of this participation do you as a commenter consider the most important?

9. What types of activities should receive compensation: attorneys fees, expert witness fees, research, travel expenses, per diem, lost wages, value of services, etc.?

It is not expected that a rule being considered in this proceeding would have major consequences for the general economy or for individual industries, geographic regions or levels of government. Nor would this rulemaking require an Environmental Impact Statement in accordance with HUD Procedures for Protection and Enhancement of Environmental Quality.

If the Secretary decides upon close of the comment period not to proceed with a program for reimbursing public participation, termination of this proceeding will not prejudice or foreclose any future rulemaking which the Secretary may initiate with respect to this matter.

Issued at Washington, D.C., February 26, 1980.

Richard C. D. Fleming,

General Deputy Assistant Secretary, Office of Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-0619 Filed 3-3-80; 8:45 am]

BILLING CODE 4210-01-M

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## DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 170, 231, and 240

[Ref: Notice No. 320]

Recodification of Wine Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Extension of comment period.

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SUMMARY: This notice extends the comment period for Notice No. 320, Recodification of Wine Regulations, an additional six months. Notice No. 320

was published in the Federal Register on May 22, 1979 (44 FR 29691).

**DATE:** The comment period for Notice No. 320 is extended until August 20, 1980

**ADDRESS:** Send comments to: Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044 (Attn: Chief, Regulations and Procedures Division—Notice 320).

**FOR FURTHER INFORMATION CONTACT:** Thomas Minton, Research and Regulations Branch (202-566-7626).

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 22, 1979, the Bureau of Alcohol, Tobacco and Firearms (ATF) published an advance notice of proposed rulemaking (Notice No. 320) to obtain comments on contemplated revisions to 27 CFR Part 170, Subpart Z (Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use), Part 231 (Taxpaid Wine Bottling Houses), and Part 240 (Wine). The original comment period for this advance notice ended August 20, 1979. This comment period was subsequently extended until February 20, 1980 (44 FR 53178).

ATF intends to combine all the regulations concerning wine into a new comprehensive Part 24. ATF also intends to—

- (1) Eliminate unnecessary regulatory sections;
- (2) Incorporate appropriate ATF rulings and industry circulars into the new part; and
- (3) Rewrite the regulations into language that is more understandable.

**Extension of Comment Period**

One industry group has requested a further extension of the comment period for Notice No. 320. The industry group claims that because it is preparing comments for other proposed regulatory revisions concerning the wine industry it has been unable to complete its comment for Notice No. 320.

ATF feels that this request is reasonable. Therefore, ATF is further extending the comment period for Notice No. 320 until August 20, 1980.

**Public Participation**

ATF requests comments from all interested persons concerning this proposed revision. 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 ATF action. ATF will not recognize any material in comments as confidential. Comments may be disclosed to the

public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any persons submitting comments is not exempt from disclosure. After consideration of all comments and suggestions, ATF may issue a notice of proposed rulemaking. The proposals discussed in the advance notice may be modified due to the comments and suggestions received.

**Drafting Information**

The principal author of this document is Thomas Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

**Authority**

This notice is issued under the authority obtained in 26 U.S.C. 7805 (68a Stat. 917).

Signed: February 27, 1980,

G. R. Dickerson,  
Director.

[FR Doc. 80-6781 Filed 3-3-80; 8:45 am]  
BILLING CODE 4810-31-M

**DEPARTMENT OF LABOR**

**Employment Standards Administration**

**29 CFR Part 40**

**Farm Labor Contractor Registration; Documents Acceptable as Evidence of a Bona Fide Inquiry of Employability Status**

**AGENCY:** Employment Standards Administration, Labor.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule expands the current list of documents which will be accepted by the Department of Labor as constituting proof that a farm labor contractor has made a *bona fide* inquiry into the status as a United States citizen or as a person lawfully authorized to work in the United States of each prospective employee. This will permit farm labor contractors to accept additional types of material as evidence that a person is a citizen of the United States or is a person lawfully authorized to work in the United States.

**DATES:** Comments must be received on or before April 3, 1980.

**ADDRESS:** Written comments should be sent to: Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Office of Child and Farm Labor, Wage and Hour Division, room S-3504, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone 202-523-7531.

**FOR FURTHER INFORMATION CONTACT:** Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Office of Child and Farm Labor, Wage and Hour Division, Room W-3504, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone 202-523-7531.

**SUPPLEMENTARY INFORMATION:** The Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2041(a) *et seq.*) provides sanctions against any farm labor contractor who knowingly engages in recruiting, employing, or utilizing the services of any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment. Under the provisions of 29 CFR 40.51(b) (which became effective in 1976), a contractor must show that he or she has made a *bona fide* inquiry into the status of each prospective employee. The same section lists certain documents upon which reliance will be accepted by the Department of Labor as constituting such a *bona fide* inquiry. It has been our experience that the limited nature of the present list has resulted in the denial of employment to United States citizens and other legally admitted aliens who do not have a birth certificate or other similar document. The proposed rule expands that list of documents. The Department, in its administration of the Act and of the regulations, 29 CFR Part 40, has found these documents, in the absence of evidence to the contrary, to constitute a *bona fide* inquiry into the status of a prospective worker under Sections 5(b)(6) and 6(f) of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2044(b)(6) and 2045(f)).

Inasmuch as the proposed rule relaxes an existing burden and allows additional documentation to be accepted by a farm labor contractor, as evidence that a prospective employee is a citizen of the United States or is a person lawfully authorized to work in the United States, the Department of Labor has determined that a 30 day period for public comment and participation is sufficient. For these same reasons, the Department has determined that if this proposed rule is adopted, after the completion of the period for public comment, the final rule shall be made effective upon the date of publication.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator for Fair Labor Standards, Wage and Hour Division, Employment Standards Administration, U.S. Department of

Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone 202-523-8353.

The Department of Labor has determined that the proposal in this document is not a major regulation that requires the preparation of a regulatory analysis, within the meaning of Executive Order 12044 and the Department's guidelines published at 44 FR 5570.

Accordingly, it is proposed to amend § 4051 of Part 40 of Title 29, Subtitle A, of the Code of Federal Regulations (29 CFR 40.51) by adding to § 40.51(p)(1) the following new subdivisions (vii)-(xi) and a new subparagraph (4), to read as follows:

**§ 40.51 Obligations of a farm labor contractor.**

\* \* \* \* \*

(p) \* \* \*

(1) \* \* \*

(vii) Baptismal certificate under seal of a church or other religious body which practices infant baptism showing the individual's date and place of birth within the United States, its territories, or possessions.

(viii) A document under seal of a religious body which does not practice infant baptism showing the individual's date and place of birth within the United States, its territories or possessions.

(ix) Tribal enrollment card in an American Indian tribe recognized by the Bureau of Indian Affairs.

(x) Other written advice from The Immigration and Naturalization Service attesting that such person is a citizen of the United States.

(xi) A copy of a declaration, signed by the applicant, under penalty of prosecution for violation of Title 18 U.S.C. § 1001, and countersigned by the appropriate official of the Employment Service, filed with the United States Employment Service or any of its affiliated offices attesting that such person is a citizen of the United States, was born at the place stated and on the date set forth thereon, and reciting the following additional information:

(A) Social Security number and

(B) Names and addresses of three adult citizens of the United States who can be contacted to verify declarant's citizenship.

\* \* \* \* \*

(4) Any other written advice from the Immigration and Naturalization Service (INS) that such person is an alien authorized by INS to accept employment in agriculture in the United States.

\* \* \* \* \*

(Sec. 17, 88 Stat. 1659, (7 U.S.C. 2053))

Signed at Washington, D.C., on this 27th day of February 1980.

Donald Elisburg,

*Assistant Secretary of Labor for Employment Standards.*

[FR Doc. 80-8715 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-27-M

## VETERANS ADMINISTRATION

### 38 CFR Part 17

#### Medical Benefits; Nursing Home Care in Foreign Countries

**AGENCY:** Veterans Administration.

**ACTION:** Proposed regulation.

**SUMMARY:** This proposed amendment is necessary to correct an error concerning authority of the Veterans Administration to furnish medical care in foreign countries. Nursing home care at Veterans Administration expense may not be furnished in a foreign country other than the Republic of the Philippines. There has also been a change in the name of the government hospital in Quezon City, Republic of the Philippines. It is now called Veterans Memorial Medical Center instead of Veterans Memorial Hospital.

**DATES:** Comments must be received on or before April 3, 1980. We propose to make this amendment effective on the date of final approval.

**ADDRESSES:** Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the above address during normal business hours until April 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Joseph F. Fleckenstein (136F), 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-3785.

**SUPPLEMENTARY INFORMATION:** Section 17.36 currently includes nursing home care as a type of medical care that may be furnished to eligible veterans in a foreign country other than the Republic of the Philippines. This authority was erroneously incorporated with other amendments in implementing provisions of the Veterans Health Care Expansion Act of 1973. Although this authority has not been used, we feel that it must be amended because it is in conflict with provisions of section 624, title 38, United States Code. The name Veterans Memorial Hospital is changed to Veterans Memorial Medical Center in all places where it appears in sections 17.37 and 17.38.

**ADDITIONAL COMMENT INFORMATION:** Interested persons are invited to submit

written comments, suggestions, or objections regarding the proposal to the 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 a.m. and 4:30 p.m., Monday through Friday (except holidays) until April 14, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services unit in room 132. Such visitors to any VA field facility will be informed that the records are available for inspection only in Central office and furnished the address and the above room number.

Approved: February 27, 1980.

By direction of the Administrator.

Rufus H. Wilson,

*Deputy Administrator.*

1. Section 17.36 is revised to read as follows:

**§ 17.36 Hospital care and medical services in foreign countries other than the Philippines.**

No person shall be entitled to receive hospital or domiciliary care or medical services in a foreign country other than the Republic of the Philippines, except as provided in paragraphs (a) and (b) of this section:

(a) Hospital care or medical services for otherwise eligible veterans who are citizens of the United States sojourning or residing abroad and in need of treatment for an adjudicated service-connected disability, or non-service-connected disability associated with and held to be aggravating a service-connected disability.

(b) Hospital care or medical services for a veteran who has been found in need of vocational rehabilitation, and for whom an objective has been selected, or who is pursuing a course of vocational rehabilitation training, and who is medically determined to be in need of care or treatment for any of the following reasons:

- (1) To make possible his or her entrance into a course of training; or
- (2) To prevent interruption of a course of training; or
- (3) To hasten the return to a course of training when a veteran in interrupted or leave status, when cessation of instruction has become necessary because of illness, injury, or dental condition. (38 U.S.C. 624)

**§ 17.37 [Amended]**

2. Section 17.37 is amended by deleting the words "Veterans Memorial

Hospital" and substituting the words "Veterans Memorial Medical Center" in the title, the introductory sentence, and paragraph (b).

**§ 17.38 [Amended]**

3. Section 17.38 is amended by deleting the words "Veterans Memorial Hospital" and substituting the words "Veterans Memorial Medical Center" in the title, the introductory portion preceding paragraph (a), the introductory portion of paragraph (a), the introductory portion of paragraph (b), paragraph (c) (1) and (2), and paragraph (d)(2)

[FR Doc. 80-0776 Filed 3-3-80; 8:45 am]

BILLING CODE 8320-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[FRL 1424-8]**

**Approval and Promulgation of State Implementation Plans; Montana Designation of Areas for Air Quality Planning Purposes**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rulemaking.

**SUMMARY:** Elsewhere in today's Federal Register, EPA is conditionally approving portions of the Montana plan where there are deficiencies and the State has provided assurances that it will submit corrections. This notice solicits comments on the deadlines specified for correction of the deficiencies. This conditional approval will mean that Section 176 and Section 316 of the Clean Air Act, will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA. EPA is also proposing action on Montana's new source review program and the control strategy for Colstrip based on supplemental materials submitted by the State on January 8, 1980. Additionally, EPA proposes in this notice to redesignate Yellowstone County to unclassified.

**DATES:** Comments must be received on or before April 3, 1980.

**ADDRESSES:** Comments should be directed to: Ivan W. Dodson, Director, Environmental Protection Agency, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59601. Copies of these materials submitted by the Governor and comments received on this proposal may be examined during normal business hours at: Environmental Protection Agency,

Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59601. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Alkema, Environmental Protection Agency, Federal Building, Drawer 10096, 301 South Park, Helena, Montana 59601, (406) 449-5414.

**SUPPLEMENTARY INFORMATION:** 1. Butte Total Suspended Particulate (TSP) Plan—Primary Standard—The State is to adopt and submit an airborne particulate regulation by February 15, 1980, which incorporates a provision to control emissions for paved and unpaved roads.

2. Billings Carbon Monoxide (CO) Plan—A revised plan, based on remodeling of the problem is to be developed and submitted to EPA according to the following schedule:

March 1, 1980—Complete recalibration of model

April 15, 1980—Complete draft revised plan

July 1, 1980—Submit final revised plan to State Air Quality Bureau

August 15, 1980—Submit final revised plan to EPA

3. Colstrip TSP plan—By August 1, 1980, the State will submit to EPA an enforcement permit for Western Energy Co. which incorporates all of the completed and proposed control measures specified in the State's October 4, 1979, submittal.

4. Missoula TSP—By April 1, 1980, the State will submit a written agreement between the City—County governments and the State Highway Department delineating the respective responsibilities of these three governmental units for the proposed street sweeping and flushing program.

5. Yellowstone County Ozone designation—At the request of the State, EPA proposes to redesignate Yellowstone County as an unclassified area for ozone. Billings was originally designated as a nonattainment area for ozone based on marginal violations of the applicable ozone standard of 0.08 ppm. This standard was subsequently revised (February 8, 1979, 44 FR 8202) to 0.12 ppm. Up to the present time, there have been no violations of the revised standard. As a result, the State has requested that the area be redesignated as "unclassified."

6. Source Test Methods—By August 1, 1980, the State will submit to EPA a modification to its existing source testing regulation to specify test procedures for each emission limitation.

7. New Source Review Program—In EPA's proposed rulemaking, several

deficiencies were identified in the State's new source review program. Specifically, EPA questioned the State's legal authority under their existing regulations, to comply with Sections 173 (1), (3) and (4) of the Clean Air Act. EPA also noted that the State regulation authorized the issuance of permits with future compliance dates, as well as authorizing transfers of permits from one location to another and one person to another.

The State's October 4, 1979, SIP submittal indicated that conditions needed to comply with the permitting requirements in Section 173 would be added to each permit under the general authority granted to the permitting agency under the existing regulations. On January 8, 1980, the Governor submitted an opinion from the State Attorney General affirming the State's legal authority to require and enforce the requirements of Sections 173 (1), (3) and (4) of the Clean Air Act as conditions for receipt of a permit to construct and operate a new or modified source in a nonattainment area. The transmittal letter from the Governor stated that Montana would comply with Section 173(1) through implementation of an emission offset program and incorporate by reference EPA's emission offset interpretive ruling (44 FR 3274, January 16, 1979). The Governor also indicated that the State would make the necessary revisions to its permitting regulations.

Based on these supplemental SIP submittals, EPA is requesting public comments on whether the State's new source review program should be approved, disapproved, or approved with the following conditions:

(1) Revisions to the permitting rules to eliminate or clarify explicit inconsistencies with Sections 173, 110(a) and 110(i) of the Clean Air Act (e.g. issuing permits with future compliance dates);

(2) Revisions to the permitting rules to specifically incorporate the emission offset requirement;

(3) Submission of a demonstration that the emission offset approach will insure reasonable further progress toward attainment; and

(4) EPA is proposing a deadline of August, 1980, for compliance with these conditions.

The public is invited to comment on the above proposals. In addition, the public is invited to comment on the acceptability of the control measures which were submitted on October 4, 1979, as part of the Colstrip control strategy.

Under Executive Order 12044, EPA is required to judge whether a regulation is

"significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: January 30, 1980.  
 Roger L. Williams,  
 Regional Administrator.  
 [FR Doc. 80-6661 Filed 3-3-80; 8:45 am]  
 BILLING CODE 6560-01-M.

**GENERAL SERVICES ADMINISTRATION**

**National Archives and Records Service**

41 CFR Part 105-61

[ADM 7900.2 CHGE]

**Location of Records and Hours of Use: Fees for Reproduction Services**

**AGENCY:** General Services Administration, National Archives and Record Service (NARS).

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule provides information regarding the correct addresses or hours of operation for four National Archives and Records Service (NARS) facilities, and revises the fee schedule for reproduction services established by NARS. The revised fee schedule will be in effect during fiscal year 1980.

**DATES:** Written comments must be received on or before April 3, 1980.

**PROPOSED EFFECTIVE DATE:** March 24, 1980.

**ADDRESS:** Address comments to: General Services Administration (NAA), Washington, D.C. 20408.

**FOR FURTHER INFORMATION CONTACT:** Ross Buffington, Planning and Analysis Division (202-523-3214).

**SUPPLEMENTARY INFORMATION:** The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

GSA proposes to amend Part 105-61 as follows:

**Subpart 105-61.51—Location of Records and Hours of Use**

1. Section 105-61.5101-3(e) is revised to read as follows:

**§ 105-61.5101-3 Presidential libraries.**

(e) John F. Kennedy Library, Morrissey Boulevard, Columbia Point, Boston, MA 02125. Hours: 8:30 a.m. to 5 p.m., Monday through Friday.

2. Section 105-61.5101-7 is amended by revising paragraphs (d), (g), (h), and (k) to read as follows:

**§ 105-61.5101-7 Federal archives and records centers.**

(d) 1557 St. Joseph Avenue, East Point, GA 30344. Hours: 8 a.m. to 5 p.m., Monday through Friday.

(f) 2306 East Bannister Road, Kansas City, MO 64131. Hours: 8 a.m. to 4 p.m., Monday through Friday.

(g) 4900 Hemphill Street, Fort Worth, TX. Mailing address: Federal Archives and Records Center, P.O. Box 6216, Forth Worth, TX 76115. Hours: 8 a.m. to 4 p.m., Monday through Friday.

(h) Building 48, Denver Federal Center, Denver, CO. Mailing address: Federal Archives and Records Center, P.O. Box 25307, Denver, CO 80225. Hours: 8 a.m. to 3:50 p.m., Monday through Friday.

(k) 6125 Sand Point Way, Seattle, WA 98115. Hours: 7:45 a.m. to 4:15 p.m., Monday through Friday.

**Subpart 105-61.52—Fees**

3. Section 105-61.5201(2)(8) is revised to read as follows:

**§ 105-61.5201 Applicability.**

(8) Customers may request expedited service for most reproduction orders. "Rush" orders are subject to a 40-percent surcharge.

4. Section 105-61.5205 is amended by revising paragraphs (a), (c), and (e) to read as follows:

**§ 105-61.5205 Mail orders.**

(a) Except for those processes showing a higher minimum in § 105-61.5206, a minimum fee of \$3 per order is charged for reproductions ordered by mail.

(c) When a customer requests that reproductions be sent to a foreign address or requests special postal

service to domestic addresses, the order is subject to a shipping fee in addition to the cost of the reproductions. The shipping fee is computed as a percentage of the cost of the items ordered using the schedule in paragraph (d) of this section and/or a postal service fee using the schedule in paragraph (e) of this section. However, no additional charge is made when the special shipping fee is less than \$1.

(e) The following fees for special postal service apply when the service is requested by the customer.

(1) Insured mail:

Amount insured	Fee	
	Domestic	Foreign
\$15.00		\$0.90
50 00	\$0.85	1.20
100 00	1.10	1.50
150 00	1.43	
200 00	1.75	2.10
300 00	2.25	2.70
400 00	2.75	3.30

- (2) Certified mail, \$0.80.
- (3) Return receipt, \$0.45.
- (4) Registered mail, \$3.00.

5. Section 105-61.5206 is amended by revising paragraphs (a) thru (j) to read as follows:

**§ 105-61.5206 Fee schedule.**

- (a) *Authentication*, \$2.00.
- (b) *Still photography* (minimum order, \$4).

(1) *Copy negatives:*

	Black and white
4 in. by 5 in. ....	\$4.00
8 in. by 10 in. ....	6.80

(2) *Aerial prints:*

10 in. by 10 in. or smaller (contact) .....	\$4.25
10 in. by 10 in. enlargement .....	4.25
14 in. by 14 in. ....	7.00
18 in. by 18 in. ....	7.80
20 in. by 24 in. ....	7.80
27 in. by 28 in. ....	16.00
40 in. by 41 in. ....	22.00
Photo-indexes (usually 20 in. by 24 in.) .....	7.80

(3) *Photographic prints (includes prints from microfilm):*

	Black and white	Color
4 in. by 5 in. (contact: A contact print is an exact copy of a negative which cannot be altered. The service is available only when there is a 4 in. by 5 in. negative on file) .....	\$2.40	
8 in. by 10 in. or smaller .....	4.65	\$20.00
11 in. by 14 in. ....	5.75	30.00
16 in. by 20 in. ....	9.50	46.00
20 in. by 24 in. ....	12.90	59.30
22 in. by 28 in. ....	12.90	
24 in. by 30 in. ....	17.85	110.00
30 in. by 40 in. ....	17.85	155.00
Septa, add .....	3.75	

(4) *Slides and transparencies:*

Black and white:	
2 in. by 2 in. from existing negative .....	\$1.90
Additional fee when negative must be made .....	4.00
Color:	
2 in. by 2 in. ....	2.70

	<i>Black and white</i>	<i>Color</i>
4 in. by 5 in.....		16.85
8 in. by 10 in.....		32.70

**(5) Photostat:**

Paper (up to 17 in. by 23 in.).....	\$6.25
Film (up to 17 in. by 23 in.).....	7.80

**(6) Diazo (per foot), \$1.00.**

**(7) 105 mm microfilm prints:**

18 in. by 24 in. paper copy.....	\$1.55
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**(c) Microfilm.**

	<i>16 mm rotary</i>	<i>16 mm planetary</i>	<i>35 mm planetary</i>	<i>35 mm oversize</i>
(1) Negative (per frame; minimum order, \$10) Customer tabs documents for microfilming.....	\$0.06	\$0.10	\$0.10	\$0.40
NARS identifies documents for microfilming.....	.06	.15	.15	.45
(2) Positive (per foot; minimum, \$6 per roll).....	.13	.14	.....	.....
(3) Duplicate negative (per foot; minimum order, \$6)....	.16	.17	.....	.....

**(d) Microfiche duplication.**

(Per fiche, minimum order, \$3).....	\$0.40
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**(e) Electrostatic copying.**

**(1) Paper to paper (up to 11 in. by 17 in.).**

Customer tabs documents for copying.....	\$0.15
NARS identifies documents for copying.....	.20

**(2) Oversized electrostatic copies (per foot), \$0.080.**

**(3) Microfilm to paper.**

From negative (Copyflo, per foot; minimum order, \$10).....	\$1.35
From positive (per frame): When work is done by customer (up to 8½ in. by 14 in. per frame).....	.15
When work is done by NARS (minimum mail order, \$3): Nonconsecutive frames or first of consecutive frames, any size.....	.75
Consecutive or duplicate frames: Up to 8½ in. by 14 in.....	.25
11 in. by 17 in.....	.35
18 in. by 24 in.....	.45
High resolution-wet process (8½ in. by 11 in.): When work is done by customer.....	.20
When work is done by NARS.....	.30

**(f) Sound recordings.**

Reel to reel (per minute; minimum order, \$5).....	\$0.51
Cassette (per minute; minimum order, \$5).....	.44
Film-to-tape sound transfer (per minute; minimum order, \$15).....	2.50

**(g) Video recordings.**

Film to tape:	
10 min.....	\$40.00
20 min.....	56.00
30 min.....	69.00
40 min.....	88.00
60 min.....	114.00
Tape to tape:	
10 min.....	34.00
20 min.....	44.00
30 min.....	52.00
40 min.....	64.00
60 min.....	79.00

**(h) Machine-readable records.**

Tape-to-tape copying (per reel).....	\$65.00
Tape-to-printout copying (computer processing time per hour; minimum order, \$50).....	150.00
Tape-to-printout extract (computer processing time per hour; minimum order, \$250).....	150.00
Tape-to-tape extract (per output reel).....	65.00
(Computer processing time per hour).....	150.00
Card-to-card (per card; minimum order, \$10).....	.02
Tape-to-card (per card; minimum order, \$10).....	.02

**(i) Technical services.**

	<i>Regular</i>	<i>Overtime</i>
Motion picture preparation (per hour).....	\$22.00	\$26.00
Photographer (per hour).....	20.00	24.00
Microfilm preparation (per hour).....	18.00	27.00
Sound and video recordings (per hour).....	28.00	34.00

\* \* \* \* \*

6. Section 105-61.5208 is revised as follows:

**§ 105-61.5208 Effective date.**

The fees in § 105-61.5206 are effective beginning March 24, 1980, and ending September 30, 1980. Orders received after September 30, 1980, will be subject to the fees in effect at that time.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000-2)

Dated: February 25, 1980.

James E. O'Neill,

Acting Archivist of the United States.

[FR Doc. 80-6773 Filed 3-3-80; 8:45 am]  
BILLING CODE 6820-26-M

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2 and 22**

[CC 79-318]

**Proposals Received in Cellular Rulemaking**

February 28, 1980.

AGENCY: Federal Communications Commission.

ACTION: Proposals Received in Cellular Rulemaking (CC 79-318).

**SUMMARY:** In its *Notice of Inquiry and Notice of Proposed Rulemaking* in Common Carrier Docket No. 79-318, *An Inquiry Into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems*, the Commission invited the submission of proposals from the public within thirty days of the release of the *Notice*. 45 Fed. Reg. 2859, 2862 n.17. Proposals were filed by February 14, 1980 (thirty days after release of the *Notice* in the Federal Register) by: Kidd's Communications, Inc., American Telephone and Telegraph Company (two filings), E. F. Johnson Company, Millicom Incorporated.

In addition, a proposal was filed by Broadcom Inc. on February 15, 1980, and the Ad Hoc Engineering Committee of the Electronic Industries Association filed a working paper on cellular system compatibility on February 19, 1980.

**DATE:** Comments in this proceeding are due by April 1, 1980.

**ADDRESS:** These filings are available for public inspection at the Commission's

Public Reference Room, Room 239, 1910 "M" Street NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Michael D. Sullivan, (202) 632-6450.

Federal Communications Commission.

William J. Tricarico,  
Secretary.

[FR Doc. 80-6671 Filed 3-3-80; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 22**

[CC Docket No. 80-57; FCC 80-67]

**Public Mobile Radio Services Provisions; Revision and Update of Rules**

AGENCY: Federal Communications Commission.

ACTION: Proposal to revise and update Rules Part 22 (Public Mobile Radio Services).

**SUMMARY:** The Commission issues a Notice of Inquiry looking toward revising and updating Rules Part 22 (Public Mobile Radio Services). The proposal would bring the rules sections up to date with existing technology and current Commission policy. The proposal would also ensure that all rules sections are written in plain language.

**DATES:** Comments must be received on or before March 31, 1980, and Reply Comments must be received on or before April 15, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Michael D. Sullivan, Common Carrier Bureau (202) 632-6450.

Adopted: February 13, 1980.

Released: February 21, 1980.

By the Commission:

1. The Commission is considering amending Part 22 of its Rules and Regulations ("Public Mobile Radio Services," 47 CFR § 22.0 et seq.), to rewrite the rules in plain language, to bring the text of the rules up to date with existing technology, and to add or revise definitions in order to explain more fully the meaning of certain rules. Additionally, the rulemaking will give the Commission the opportunity to standardize data elements maintained in the data base for the Public Mobile Radio Services and to conform these data elements with those maintained by the International Frequency Registration Board (IFRB) and by the National Telecommunications and Information Administration (NTIA). We believe the public will greatly benefit from the clarifications and updating described above. Furthermore, members of the

public are in the best position to inform us as to how the language of the Rules in Part 22 affects them. We therefore request public comments at this time in order to ensure maximum public participation in the revision and update of Part 22. The Appendix to this Notice of Inquiry provides a partial listing of rules sections in Part 22 which the Commission will examine carefully for revision of inaccurate or outdated language. We anticipate that this listing will be expanded through public comment.

2. The proposed revision and update project encompasses the Public Mobile Radio Services: the Domestic Public Land Mobile Radio Service, the Public Aeronautical Mobile Radio Service, the Rural Radio Service, and the Offshore Radio Telecommunications Service. Comments are requested from the public on the following general topics: (a) rule changes that will clarify portions of Part 22; (b) rule changes that will bring sections of Part 22 up to date with present technology and overall Commission policy; and (c) rule changes that should be made so that all sections of Part 22 will be in plain language. The update project will not be a catchall rulemaking that encompasses every revision of Part 22 that might conceivably be desirable. For example, the rulemaking will not involve proposed changes to frequency allocations. Nor will the public be requested to comment, in this rulemaking, on matters under consideration in other rulemakings. For example, in this rulemaking the public should not submit proposed rules for cellular mobile radio communications that are under examination in CC Docket No. 79-318.<sup>1</sup> Additionally, the Commission will not, in updating Part 22, inquire into the role of competition in the Public Mobile Radio Services. Rather, this proceeding will focus on clarifying and updating the existing sections of Part 22.

3. In addition to filing general suggestions, the public is also requested to comment on the following specific areas:

(a) *Definitions.* (1) Which definitions currently in Part 22 are unclear, ambiguous, out of date, or otherwise in need of revision? How should they be reworded? If possible, rewrite these definitions as you feel they should be revised.

(2) What definitions should be added? If possible, write these definitions as you feel they should be adopted.

(b) *Organization of Part 22.* (1) Should the organizational format be modified to make the rules more easily understood? If possible, please submit a proposed alternate structure.

(2) Should there be additions to the present structure of Part 22 e.g., should the Commission add a topic index, policy listing, or more subparts under Part 22?

(c) *Technical Rules.* (1) By "technical rules," we mean rules related to engineering matters, facilities, electrical interference questions, and nonlegal questions in general. These matters are presently covered in the following Rules Subparts:

C—Technical Standards  
D—Technical Operation  
F—Developmental Operation  
G—Domestic Public Land Mobile Radio Service  
H—Rural Radio Service  
L—Offshore Radio Telecommunications Service.

Which specific rules should be updated or clarified? If possible, write the rules sections as you feel they should be adopted.

(d) *Legal and Procedural Rules.* By "legal and procedural" we mean the rules related to the filing and processing of applications and the legal requirements for applicants. These rules are presently found in the following subparts:

A—General  
B—Applications and Licenses  
E—Miscellaneous  
F—Developmental Authorizations  
G—Domestic Public Land Mobile Radio Service  
H—Rural Radio Service  
L—Offshore Radio Telecommunications Service.

Which specific rules should be updated or clarified? If possible, write the rules as you feel they should be adopted.

(e) *Forms.* How can the forms used in the Public Mobile Radio Services be made simpler, easier to understand and up to date? If possible, submit a model form(s) or portion(s) of such form(s) as you feel they should be adopted.

4. Interested parties are encouraged to submit written comments or views concerning the revision and update project to the Federal Communications Commission, Washington, D.C. 20554. Please submit an original and five copies of all comments in accordance with Rules § 1.419. Comments should be submitted by March 31, 1980. Reply comments should be submitted by April 15, 1980. All such submissions received on or before these dates will be considered prior to the promulgation of final Part 22 Rules and Regulations. In reaching its decision, the Commission

may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

5. For further information concerning procedures to follow with respect to this proceeding contact Michael A. Menius, (202) 632-6450.

6. Authority for this rulemaking is contained in sections 4 and 303 of the Communications Act of 1934, 47 U.S.C. 154, 303, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

*Preliminary Listing<sup>1</sup> of Part 22 Rules Sections Which Will Be Reviewed for Updating*

22.2	22.205
22.9	22.208
22.11	22.212
22.13	22.213
22.15	22.303
22.17	22.400
22.20	22.401
22.23	22.402
22.25	22.408
22.29	22.404
22.31	22.405
22.35	22.406
22.39	22.500
22.40	22.501
22.43	22.505
22.44	22.513
22.103	22.515
22.104	22.516
22.113	
22.118	

[FR Doc. 80-8710 Filed 3-3-80; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 22

[CC Docket No. 80-56; RM-3499; FCC 80-66]

**Domestic Public Land Mobile Radio Service; Air-Ground Assignment to Tallahassee, Fla.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Communications Commission proposes to amend its regulations relating to the public mobile radio services in response to a petition from Porta-Phone, Inc. The proposed amendment would assign air-ground

<sup>1</sup>The Commission anticipates that this listing will be expanded when the Commission receives public comments regarding the revision and update project.

<sup>1</sup>"Cellular Mobile Communication Systems," adopted November 29, 1979, released January 8, 1980, FCC Mimeo 15220, ——— FCC 2d (1979).

channel 6 to Tallahassee, Florida. The petitioner states that present air-ground services is inadequate in the Tallahassee area as the range of the nearest stations is generally insufficient to serve aircraft in the vicinity of Tallahassee.

**DATES:** Comments must be filed on or before April 4, 1980, and reply comments on or before April 18, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Michael D. Sullivan, Common Carrier Bureau, (202) 632-6450.

**SUPPLEMENTARY INFORMATION:** In the matter of amendment of § 22.521(b) of the Commission's rules, to include Tallahassee, Florida, in the table of assignments for air-ground stations in the Domestic Public Land Mobile Radio Service. CC Docket No. 80-56, RM-3499.

Adopted: February 13, 1980.

Released: February 21, 1980.

By the Commission:

1. A petition for rulemaking was filed by Porta-Phone, Inc. (petitioner), proposing the assignment of air-ground channel 6 to Tallahassee, Florida. Public Notice of the petition was given on October 15, 1979 (Report No. 1197). The channel can be assigned in conformance with the mileage separations used elsewhere in the air-ground table of assignments, 47 CFR 22.521(b).

2. Petitioner states that Tallahassee, Florida, is the scene of significant general aviation activity. In response to a survey by petitioner, 22 prospective subscribers expressed sufficient interest in petitioner's proposal to make "firm applications for service." Petitioner states that present air-ground service is inadequate in the Tallahassee area, as the range of the nearest stations is generally insufficient to serve aircraft in the vicinity of Tallahassee. Aircraft at a sufficiently high altitude may obtain service but must pay toll charges to communicate with a Tallahassee telephone through a distant base station.

3. In view of the apparent need for air-ground communications service in Tallahassee, the Commission proposes to amend 47 CFR 22.521(b) as follows:

§ 22.521 Nationwide plan for assignment of frequencies to land mobile systems rendering communication service to airborne stations.

	Location	Channel
(b)		
	Florida	

Tallahassee

4. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note that we are electing to utilize the procedures followed in proceedings for amendment of the FM or Television Table of Assignments, 47 CFR § 1.420, because of the similarity to that type of proceeding.

5. Interested parties may file comments on or before April 4, 1980, and reply comments on or before April 18, 1980.

6. For further information concerning this proceeding contact Michael D. Sullivan, Common Carrier Bureau, (202) 632-6450. Members of the public should note, however, that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission reconsideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message, spoken or written, concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.  
William J. Tricarico,  
Secretary.

**Appendix**

1. Pursuant to authority found in Sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, IT IS PROPOSED TO AMEND the Air-Ground Table of Assignments, Section 22.521(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the

consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

**47 CFR Part 73**

[BC Docket No. 80-75; RM-3298]

**FM Broadcast Stations in Columbia, Jamestown and Smiths Grove, Ky.; Proposed Changes in Table of Assignments**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** Action taken herein proposes the assignment of a Class A channel to

Smiths Grove, Kentucky, as that community's first FM assignment. In order to make this assignment, it is necessary to substitute Class A channels at and effectuate transmitter site changes for stations at Columbia and Jamestown, Kentucky. These channel changes are requested by petitioners Charles M. Anderson and J. Barry Williams. The proposed station for Smiths Grove could provide that community with its first local aural broadcast service.

**DATES:** Comments must be filed on or before April 21, 1980, and reply comments must be filed on or before May 12, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660.

**SUPPLEMENTARY INFORMATION:**

In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations*. (Columbia, Jamestown and Smiths Grove, Kentucky), BC Docket No. 80-75, RM-3298.

Adopted: February 20, 1980.

Released: February 26, 1980.

1. The Commission herein considers a petition for rule making<sup>1</sup> filed by Charles M. Anderson and J. Barry Williams ("petitioners"), which seeks the assignment of Channel 228A to Smiths Grove, Kentucky, as a first FM assignment to that community. In order to accomplish this, it would be necessary to substitute Channel 285A for Channel 228A (now occupied by Station WAIN-FM) in Columbia, Kentucky, and to substitute Channel 228A for Channel 285A now occupied by Station WJRS(FM), Jamestown, Kentucky.

2. Smiths Grove (pop. 765)<sup>2</sup>, is located in the northeast corner of Warren County (pop. 57,432) adjacent to Edmonson County (pop. 8,751) and approximately 22 kilometers (14 miles) from Bowling Green, Kentucky. There is no local aural broadcast service in Smiths Grove.

3. Petitioners state that Smiths Grove is primarily an agricultural area and includes a number of small businesses. They also assert that the proposed station would provide a first local aural service to parts of Edmonson County as well as Warren County. Petitioners have submitted demographic data in order to

demonstrate the need for a first FM assignment to Smiths Grove.

4. In an engineering study petitioners indicate that Channel 228A can be assigned to Smiths Grove in compliance with the minimum distance separation requirements provided the transmitter sites of Station WAIN-FM (Columbia) and Station WJRS(FM) (Jamestown) are relocated to accommodate the proposed substitution of channels. They state that both the Columbia and Jamestown licensees have agreed to the substitution of channels and to the change in their transmitter locations, predicated upon the full reimbursement of costs by the ultimate licensee of the Smiths Grove station. Petitioners state they have effected agreements with the licensees of Stations WAIN-FM and WJRS(FM) to the required changes and submitted signed letters which reflect the agreements to their proposal. Petitioners also state that the proposed Smiths Grove assignment would represent a very efficient use of the FM spectrum since this area is now saturated.

5. In view of the desirable first local aural broadcast service that could be provided to Smiths Grove and its surrounding area, we shall pursue the proposal for comments. The licensees of Stations WAIN-FM, Columbia, and WJRS(FM), Jamestown, are agreeable to the substitution of channels and change in transmitter locations, subject to reimbursement of costs by the ultimate licensee of the Smiths Grove station. We are told in this regard that both stations could effect considerable improvements in coverage and facilities. Under the circumstances, an order to show cause for modification of license will not be issued since the parties involved have already agreed to the modification of their licenses, if the proposed channel is assigned to Smiths Grove, Kentucky. We are, however, sending copies of this *Notice of Proposed Rule Making* to the affected licensees.

6. Accordingly, the Commission proposes to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Columbia, Kentucky	228A	285A
Jamestown, Kentucky	285A	228A
Smiths Grove, Kentucky		228A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

**Note.**—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 21, 1980, and reply comments on or before May 12, 1980.

9. It is ordered, that the Secretary of the Commission shall send a copy of this *Notice* by certified mail, return receipt requested, to tri-County Broadcasting Corp., Radio Station WAIN-FM, Box 77, Columbia, Kentucky 42728, and Lake Cumberland Broadcasters, Radio Station WJRS(FM), Box 336, Jamestown, Kentucky 42629, the parties to whom the *Notice* is directed.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.  
Henry L. Baumann,  
Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-75, RM-3298]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

<sup>1</sup>Public Notice of the petition was given on January 3, 1979, Rept. No. 1157.

<sup>2</sup>Population figures are taken from the 1970 U.S. Census.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule-making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-6718 Filed 3-3-80; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[EC Docket No. 80-74; RM-3485]

#### FM Broadcast Stations in Marshall and Robinson, Ill.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making and Order to Show Cause.

**SUMMARY:** Action taken herein proposes the assignment of Channel 269A to Marshall, Illinois, and the substitution of Channel 232A for Channel 269A at Robinson, Illinois. An Order to Show Cause is also being issued to the Robinson station concerning the proposed license modification to specify Channel 232A. The proposed assignment to Marshall would provide that community with its first local aural broadcast service.

**DATES:** Comments must be filed on or before April 21, 1980, and reply comments must be filed on or before May 12, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

#### SUPPLEMENTARY INFORMATION:

Adopted: February 20, 1980.

Released: February 25, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations, (Marshall and Robinson, Illinois), EC Docket No. 80-74, RM-3485.

1. The Commission has before it a petition for rule making<sup>1</sup> from David L. Taylor ("petitioner"), proposing the assignment of FM Channel 269A to Marshall, Illinois, and the substitution of FM Channel 232A for Channel 269A at Robinson, Illinois. No oppositions to the petition were received. The proposed channels for Robinson and Marshall comply with the minimum mileage separation requirements.

2. Marshall (pop. 3,468),<sup>2</sup> in Clark County (pop. 16,216), is located in east central Illinois, approximately 298 kilometers (186 miles) south of Chicago. The only broadcast service in Clark County is provided by daytime-only AM Station WKZI, Casey, Illinois. There are no FM assignments or AM stations in Marshall. Petitioner states that Marshall has a mayor-council form of government, numerous educational

institutions, and various industries, including chemical production and electronics.

3. Petitioner states that if Channel 269A is assigned to Marshall, he will apply for it. He also asserts that he is willing to reimburse the licensee of Station WTAY-FM (Channel 269A at Robinson) for all expenses incurred in the changeover from Channel 269A to Channel 232A.

4. In view of the fact that Marshall could receive its first local aural broadcast service and Clark County could obtain a first fulltime service, we find the proposal to be warranted.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is proposed to amend § 73.202(b), the FM Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Marshall, Illinois.....		269A
Robinson, Illinois.....	269A	232A

6. It is ordered, that, pursuant to Section 316(a) of the Communications Act of 1934, as amended, and with the understanding that it will receive reasonable reimbursement of expenses incurred in changing the channel on which it has a license, Station WTAY-FM shall show cause why its license should not be modified to specify operation on Channel 232A as proposed herein instead of the present Channel 269A.

7. Pursuant to § 1.87 of the Commission's rules and regulations, the licensee of Station WTAY-FM, Robinson, Illinois, may not later than April 21, 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, WTAY-FM may, not later than April 21, 1980, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. In this case, the Commission may call on WTAY-FM to furnish additional information, designate the matter for hearing, or issue, without further proceeding, an *Order* modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, WTAY-FM will be deemed to consent to the modification as proposed in the *Order to Show Cause*.

<sup>1</sup>Public Notice of the petition was given on September 19, 1979, Rept. No. 1192.

<sup>2</sup>Population figures are taken from the 1970 U.S. Census.

and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before April 21, 1980, and reply comments on or before May 12, 1980.

10. It is further ordered, That the Secretary of the Commission shall send a copy of this Order by Certified Mail, Return Receipt Requested, to Ann Broadcasting Corp., Radio Station WTAY-FM, Box 245, Robinson, Illinois 62454, the party to whom the Order to Show Cause is directed.

11. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.  
Henry L. Baumann,  
Chief, Policy and Rules Division, Broadcast Bureau.

#### Appendix

[BC Docket No. 80-74, RM-3485]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to

file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-8717 Filed 3-3-80; 8:45 am]

BILLING CODE 6712-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 86

[FRL 147-3; Docket No. A-79-14]

#### High Altitude Emission Standards for 1982 and 1983 Model Year Light-Duty Vehicles; Counties Affected by the Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to supplement information in connection with notice of proposed rulemaking.

**SUMMARY:** This document identifies 26 high-altitude counties which have substantially all of their area located above 4,000 feet but which were inadvertently excluded from the Notice of Proposed Rulemaking (NPRM) on High-Altitude Emission Standards for 1982 and 1983 Model Year Light-Duty Vehicles (45 FR 5988).

**DATES:** Comment on the inclusion of these counties in the final rule is requested at the hearings scheduled for March 5, 1980, in Denver. Further information on the hearings can be found in the February 13, 1980, Federal Register (45 FR 9753).

EPA will consider written comments received on or before 30 days from the date of the public hearing.

**ADDRESSES:** Public Docket: Comments may be submitted in writing to: U.S. Environmental Protection Agency, Central Docket Section (A-130), ATTN: A-79-14, Waterside Mall, Room 2903B (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Copies of material relevant to the January 24, 1980, proposal are contained in Public Docket No. A-79-14 at the U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903B (EPA Library), 401 M Street SW., Washington, D.C. 20460. The docket may be inspected between the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

**FOR FURTHER INFORMATION CONTACT:** Gregory J. Dana, Environmental Protection Agency, Mobile Source Air Pollution Control (ANR-455), 401 M St. SW., Washington, D.C. 20460 (202) 755-0596.

**SUPPLEMENTARY INFORMATION:** On January 24, 1980 EPA proposed high altitude emission standards for 1982 and 1983 Model Year Light-Duty Vehicles. The NPRM indicated that counties which have substantially all of their

area located above 4,000 feet would be affected by the regulation. The NPRM listed those counties that would be affected. Since that time, EPA has discovered that certain other counties were inadvertently omitted from that listing. For the purpose of the proposed regulations, a county is substantially above 4,000 feet if 75% of its land mass and 75% of its population are above 4,000 feet.

It is EPA's intention to include these counties in the final rule. The section containing the list of counties is § 86.082-30.

The counties under consideration are listed below:

**State of Arizona**

Cochise                      Yavapai  
Coconino

**State of Colorado**

Cheyenne                      Otero  
Kit Carson

**State of Idaho**

Lemhi

**State of Montana**

Judith Basin                      Wheatland  
Powell

**State of Nebraska**

Cheyenne

**State of Nevada**

Lincoln                      Pershing  
Nye                              Washoe

**State of New Mexico**

Hidalgo                      Roosevelt  
Otero

**State of Oregon**

Harney                      Klamath

**State of Texas**

Jeff Davis                      Parmer  
Hudspeth

**State of Utah**

Garfield

**State of Wyoming**

Campbell                      Washakie

Dated: February 28, 1980.

David G. Hawkins,

*Assistant Administrator for Air, Noise, and  
Radiation (ANR-443).*

[FR Doc. 80-6943 Filed 3-3-80; 11:43 am]

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# Notices

Federal Register

Vol. 45, No. 44

Tuesday, March 4, 1980

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

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Demonstration and Evaluation Projects for the Special Supplemental Food Program for Women, Infants and Children (WIC)

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Food and Nutrition Service (FNS) is notifying State and local agencies, nonprofit organizations, universities, and consumer organizations that funds are available for demonstration and evaluation projects for the Special Supplemental Food Program for Women, Infants, and Children (WIC). The notice describes the type of projects in which FNS has a particular interest and sets forth the criteria to be used by FNS to determine which projects will be funded.

**FOR FURTHER INFORMATION CONTACT:** Contracting Officer, Administrative Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 121, West Auditors Building, Washington, D.C. 20250.

**NOTICE:** Notice is hereby given that, in accordance with Section 17 of the Child Nutrition Act of 1966, as amended by the Child Nutrition Amendments of 1978 (Public Law 95-627), applications will be accepted from State and local agencies, nonprofit organizations, universities and consumer organizations for grants to conduct demonstration projects or evaluations of the Special Supplemental Food Program for Women, Infants and Children (WIC).

Section 3 of Public Law 95-627, enacted November 10, 1978, amends Section 17(g) of the Child Nutrition Act of 1966 to authorize the Secretary of Agriculture to use for any fiscal year ½ of 1 percent, not to exceed \$3,000,000, of the sums appropriated for the program

for the purpose of evaluating program performance, evaluating health benefits, and the administration of demonstration (pilot) projects, including projects designed to meet the special needs of migrants, Indians and rural populations. Of the \$3 million available for FY 1980, approximately one-half of the monies is tentatively planned to be used to fund demonstration projects and evaluations under the provisions of this notice, depending on the scope, variety, quality, and desirability of applications received. The remainder of the money will be used by the Secretary for a variety of contractual arrangements and cooperative agreements for Program evaluations other than those described in this notice, and funds for those contractual arrangements and cooperative agreements will not be awarded under the provisions of this notice. They will be awarded by the Food and Nutrition Service (FNS) to be designated not for profit and nonprofit organizations to engage in program evaluations and research studies.

#### *I. General Information*

In accordance with the provisions of this notice, approximately \$1.5 million may be utilized for grants for demonstration projects or program evaluation studies. For the purposes of these grants, demonstration projects will be defined as projects conducted on a trial basis in one or more areas of the United States for pilot or experimental purposes. A demonstration project must test new methods in the operation of the WIC Program designed to determine whether program changes might increase the efficiency of the program or improve the delivery of benefits to participants. Demonstration projects must include an evaluation component which analyzes the results of the project.

Evaluation projects will be defined as those designed to assess the effectiveness of program operations or to evaluate the effect of such aspects of the WIC Program as food supplementation or nutrition education. Such evaluations may be conducted as part of a demonstration project or as an independent review of current program operations.

Applicants should be aware that FNS is seeking projects that will produce results, techniques, or materials that may be utilized by State or local

agencies in other geographic areas with similar economic or cultural characteristics. Grant funds will not be awarded to projects that will benefit or improve WIC Program operations in only one limited geographic area, such as one State agency or one local agency. In addition, applicants should be aware that these grants are not available to cover routine, ongoing administrative or food package costs involved in opening a WIC Program or expanding an already operating WIC Program.

Previous applicants for WIC Program demonstration and evaluation project grant funds may reapply by complying with Sections III and IV of this notice.

Demonstration projects and evaluation projects:

(a) Must be consistent with WIC Program regulations, although specific requirements of the regulations may be waived if determined necessary by FNS for the successful completion of a demonstration project. Under no circumstances, however, will participant eligibility be altered or program benefits reduced. All provisions of Public Law 95-627 will apply.

(b) Must have direct application to WIC Program operations.

(c) Must have the potential of utilization of results, techniques, or materials by WIC Programs in other geographical areas throughout the United States.

(d) Must have the potential to provide results that can be used in connection with legislation, regulations, instructions, or guidance materials for the WIC Program.

(e) Must not exceed 18 months, including the submission of a final report and other applicable materials to FNS by the end of the 18-month maximum duration of the project. Grantees will be required to submit materials developed for the project to FNS as soon as the development of the materials is completed.

(f) Must begin within 60 days of the official grant award date.

#### *II. Projects of Particular Interest to FNS*

The Food and Nutrition Service (FNS) will consider all demonstration and evaluation project applications submitted and will attempt to fund a variety of projects. There is no legislative mandate that a certain number of projects or amount of funds be awarded according to geographic

locations. However, for fiscal year 1980, FNS will attempt to award grants to a variety of types of geographical areas, both urban and rural. Applicants are advised that grants will be awarded on a competitive basis; geographic considerations will not be primary, although such considerations may be applied in a tie-breaking situation. Special consideration will be given to projects with regional or national impact. In addition, for fiscal year 1980, FNS is particularly interested in receiving applications for projects on the following subjects.

*A. Native American Indian State Agency WIC Program Management Model*

In the May 25, 1979, Federal Register notice which announced the availability of fiscal year 1979 grant funds for demonstration and evaluation projects, FNS expressed an interest in receiving grant applications for a Native American State Agency WIC Program Model. Several applications were received, but none of the projects was awarded a grant. For this reason, FNS is again requesting applications for an Indian agency management model. Previous applicants may reapply by complying with Sections III and IV of this notice.

At the beginning of fiscal year 1980, FNS had direct Federal-State Agreements with 27 Indian State agencies. These Indian tribes, bands, groups, and inter-tribal councils operate the WIC Program in their jurisdictions and generally provide health services in conjunction with the Indian Health Service of the U.S. Department of Health, Education and Welfare. Because the Indian State agency situation is not always representative of other State agencies, the administration of the Program is often more difficult. These conditions include geographical, cultural, dietary, and language differences which require unique management approaches in the delivery of WIC Program benefits and in the administration of the Program. FNS believes that a Native American State Agency WIC Program Management Model would enhance the service to program participants among Indian groups and is interested in a demonstration project designed to develop a model which would provide creative approaches for Indian agencies to use in designing Program operations. The model should be broad enough in scope to enable Indian State agencies to more efficiently deliver the WIC Program to eligible participants. The model should be prepared as a guide which any of the presently operating

Native American State agencies could use to alter and improve their program operations and which any future Native American State agencies could use to plan an effective WIC Program.

The application for grant funds to prepare the model must describe in detail any necessary coordination with Indian or other groups. Signed agreements outlining the degree of cooperation to be provided by these groups must be submitted as a part of the application. The model should be tested in one or more Indian State agencies as a component of the project, and an evaluation of the results of the test must be included in the final report to FNS.

*B. Utilization of USDA Commodities in the WIC Program Model*

In the May 25, 1979, Federal Register, notice FNS also requested applications for a model on the utilization of USDA commodities in the WIC Program. No applications were received for this project; therefore, FNS is re-issuing this request.

Public Law 95-627 includes provisions which authorize the Secretary to donate to the WIC Program foods (commodities) available under Section 416 of the Agriculture Act of 1949 including, but not limited to, dry milk, or foods purchased under Section 32 of the Act of August 24, 1935, at the request of a State agency. The Secretary is also authorized to purchase and distribute, at the request of the State agency, supplemental foods, including products specifically designed for pregnant, postpartum, and breastfeeding women, or infants, with funds appropriated for the WIC Program.

Section 416 of the Agriculture Act of 1949 authorized the Department to donate foods including grain, dairy, oil, and peanut products. Section 32 of the Act of August 24, 1935, authorizes the Department to purchase and distribute surplus foods including fruits, vegetables, juices, meats, and poultry. A potential for cost savings could exist if WIC supplemental foods could be purchased in quantity and distributed inexpensively rather than bought in small amounts at retail prices. Since appropriated funds would be used to pay for these foods, a corresponding reduction would be made in States' letters of credit. State agencies may be reluctant to agree to such reductions; however, the commodities available under Section 416 or purchased under Section 32 may be donated by the Secretary with the approval of the Office of Management and Budget; the cost of these foods would not be taken out of WIC appropriations. Therefore,

the WIC Program could potentially serve a greater number of individuals.

The Department must determine how best to implement this section of WIC Program legislation. There are certain logistical problems with purchasing and distributing commodities for the WIC Program. The Department currently purchases and distributes commodities to States for distribution in the Commodity Supplemental Food Program in carload quantities. A State must accept carload shipments or make arrangements with a contiguous State, through Regional Offices, to split shipments. This is done to encourage vendor participation as well as to minimize transportation costs. Because of the packaging and labeling requirements placed on government contracts, vendors are reluctant to bid on less than carload shipments. Additionally, an administrative cost study revealed that only two percent of WIC local agencies utilize a direct distribution delivery system. Therefore, many State and local agencies may not have adequate facilities available for storage of commodities.

An additional concern with the use of commodities is participant acceptance. Some participants believe many of the commodities supplied to USDA are not the same as or inferior to those bought at the retail market. Participants may be less willing to consume the commodities supplied by the WIC Program. An education program should be developed along with use of commodities to overcome participant acceptance problems.

FNS believes that a demonstration project designed to assess the feasibility of the participant satisfaction with various arrangements to implement the commodities section of the WIC legislation would be appropriate at this time. The model must be flexible enough to be utilized or adapted by other WIC Programs. The application must include a system detailing the most feasible, economical methods of coordinating shipping, warehousing and distribution to participants. The application must address methods of keeping administrative costs as low as possible. In addition, the application must include satisfaction with these various arrangements, and the evaluation must be included as a part of the final report.

*C. Nutrition Education in Grocery Stores*

Most WIC participants receive food instruments (vouchers, coupons, or checks) to exchange for foods at approved retail grocery stores. The food instruments authorize the participant to "purchase" specific foods which meet

the Program's nutrient requirements and the participant's individual nutritional needs. The retail grocery clerk helps the participant redeem the food instrument by making sure the participant receives exactly what is prescribed. Since the WIC food package is designed to reduce complications of pregnancy due to poor nutrition and to promote the healthiest possible birth, growth and development of children, the retailer's role in the Program is a vital one.

Some grocers do not understand the importance to the participant of receiving the exact foods specified on the food instrument, and a potential violation of Program regulations by retail grocers is substitution of foods. FNS believes that a nutrition education campaign in grocery stores would be useful in helping the food vendors understand the purpose of the WIC Program and in encouraging them to ensure that participants are given only the authorized supplemental foods. FNS also believes that a WIC related nutrition education campaign in grocery stores would ultimately result in more effective vendor monitoring and would have a positive effect on reducing vendor fraud through increased knowledge of WIC Program benefits. In addition, participants would benefit from this type of campaign because of the reinforcement of knowledge gained through the WIC Program. For these reasons, FWS is requesting applications for a model for a nutrition education campaign in grocery stores using a coordinated effort between retail grocers and WIC Program State or local agency staff or other interested parties.

Several grocery chain stores already conduct nutrition education campaigns. However, these campaigns are usually geared toward the middle-income family. FWS is particularly interested in receiving applications for a model for an in-store nutrition education campaign specifically geared toward low-income persons (WIC and non-WIC). The model should be designed to develop and test effective methods for State or local agencies or interested advocacy or volunteer groups to utilize in working with grocers in the development of nutrition education efforts which stress WIC foods and their importance to the health and nutritional well-being of low-income women, infants and children. The model might include techniques for coordination with grocers in media campaigns, in-store displays, and other nutrition-related activities. The model might also include methods which may be used by grocers or other interested parties to help WIC Program participants read and understand labels

and to select nutritious economical foods—both WIC and other foods for the family.

The application should focus on the development and implementation of an in-store, WIC-related nutrition education campaign rather than the production of nutrition education materials. Additionally, the model should augment current nutrition education activities and funds expended by grocers, not replace already existing activities and funds allocated by grocers for nutrition education.

The model should be flexible enough to be adaptable to a wide variety of grocery stores. The application must contain provisions for assessing the effectiveness of the methods devised and utilized.

#### *D. Vendor Monitoring*

The supplemental foods provided to WIC Program participants are usually distributed through the retail food marketing system. In the retail purchase system WIC participants are given food instruments (coupons, checks, or vouchers) which may be redeemed for WIC foods at area retail food stores.

Recent audit reports have highlighted the potential for mismanagement where the retail system is utilized and emphasize the need for stronger monitoring of vendors. It is very important that participants, retailers and clerks understand and follow program rules. Only through their cooperation can the WIC Program succeed in giving nutritional help to the women and children who need it. Violations of the regulations work against the goals of the program and can result in a store's suspension from the program. Examples of possible vendor violations are: (1) vouchers being redeemed at maximum value regardless of cost of food purchased; (2) vouchers being altered; (3) vouchers being honored even though due dates have expired; (4) lack of or illegible endorsements; (5) omission of purchase price; and (6) substitution of foods.

FNS is interested in a vendor monitoring model designed to assist State and local agencies in their monitoring activities. The model should include a statistical sampling method to ensure sufficient frequency of monitoring to satisfy regulatory requirements.

The model should have suggested techniques for monitoring for use by State and local agencies. These techniques might include spot checks, educational visits, or the use of auditors. Another desirable component of the model would be a system for the maintenance of retailer agreement files

and vendor monitoring records, including suggestions on methods of effectively using these files in the monitoring process.

The model must include a provision for testing the feasibility and effectiveness of the statistical sampling method and suggested monitoring techniques. The model should avoid imposing too great an administrative burden on State and local agencies and should allow State flexibility in vendor monitoring activities to the extent possible.

#### *E. Participant Transportation*

A prime concern of FNS is improving service to participants, particularly those in rural areas. Program regulations now allow States the prerogative of using administrative funds to provide participant transportation in rural areas when essential to ensure access to the Program. There may be a direct correlation between WIC Program effectiveness and transportation; i.e., the ability of participants to get to the clinic for certifications, nutrition education, or voucher issuance.

FNS is interested in applications for a project designed to assess the availability and participant use of various means of transportation to and from local agencies and the effect of transportation services on WIC Program participation. The model should also address the development of feasible transportation systems for use by WIC participants in both rural and urban areas. These systems might include such methods as carpools or vanpools, or coordinating efforts with programs such as Meals on Wheels, other community action programs, or church groups.

The application must devise and test methods of arranging transportation schedules, advertising the availability of the transportation, coordinating resources, and obtaining the necessary insurance and licenses. However, any grant funds awarded for this project may not be used for the purchase of a motor vehicle because this is already an allowable administrative expenditure in rural areas, within regulatory and budget constraints. Moreover, direct reimbursement to participants for transportation costs is not an allowable expense under these grants.

The model must be flexible enough for use by a variety of local agencies. Several systems may have to be developed to ensure feasibility of utilizing results in both urban and rural areas. All levels of coordination required to test the systems must be assured in writing and submitted as part of the application.

#### F. Intrastate Distribution of Funds

For the past several years FNS has required States to develop an Affirmative Action Plan for use in distributing WIC Program funds within the State. Under this requirement States must rank all areas within the State, including native American and migrant farmworker populations, according to health and economic indices. Then as funds become available to expand the Program, the plan is to be used to ensure that programs are opened or expanded based on the relative need of the areas.

Controversies concerning the validity of methods and statistical measures used have developed in several States. To date no systematic studies have been performed to validate the Affirmative Action Plans' ability to predict need.

The WIC Program is continuing to receive increased funding levels and provide services to a geographically broader population; however, FNS is concerned that many States are not able to expend all of their allocated resources. It would seem that if funds are properly allocated within the State there would be more people served and less money unused.

Because of the diversity of allocation standards and methods currently allowed and the potential problems with each method, FNS is requesting applications for an evaluation of the different standards and methods currently used, and the advantages and disadvantages of each in differing areas. The application must also address recommendations which State agencies may follow to determine the most feasible method of intrastate distribution of funds. The application must contain provisions for assessing the feasibility and acceptability of recommendation in several States.

#### G. Dual Operation of WIC and CSFP in an Area

From the beginning of the WIC Program, FNS refused to approve the operation of the WIC Program and the Commodity Supplemental Food Program (CSFP) in the same area. FNS did not want to approve dual operations because the two programs overlapped in many areas and increased the potential for a participant to participate in both programs simultaneously. This policy changed as a result of Public Law 95-627, which provides that the existence of a CSFP in an area shall not preclude the approval of an eligible WIC local agency. Consequently, WIC Program regulations now allow WIC and CSFP to operate in the same area.

There is still some concern regarding the potential for abuse by dual

participation in the two programs. Areas with WIC and CSFP are required to submit plans for the prevention of dual participation, but these may not be completely effective. Dual operations can be costly because of funds expended, both on those who receive dual benefits and on checking applicants to avoid dual participation.

On the other hand, there are advantages to dual operations. These advantages include:

(a) Participants could choose whether to participate in either WIC or CSFP, giving flexibility to the individual.

(b) Ability to serve more people in the same area, both because of the eligibility of five year olds and women over 6 months postpartum for CSFP and because expansion in some areas is not possible for one of the Programs, but the other Program could serve the area if funds were available.

(c) Additional foods are available in CSFP, giving participants a wider choice in more categories of foods.

FNS is requesting applications for a model system to use in dual operations of WIC and CSFP in the same area. This system must include effective methods to prevent dual participation. The model must also include techniques to control the issuance of commodities through the CSFP and vouchers through the WIC Program.

The model must be flexible enough to be feasible in a variety of geographic areas with any of the three allowable WIC Program food delivery systems. The application must include provisions for testing the model prior to submission of the final report. Any coordination required with State or local agencies must be assured in writing and submitted with the application.

#### III. Eligible Grantees

The demonstration projects or evaluation studies may be initiated and carried out by State or local agencies, nonprofit organizations, universities, or consumer organizations. A State or local agency project may be conducted by the State or local agency itself or by qualified nonprofit organizations, universities, or consumer organizations within the State. Profit-making organizations and individuals are not eligible to apply for these grants.

A profit-making organization or an individual may serve as a subgrantee for a project only if a pre-existing agreement has been in effect for services to the applicant agency, such as the provision of computer services. The pre-existing agreement must have been signed and services provided under the agreement must have commenced prior to the issue date of this notice.

#### IV. Grant Application Procedures

##### A. General Information

An original and two copies of the application for a grant shall be submitted in accordance with grant application procedures described in OMB Circular No. A-102 or A-110, as applicable. The application shall be submitted on a form entitled "Application for Federal Assistance (Non-Construction Programs)," SF-424/AD-623. The SF-424/AD-623 is a 12-page form which consolidates the SF-424 and the AD-623. The application shall not be accepted by FNS unless all parts of the SF-424/AD-623 have been completed by the applicant. The completion of all parts of the SF-424/AD-623 ensures compliance by the applicant with the requirements for grant applications in OMB Circular No. A-102 or A-110, as applicable, and with all requirements shown on the application form itself, including Part V, Assurances.

Budget information required in Part III of the application form must be supplemented by a detailed Budget Summary Sheet which lists all anticipated costs within the object class categories listed in Part III, Section B(6) of the SF-424/AD-623 and the sources of funds to be used other than FNS grant funds. However, budget information should not be included in the Program Narrative Statement required by Section IV(c) of this notice.

Requests for the application form, SF-424/AD-623, should be addressed to: Contracting Officer, Administrative Services Division, Food and Nutrition Service, USDA, Room 121, West Auditors Building, Washington, D.C. 20250.

Clearinghouse procedures prescribed in Part I of OMB Circular No. A-95 (41 FR 2052) are required. In addition, applicants submitting a proposal for a project which is to be conducted in more than one State, region, or local agency must submit a copy of the application to all affected areas and must submit signed letters of agreement from these areas with the grant applications.

##### B. Submission Date for Applications

The completed application must be received by FNS Contracting Officer at the address shown above not later than 5:00 p.m., local time at place of receipt, on May 23, 1980. There will be no exceptions to this requirement. All applications received after this time will be returned to the applicant. To assure an acknowledgment of the receipt of applications, applicants may enclose a stamped, self-addressed envelope or postcard referenced to the application.

### C. Program Narrative Statement

Applications must include a Program Narrative Statement. Part IV of the application form, SF-424/AD-623, outlines basic requirements for this part of the application. In addition to the requirements listed in Part IV of the application form, FNS is requesting supplementary information pertinent to these grant applications. Budget information should *not*, however, be included in the Program Narrative Statement.

FNS requests that the components of the Program Narrative Statement as outlined below be included in the same order as they appear in this section of this notice. The Program Narrative Statement must include, but need not be limited to, the following components. These components consolidate all the requirements of Part IV of the application form and the supplementary information requested by FNS.

(1) *Abstract.* A one-page abstract which gives an overall summary of the proposed project and includes the major goals, objectives, and procedures to be used. This abstract must be included as the cover page for the Program Narrative Statement. Provide the name and address of the applicant at the top of the abstract page.

(2) *Justification of Need for the Proposed Project.* Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Demonstrate the need for Federal assistance.

(3) *Project Design.* Prepare a brief but complete description of the proposed demonstration project or evaluation study design. This unit must include a discussion of all the major components of the proposed demonstration project or evaluation study. Include a statement of purpose for the project. Describe any unusual features of the project, such as innovations in design, reductions in cost or time, or extraordinary social and community involvement.

(4) *Target Population.* Describe the target population and geographic area to be studied; for example, Indian groups, rural populations, or any other special populations.

(5) *Goals, Objectives, and Hypotheses.* State the goals and objectives of the project, including hypotheses to be tested and specific questions to which answers will be sought. Goals must specify the kinds of change expected or the end toward which efforts are directed. Objectives must be stated as specific, measurable steps in attaining the project goals.

(6) *Procedures to be Used.* Outline a plan of action pertaining to the scope

and detail of how the proposed work will be accomplished for each objective. Cite factors which might accelerate or decelerate the work, and describe corrective procedures to be used if problems arise which might affect the quality of the project or the successful completion of the project within the time period scheduled for the project. Identify the sample population and size to be studied (if applicable), the kinds of data to be collected and maintained, and methods of analysis to be used.

(7) *Time Schedule.* A complete time schedule for the project and its major phases, including the submission of the final report and other applicable materials to FNS within 18 months of the project's starting date. Project must be scheduled to start within 60 days of the official grant award.

(8) *Materials to be Developed or Used.* Describe audio-visual, printed and data collection materials to be developed for or used in the project. Submit samples or drafts, if available. Describe provisions to submit materials developed for the project to FNS as soon as the development of the materials is completed.

(9) *Extent of Coordination.* Where coordination with other agencies is necessary for the successful completion of the goals and objectives of the study, list the organizations or individuals who will work on the project, along with a description of the extent of their involvement or contribution required. Submit written assurances of cooperation by these organizations or individuals. If applicable, submit copies of any pre-existing agreements with sub-grantees, and documentation of commencement of services provided by sub-grantee prior to the issue date of this notice.

(10) *Qualifications of Applicant.* Provide the following information:

(a) A description of the qualifications of staff. Provide a biographical sketch, including training and experience for all key personnel engaged in the project. For staff to be hired after the project begins, submit qualifications desired for position.

(b) Availability of necessary facilities, and other resources.

(c) Applicant agency's and key personnel's knowledge of or previous experience in conducting demonstration or evaluation projects.

(11) *Staffing Pattern.* Provide a staffing pattern by position and function. For example, list all functions required for the completion of the project, such as data analysis, and the personnel responsible for each function. Identify the percentage of time each individual will spend on the project.

(12) *Future Use of Materials or Techniques.* Describe methods which may be used by FNS, State, or local agencies to utilize materials produced for or techniques used in the project. This description must include any plans for reproducing and/or distributing materials or plans to make reproducible copies available to FNS or other agencies.

(13) *Final Report.* Submit plans for the issuance of a final report to FNS within 18 months of the beginning of the project. Specify who will be responsible for the preparation and submission of the final report. The final report shall contain, as a minimum, the following:

(a) Explanation of the results of the project.

(b) Explanation of the manner in which the goals and objectives of the project were met, including all methods employed.

(c) Where applicable, description of the temporary and permanent changes which occurred in the WIC Program under study as a result of the project.

(d) Recommendations as to future use of methods and materials used in the project. Include methods which may be used by other agencies to utilize or modify materials and techniques used in the project.

(e) Copies of any audiovisual and printed materials or other materials used in the project which could be disseminated by FNS to others.

(f) A financial statement showing the amount actually expended under each budget heading listed in the original project plan.

### V. Grant Management

Grants will be administered in accordance with the provisions of OMB Circular No. A-102 for State or local agencies or OMB Circular No. A-110 for institutions of higher education, hospitals, and non-profit organizations. Educational institutions also fall under the purview of OMB Circular No. A-021.

### VI. Grant Approval

Applications must conform with this notice in all material respects in order to be considered for award. Applications will be reviewed and ranked by a Technical Evaluation Committee composed of qualified persons selected by FNS not involved in designing the projects or studies. The committee will include representatives from FNS and, if possible, persons outside FNS with expertise in WIC Program operations, nutrition education, or evaluation techniques.

In addition to the technical review, a separate review will be conducted to evaluate the proposed budget. This

review will be conducted by FNS specialists on contracts and grants. The Technical Evaluation Committee will not review the proposed budget.

#### VII. Grant Evaluation Criteria

##### A. Technical Evaluation

Applicants will be evaluated by the Technical Evaluation Committee according to the following criteria. The relative weighting for each group of criteria is shown at the top of each group.

###### Weighting: 40%

(1) The acceptability and adequacy of the demonstration project plan or evaluation study design, particularly as it relates to achieving WIC Program needs as described in Section II of this notice.

(2) The clarity and relevance of the goals and objectives to the overall demonstration project plan or evaluation study design.

(3) The effectiveness of the procedures to be used in achieving the project goals and objectives.

###### Weighting: 30%

(1) The feasibility of successful completion of the project within the maximum time limit of 18 months, based on time scheduling and staff limitations. This includes the submission of a final report to FWS.

(2) Documented cooperation, including signed agreements, with other organizations or individuals if necessary for the successful completion of the project.

(3) The capability of the applicant to conduct the project, including documented staff qualifications and experience, and the availability of necessary resources.

###### Weighting: 30%

(1) The benefits in relation to need for the project among the target population and geographic area.

(2) The practical application of the results of the projects, especially regional or national application.

(3) The quality of audiovisual and printed materials to be developed or used in the project.

##### B. Budget Evaluation

After the Technical Evaluation Committee has completed its review, FNS grant specialists will evaluate proposed budgets and assign budget scores. The score of applications proposing an in-kind contribution will be adjusted upwards. Budget scores will be determined by the percentage of in-kind contribution in relationship to the total proposed budget. For instance, an application which proposes an in-kind contribution of 30 percent of the total budget will receive a higher budget

score than an application which proposes an in-kind contribution of 10 percent of the total budget. However, no technical score will be adjusted upward by more than 10 percent of the maximum possible technical score.

The collection of information from the public is not judged to be an essential component or criterion of acceptability for a successful grant application. Any data collection plan developed for the purpose of a grant will not be subject to FNS' review and/or approval if the application is funded.

By August 22, 1980, the Food and Nutrition Service will notify in writing each applicant for a grant regarding the acceptance or rejection of its application. This written notification will include the names of recipient organizations, amounts of grant awards, and brief summaries of funded demonstration projects or evaluations.

#### VIII. General WIC Program Information

For further information on the WIC Program contact: Policy and Program Development Branch, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 4405, Auditors Building, Washington, D.C. 20250, (202) 447-8421.

Signed in Washington, D.C. on February 28, 1980.

Carol Tucker Foreman,  
Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-6709 Filed 3-3-80; 8:45 am]

BILLING CODE 3410-30-M

#### Rural Electrification Administration

##### Eastern Iowa Light & Power Cooperative; Notice of Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$30,038,000 to Eastern Iowa Light and Power Cooperative of Wilton, Iowa. These loan funds will be used to finance a construction program consisting of a 4.6 percent undivided ownership share of the planned 650 MW coal-fired Louisa Generating Station and associated 100 miles of 345 kV transmission lines and other related facilities. Iowa-Illinois Gas

and Electric Company of Davenport, Iowa, is the Louisa project manager.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Earl E. Jarvis, Manager, Eastern Iowa Light and Power Cooperative, Wilton, Iowa 52778.

In order to be considered, proposals must be submitted on or before April 3, 1980, to Mr. Jarvis. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Eastern Iowa Light and Power Cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 22nd day of February, 1980.

Robert Feragon,  
Administrator, Rural Electrification Administration.

[FR Doc. 80-6518 Filed 3-3-80; 8:45 am]

BILLING CODE 3410-15-M

#### CIVIL AERONAUTICS BOARD

[Order 80-2-136; Dockets 37669 and 37554]

##### Transatlantic Passenger Fares; Order of Suspension and Investigation and Order Vacating Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of February, 1980.

In the matter of increases in transatlantic passenger fares proposed by National Airlines, Inc., Delta Air Lines, Inc., Swiss Air Transport, Co., Ltd. (Docket 37669), and increases in international passenger fares proposed by Pan American World Airways, Inc., Braniff Airways, Inc., and Trans World Airlines, Inc. (Docket 37554); Institution of International Zones of Reasonableness.

Several U.S. and foreign carriers have filed general increases in transatlantic passenger fares. National Airlines, Inc. (National), proposes increases of up to 18 percent, with an average of about 5 percent, in most transatlantic fares,

effective February 26, 1980; Delta Air Lines, Inc. (Delta), proposes a 7 percent across-the-board increase in U.S.-London fares, effective March 21, 1980; and Swiss Air Transport Co., Ltd. (Swissair), proposed increases of about 4 to 10 percent in most New York/Chicago-Zurich fares, effective April 1, 1980. In general the carriers state that the increases are necessary to offset rapidly escalating expenses primarily attributable to soaring fuel prices.

We have decided to suspend the normal economy fare (NEF) increases proposed by National in U.S.-France/Switzerland markets, the NEF increases proposed by Delta and Swissair. We will permit all other increases proposed by the carriers to take effect.

In Order 80-2-69, January 29, 1980, we considered international fare increases proposed by Pan American World Airways, Inc. (Pan American), Braniff Airways, Inc. (Braniff), and Trans World Airlines, Inc. (TWA). We also instituted international zones of reasonableness, based on a standard foreign fare level (SFFL), in response to the intent of Congress embodied in the pending International Air Transportation Competition Act of 1979. The SFFL represents the ceiling of a statutory no-suspend zone similar to that earlier established for U.S. domestic fares. In brief, we generally found that we would permit maximum increases over October 1, 1979, fare levels of 10.6 percent in European markets, 5.6 percent in other Atlantic markets, 7.5 percent in Pacific markets, and 5.5 percent in Latin American markets. As a result, we suspended increases proposed by the three carriers in various markets.<sup>1</sup>

The proposals now before us concern European markets.<sup>2</sup> National proposes NEF increases for France and Switzerland ranging from 8 to 10 percent. In addition, the carrier's current NEF's reflect increases of 2 to 12 percent which have been implemented since October 1. Thus National's new proposal contemplates levels 12 to 20 percent (depending on the particular market) above October 1 levels. Similarly, Delta's proposed 7 percent NEF increase would effect a 14 percent increase over October 1 levels since the carrier has already implemented an earlier 7 percent proposal. These two carriers' proposed NEF levels are well in excess of the 10.6 percent SFFL ceiling

for European markets and must be suspended.<sup>3</sup>

The Swissair proposal presents a special case, since there is no U.S. carrier directly competing with it and other factors beyond the SFFL must be considered. Swissair's proposed New York-Zurich NEF increase of 10 percent, for example, follows an earlier 10 percent increase implemented since October 1. In effect, the carrier is proposing levels 21 percent above those effective October 1 and hence far above the SFFL ceiling. We must further judge the proposal, however, against levels we are permitting U.S. carriers to introduce in other U.S.-Europe markets. Swissair's proposed New York-Zurich NEF's are 13.6 and 10.7 cents per mile for the peak and basic seasons, respectively. In comparison, the SFFL produces maximum NEF levels for the New York-Rome market of 11.8 (peak) and 10.1 (basic) cents per mile. Under both of these two tests—magnitude of increase and relative level—Swissair's proposed NEF's appear too high.

We recognize that most of these fare proposals are intended for effectiveness in March or April, and that our action in Order 80-2-69 established SFFL ceilings for the period February 1 through March 31. We will be adjusting these ceilings to determine permissible fare levels for April 1 through May 31. When we do so, we will permit the carriers to adjust their fares to the revised SFFL on short notice and at their own discretion. Our suspensions here are necessary because we are not yet able to determine the permissible increases under the SFFL for the next two-month period.<sup>4</sup>

Furthermore, carrier filings made after our actions in Order 80-2-69 have allowed us to reappraise our decisions in that order with respect to some fares. Order 80-2-69 suspended, *inter alia*, U.S.-Mexico NEF and promotional fare increases (proposed by Pan American), most other Latin American promotional fare increases (Pan American and Braniff), and most Pacific Promotional fare increases (again, Pan American). The order simply did not focus on these

<sup>1</sup> We are not taking action against National's U.S.-U.K./Germany NEF proposals, however. The carrier has unbundled its U.S.-U.K. fares at levels 7 percent above those in effect October 1, within the no-suspend zone, and we have a liberal bilateral agreement with the Federal Republic of Germany which allows carriers considerable pricing discretion.

<sup>2</sup> The Board shares the carriers' concern that rapid recoupment of experienced fuel cost increases is difficult, because of the lead times required in international marketing practices as well as the guaranteed air fare rule, which allows passengers purchasing tickets far enough in advance to travel at lower fares. We are actively exploring ways that this problem might be ameliorated.

particular fares. We have now decided to vacate our suspension of them.<sup>5</sup>

Except in special circumstances, we have historically been permissive with U.S.-Mexico transborder fares, since market conditions have been more nearly comparable to U.S. domestic circumstances than the rest of the international arena. A close reexamination of Pan American's proposal, as well as analyses of subsequent proposals made by several other carriers,<sup>6</sup> have persuaded us that this is still the case. Although the carriers' proposals entail NEF increases which exceed the Latin American SFFL ceiling of 5.5 percent, the proposed levels are nevertheless below the current U.S. domestic standard industry fare level (SIFL) ceiling.<sup>7</sup>

Finally, in Order 80-2-69; we permitted TWA to implement U.S.-Europe promotional fares as proposed, irrespective of the SFFL ceiling. We did not explicitly address the question of promotional fares in other international markets. As a result, our actions against various Latin American and Pacific NEF's led to the suspension of those markets' corresponding promotional fares. Upon closer consideration we will vacate our suspension of them.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendices B, C, and D hereof, and rules and regulations or practices affecting such fares, and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful; and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached:<sup>8</sup> *Appendix B* from March 21, 1980, to and including March 20, 1981; *Appendix C* from February 28, 1980, to and including February 25, 1981; and *Appendix D* from March 31, 1980, to and including March

<sup>3</sup> We will, however, maintain the *status quo* in fares to Japan and Venezuela.

<sup>4</sup> Continental Air Lines, Inc., Eastern Air Lines, Inc., Aeronaves de Mexico, S.A., and Mexicana Airlines.

<sup>5</sup> Pan American's proposed New York-Mexico City level, for example, is about 13 percent below the SIFL. Though we have not yet had occasion to refine our ratemaking methods in the transborder markets, we believe that comparison with the SIFL is a reasonable interim measure in the case of U.S.-Mexico fares.

<sup>6</sup> Appendices A through E filed as part of the original document.

<sup>1</sup> As we stated in Order 80-2-69, we permitted most first-class as well as TWA's U.S.-Europe promotional fare increases in excess of these standards.

<sup>2</sup> Appendix A outlines the carriers' normal economy fares in some sample markets, including October 1, present and proposed levels.

30, 1981; unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President<sup>9</sup> and it shall become effective: March 21, 1980, with respect to tariff provisions in *Appendix B*; February 26, 1980, with respect to tariff provisions in *Appendix C*; and March 31, 1980, with respect to tariff provisions in *Appendix D*.

4. We vacate the suspension in Order 80-2-69 of the fares and provisions set forth in the attached *Appendix E*,<sup>10</sup> and

5. We shall file copies of this order in the aforesaid tariffs and serve them on: Delta Air Lines, Inc.; National Airlines, Inc.; Swiss Air Transport Company, Ltd.; Pan American World Airways, Inc.; Braniff Airways, Inc.; and Trans World Airlines, Inc. The Ambassador of Switzerland in Washington, D.C.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board:<sup>10</sup>

Phyllis T. Kaylor,  
Secretary.

[FR Doc. 80-8703 Filed 3-4-80; 8:45 am]  
BILLING CODE 6320-01-M

[Docket 37744]

**Standard Foreign Fare Level Investigation (Rate of Return Phase) Prehearing Conference**

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on March 10, 1980, at 9:30 a.m. (local time), in Room 1003; Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Elias C. Rodriguez. Pursuant to the authority delegated to the undersigned by the Board in Order 80-2-140, it is determined that this rate of return phase shall be severed and shall be conducted separately from the balance of this investigation.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues, (2) proposed stipulations, (3) proposed requests for information and for evidence, (4) statements of position, (5) any proposed changes in the tentative procedural schedule set forth below, (6) proposals for organizing cross-examination or

<sup>9</sup>We submitted this order to the President on February 15, 1980.

<sup>10</sup>All Members concurred.

otherwise expediting the hearing, and (7) memoranda discussing whether the rate of return to be established in this proceeding should reflect the cost of capital for providing foreign air transportation for (1) all carrier parties, or (2) all air carrier parties.

The parties are encouraged informally to attempt, in advance of the prehearing conference, to reach a stipulation on a rate of return to be used for the purpose of determining (1) whether the October 1, 1979, fares for the markets placed in issue in Order 80-2-140 were unjust and unreasonable, and (2) the lawful Standard Foreign Fare Levels for any such markets in which a fare is found to be unjust and unreasonable. If this proves impossible, the parties should undertake, in advance of the conference, to reach agreements on any stipulations proposed on relevant sub-issues. The parties are requested to communicate their substantive positions on these matters to Bureau Counsel as soon as possible.

Parties with common interests are also encouraged to determine the feasibility of making joint, rather than individual, presentations at the hearing and at the conference.

The Combined Bureaus (Bureau of International Aviation, Bureau of Domestic Aviation, and Office of Economic Analysis) shall circulate their material with respect to items (1) through (6), above, on or before March 3, 1980, and the other parties on or before March 6, 1980. The submissions of the other parties shall be limited to points on which they differ with the Bureaus, and shall follow the numbering and lettering used by the Bureaus to facilitate cross-referencing. All parties shall circulate the memoranda covered by item (7), above, on or before March 6, 1980.

Because of the necessity of having an initial decision in this Phase by May 20, 1980, in time to be used in the briefs of the parties and in the initial decision of the Judge presiding over the balance of this investigation, the procedural schedule herein must be even more compact and restrictive than the timetable for the remainder of the proceeding. The tentative schedule, subject to the determinations of Judge Rodriguez at the prehearing conference, is as follows:

Direct Exhibits and Testimony .....	Mar. 26, 1980
Rebuttal Exhibits and Testimony .....	Apr. 4, 1980
Hearing Commences .....	Apr. 8, 1980
Briefs to Judge .....	Apr. 23, 1980
Initial Decision .....	May 20, 1980

All dates in the tentative schedule for submissions by the parties are dates on or before which delivery to the Judge and the other parties shall be made.

Dated at Washington, D.C., February 27, 1980.

Joseph J. Saunders,  
Chief Administrative Law Judge.

[FR Doc. 80-8704 Filed 3-3-80; 8:45 am]  
BILLING CODE 6320-01-M

[Docket 37730]

**Standard Foreign Fare Level Investigations; Prehearing Conference and Order of Administrative Law Judge**

Notice is hereby given that a prehearing conference in the above-entitled matter will be held concerning all questions at issue other than rate of return<sup>1</sup> on March 12, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues, (2) proposed stipulations, (3) proposed requests for information and for evidence, (4) statements of position, (5) any proposed additions or changes to the recommended procedural schedule attached as Appendix B to Order 80-2-140 and (6) proposals for organizing cross-examination or otherwise expediting the hearing. Each statement of position shall indicate, *inter alia*:

A. For each city pair market (1) each "fare" within the meaning of section 1002(j)(8) of the Federal Aviation Act of 1958, as amended, which the party alleges should be determined to be, or should be subject to a determination as to whether it is, unjust or unreasonable; and (2) if different, the "class of fare" within the meaning of section 1002(j)(7) of the Act to which each such fare belongs.

B. The basis for the interpretation of "fare" and "class of fare" utilized.

C. Any proposed basis for determining the fare level and/or the existence of excess profits other than the cost-based approach set forth in Order 80-2-140, pp. 5-6.

D. Any proposed basis for determining the standard foreign fare level for each "class of fare" other than apportioning excess profits as indicated in Order 80-2-140, p. 6.

E. The method for reconstructing revenues during the base period due to

<sup>1</sup>The issue of rate of return has been severed pursuant to Order 80-2-140 and has been assigned to Administrative Law Judge Elias C. Rodriguez (Docket 37744).

the September 15, 1979, fare restructuring. (Order 80-2-140, p. 6.)

F. Whether the "joint" or "by-product" method of cost allocation in the DPFI costing methodology (Version 6) should be used in this proceeding.

G. The method for allocating entity costs of passenger service to individual markets.

H. The method for allocating the investment base to individual markets in applying the rate of return.

I. Who has the burden of proof under section 1002(j)(8) of the Act.

Any proposed requests for information should be confined to requests not covered by the information directives attached as appendices to Order 80-1-133, as amended by Order 80-2-116. The Bureaus (BDA, BIA, and OEA) shall circulate their combined material with respect to items (1) through (6) above, on or before March 3, 1980, and the other parties on or before March 7, 1980. The submissions of the other parties shall be limited to points on which they differ with the Bureaus, and shall follow the numbering and lettering used by the Bureaus to facilitate cross-referencing. All dates are *delivery* dates. The parties are encouraged informally to explore, in advance of the prehearing conference, the possibility of reaching agreements on any stipulations proposed. In addition, parties with common interests are encouraged to explore the feasibility of making joint, rather than individual, presentations at the conference and at the hearing.

Pursuant to Rule 24(k)(2) of the Board's Rules of Practice (14 CFR 302.24(k)(2)) it is determined that daily transcript will be necessary and required for the proper conduct of the prehearing conference and the hearing in this proceeding.

Dated at Washington, D.C., February 27, 1980.

Ronnie A. Yoder,

*Administrative Law Judge.*

[FR Doc. 80-6705 Filed 3-3-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37744]

#### Standard Foreign Fare Level Investigation (Rate of Return Phase); Assignment of Proceeding

The rate of return phase of this proceeding is hereby assigned to Administrative Law Judge Elias C. Rodriguez. Future communications concerning this phase of this proceeding should be addressed to Judge Rodriguez.

Dated at Washington, D.C., February 27, 1980.

Joseph J. Saunders,  
*Chief Administrative Law Judge.*

[FR Doc. 80-6706 Filed 3-3-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37730]

#### Standard Foreign Fare Level Investigation; Assignment of Proceeding

This proceeding, except for the issue of rate of return, which is made the subject of a separate phase of this investigation, is hereby assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to Judge Yoder.

Dated at Washington, D.C., February 27, 1980.

Joseph J. Saunders,  
*Chief Administrative Law Judge.*

[FR Doc. 80-6707 Filed 3-3-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37391]

#### Swift Aire Lines, Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on April 7, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before the undersigned.

Dated at Washington, D.C., February 28, 1980.

Joseph J. Saunders,  
*Chief Administrative Law Judge.*

[FR Doc. 80-6708 Filed 3-3-80; 8:45 am]

BILLING CODE 6320-01-M

### DEPARTMENT OF COMMERCE

#### Office of Federal Statistical Policy and Standards

#### New Standard Reference Period for Federal Government General-Purpose Statistical Index Numbers

**AGENCY:** Office of Federal Statistical Policy and Standards, U.S. Department of Commerce.

**ACTION:** Notice of adoption of the year 1977 as the new reference base period for Federal Government General Purpose Statistical Index Numbers. The old reference base period was 1967.

**SUMMARY:** The proposed change in the reference period from 1967 to 1977 appeared in the August 1, 1979 Federal Register and the August 1979 *Statistical*

*Reporter* with provision for a 30-day public comment period. The implementation for many series will not occur until 1981.

#### Introduction

The reference period is updated approximately every ten years. This is done to (a) insure that the index is based on a reasonable approximation of the current structure of the economy, and (b) facilitate the visual comprehension of rates of change from a base period that is not too distant in time.

The year 1977 was chosen for two reasons. First, the most recent quinquennial economic censuses were taken for 1977, and many economic time series are benchmarked to the economic censuses. Second, the continued expansion of the economy in 1977 since the recession of 1974-1975 was relatively balanced with no particularly extreme conditions that would make it unrepresentative of the recent period.

#### Implementation

Because of the work involved in developing new compositional "weights" of the product, price or other index components to reflect their relative importance in the new base period, the actual implementation for many series will not occur until 1981. This will also allow adequate time for agencies to announce their implementation schedules well in advance of indexing the series to the new reference period.

#### Directive No. 5<sup>1</sup>—Standard Reference Base Period for Federal Government General-Purpose Statistical Index Numbers

The year 1977 shall be the standard reference base period for general-purpose statistical index numbers prepared by Federal agencies. This requirement conforms to Government practice of establishing a standard reference base period for use by Federal agencies. The base period is revised approximately every ten years.

1. *Conversion for Earlier Years.* Each index should be converted to the 1977 reference base from the beginning of the index, where practicable.

2. *Weights.* The weight base period for an index should be as close as possible to the reference base period but they do not need to coincide. The relationship between reference and weight base period should be indicated by appropriate description.

<sup>1</sup>Supersedes Directive No. 5 Issued May 4, 1978.

Source: Office of Federal Statistical Policy and Standards, U.S. Department of Commerce.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 80-6609 Filed 3-3-80; 8:45 am]

BILLING CODE 3510-BG-M

## Office of the Secretary

### Establishment of Advisory Committees

Subsection 135(c) of the Trade Act of 1974, 19 U.S.C. S2155, as amended by the Trade Agreements Act of 1979, Pub. L. No. 96-39, gives the President authority to establish advisory committees to provide general policy advice on trade. This authority has been delegated to the United States Trade Representative (the USTR), acting in conjunction with the Secretary of Commerce (the Secretary), according to Executive Order 11846 of March 27, 1975. It has now been determined by the USTR and the Secretary that the advisory committees listed below be established. This action is taken in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976)) and OMB Circular A-63 (revised) of March 1974.

Committee of Chairmen of Industry Advisory Committees for Trade Policy Matters  
Industry Functional Advisory Committee on Customs Valuation for Trade Policy Matters

Industry Functional Advisory Committee on Standards for Trade Policy Matters

Industry Policy Advisory Committee for Trade Policy Matters

Industry Sector Advisory Committees for Trade Policy Matters

(ISAC 1)—Aerospace Equipment

(ISAC 2)—Capital Goods (e.g., turbines, generators, lifting equipment, industrial machinery, electric transmission equipment, other electrical equipment)

(ISAC 3)—Chemicals and Allied Products (e.g., chemicals and related products, tires, rubber products except footwear)

(ISAC 4)—Consumer Goods (e.g., food and kindred products, tobacco manufactures, household furniture and appliances, published materials, kitchenware)

(ISAC 5)—Electronics and Instrumentation

(ISAC 6)—Energy (e.g., coal mining, oil and gas extraction, refining, pipelines, electric services, gas production and distribution, utility services)

(ISAC 7)—Ferrous Ores and Metals

(ISAC 8)—Footwear, Leather, and Leather Products

(ISAC 9)—Industrial and Construction Material and Supplies

(ISAC 10)—Lumber and Wood Products

(ISAC 11)—Nonferrous Ores and Metals

(ISAC 12)—Paper and Paper Products

(ISAC 13)—Services (e.g., air, water, ground and rail transportation, banking, insurance, hotels, legal services, engineering, construction)

(ISAC 14)—Small and Minority Business

(ISAC 15)—Textiles and Apparel  
(ISAC 16)—Transportation, Construction, and Agricultural Equipment  
(ISAC 17)—Wholesaling and Retailing

The committees will provide technical and policy advice and information to the USTR and the Secretary on trade negotiations, including factors relevant to U.S. positions in such negotiations, and on other matter arising in connection with the administration of U.S. trade policy. Members of each committee shall be appointed by and serve at the discretion of the USTR and the Secretary. It is proposed that each committee will meet at least semi-annually at the request of the USTR and the Secretary, and will function solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. The International Trade Administration (ITA) of the Department of Commerce will provide clerical and staff support.

Comments and inquiries may be addressed to Ann C. Ryder, Room 3036, U.S. Department of Commerce, 14th and Constitution, N.W., Washington, D.C. 20230, telephone (202) 377-3268. The charters for these committees will be filed fifteen days from the date of this notice. These committees will supersede those currently in existence as established under the provisions of the Trade Act of 1974. Within a reasonable period of time after the committees listed above are chartered, a notice of termination of the existing industry advisory committees for multilateral trade negotiations will be published in the Federal Register.

Representatives from industry or industry associations wishing to be considered for appointment to serve on these committees are requested to make application in writing to the Trade Advisory Center, Room 3036, U.S. Department of Commerce, 14th and Constitution, N.W., Washington, D.C. 20230, telephone (202) 377-3268.

Dated: February 22, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-6665 Filed 3-3-80; 8:45 am]

BILLING CODE 3510-17-M

## DEPARTMENT OF DEFENSE

### Department of the Army

U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Viral and Rickettsial Diseases;

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92-463), announcement is made of the following Committee meeting:

Name of committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Viral & Rickettsial Diseases.

Date of meeting: March 26 & 27, 1980.

Time and place: 0900 hours, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed agenda: This meeting will be open to the public from 0900-1000 hrs on March 26, 1980 to discuss the scientific research program of the Viral & Rickettsial Diseases Branch, Walter Reed Army Institute of Research and on March 27, from 1030-1700 for the summation of the meetings. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub.L. 92-463, the meeting will be closed to the public on March 26, from 1000-1630 hrs and on March 27, from 0900-1630 hrs for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director, Walter Reed Army Institute of Research, Building 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576-3061) will furnish summary minutes, roster of Committee members, and substantive program information.

For the Commander.

Richard O. Spertzel,

Colonel, VC Executive Officer.

[FR Doc. 80-6632 Filed 3-3-80; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER80-71]

Central Illinois Public Service Co.;  
Order Accepting Proposal for Filing,  
Suspending Rate Denying Motion To  
Reject, Denying Motion for Summary  
Judgement, Granting Intervention, and  
Establishing Hearing Procedures

February 8, 1980.

On November 2, 1979, the Central Illinois Public Service Company (CIPS) filed with this Commission proposed rate changes in its W-1, W-2, and W-3 Rate Schedules for service to its full requirements rural cooperatives customers (Schedule W-1), its full requirements municipal customers (Schedule W-2), and its partial requirements municipal customers (Schedule W-3). The filing was

completed on December 11, 1979. The proposed rates would result in increased revenues of approximately \$11,603,000 annually based upon estimated sales for the test period ending December 31, 1980. CIPS requested an effective date of January 1, 1980 which implies a request for a waiver of the notice requirements under the Commission's regulations.

Public notice of the filing was issued on November 9, 1979, with all responses due on or before December 3, 1979. The City of Newton, Illinois filed a "Letter of Objection" stating that the proposed increase was excessive. No request for intervention was made. Consequently, the City's objection will be considered a protest and made a matter of public record. On December 3, 1979, the Illinois Municipal Group<sup>1</sup> (Municipal Group) filed "Motions to Reject and for Summary Disposition Protest and Petition to Intervene of the Illinois Municipal Group." On December 18, 1979, CIPS filed its Answer to Group's "Motion" requesting that the Municipal Group's Motions to Reject and for Summary Disposition be denied.

#### The Petition to Intervene

The Illinois Municipal Group raises several questions with respect to the filing. It alleges that serious deficiencies and inadequacies in CIPS' cost of service presentation exist.

The Municipal Group alleges further that in seeking a rate increase from the W-2 wholesale class, the Company does not propose to increase rates to the City of Metropolis which has a valid fixed rate contract with an expiration date of April 13, 1980. CIPS' filing seeks to have the increase become effective on January 1, 1980, to all members of the W-2 class except for Metropolis. The Municipal Group claims this to be a patently discriminatory action. The Group further alleges that CIPS has sought to create a special W-1 class non-cost justified rate to the actual and potential detriment of the W-2 and W-3 wholesale classes. It alleges that this is clearly discriminatory in that the proposed rates for service to the W-1 customers are not cost supported. The pleadings indicate the CIPS and the W-1 cooperative customers reached an accord with respect to their rates before the filing and filed the agreed upon rates which are lower than the proposed rates to be charged the W-2 and W-3 customers. The Municipal Group also alleges that a price squeeze situation is created by the filing, and further that the

proposed increases are not supported by the submitted cost of service. The Group requests summary disposition of the 100 percent ratchet demand provision and the automatic tax clause which are included in the filing. Finally it asks for rejection of the filing and, if this is not granted, for a suspension for five months and that its petition for intervention be granted.

#### Discussion

Our analysis of the filing indicates that the cost support data filed with the increased rate for the W-1 customers substantially complies with the filing requirements of this Commission, and we do not find good cause to reject the filing with respect to those W-1 customers. The request for waiver of notice will be denied, since CIPS has not supported its contention that its original filing was substantially complete. Since the original filing did not include essential depreciation and demand data, we do not find good cause to waive the notice requirements. We will accept this proposed rate schedule for filing and allow it to go into effect without suspension or hearing.

Our review of CIPS' filing regarding the W-2 and W-3 municipal customers indicates that the terms and conditions of the proposed rates relating to those two rate schedules have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rate schedules for filing, suspend the rate for three months, and set the matter for hearing.

The Municipal Group is again raising the question of contract discrimination between the City of Metropolis, Illinois, which has a valid fixed rate contract<sup>2</sup> with an expiration date of April 13, 1980, and all other members of the W-2 class full requirements municipal customers. This claim is based upon an effective date of January 1, 1980 for the proposed new rates. Since we will suspend the filing for the W-2 and W-3 rate schedules for a three month period, the effective date for these two schedules will be May 10, 1980. As noted, the proposed rates for the W-2 and W-3 customers will not go into effect until after the expiration date of the fixed rate contract. Therefore, the City of Metropolis will be subject to the new proposed W-2 rate concurrently with the other cities in that class. Thus, we need not and do not reach the question of whether any discrimination in rates

resulting from only one customer having a fixed rate contract is undue.<sup>3</sup>

The Municipal Group has also alleged that CIPS and the W-1 full requirements cooperative customers entered into a "sweetheart" settlement which discriminates against the Municipal Group.

CIPS' answer to the Municipal Group's allegations states that it and the Cooperatives negotiated a new W-1 rate before CIPS was required to file any increase. It further states that any inference that the Municipal Group has been denied an opportunity to negotiate a settlement is improper, and further that CIPS will negotiate with the Municipal Group and other municipalities, but any settlement which is negotiated with the Municipal Group must reflect the differences in load factors, usage and consumption patterns which make the cost of service to the municipals a much riskier proposition than service to cooperatives. We find it appropriate under the circumstances that this discrimination issue should be fully considered in the hearing.

In a recent case<sup>4</sup> we decided that newly docketed rate proceedings in which a price squeeze issue is raised, should be phased so that a decision first may be reached on cost of service, capitalization, and rate of return issues. If the price squeeze persists in the view of the alleging party, a second phase of the proceeding generally is to follow on this issue. In *Arkansas*, we stated that there may be situations in which price squeeze issues should not be deferred and that we would leave it to the non-reviewable discretion of the Presiding Administrative Law Judge to accelerate the price squeeze proceeding in whole or in part. In the instant proceeding, we will phase the price squeeze allegation raised by the Municipal Group in accordance with our *Arkansas* order. We find no compelling reason at this time to deviate from the procedure set out in that order.

The various cost of service issues raised by the Municipal Group shall be considered as issues in the hearing. While it is true that the issues involving the automatic tax clause and the 100% ratchet provision were litigated in previous filings by CIPS in Docket Nos. ER78-80 and ER77-89,<sup>5</sup> we have not yet decided these two cases which have been appealed to the full Commission.

<sup>1</sup>*Norwood v. F.P.C.*, No. 77-1326 (D.C. Cir. October 23, 1978); *Public Service Company of Indiana, Inc. v. FERC*, 575 F. 2d 1204 (7th Cir. 1978).

<sup>2</sup>*Arkansas Power and Light Company*, Docket No. ER79-339, Order issued August 6, 1979.

<sup>3</sup>Initial Decisions issued in Docket No. ER78-80 on July 28, 1979, and in Docket No. ER77-89 on June 27, 1979.

<sup>1</sup>W-2 Schedule Customers are the Cities of Flora, Bethany Greenup, Almont, Cairo, Metropolis, and Roodhouse. W-3 Schedule Customers are the Cities of Bushnell, Curmi, and Rautoul.

<sup>2</sup>See *FPC v. Sierra Pacific Power Company*, 350 U.S. 348 (1956).

However, with respect to the automatic tax clause, we have held in the past<sup>6</sup> that any adjustments pursuant to a tax adjustment clause will have to be filed as a change in rate pursuant to § 35.13 of the Commission's rules and regulations. We shall therefore, deny the motion for summary disposition on this issue since it is before us in both the dockets mentioned above.

#### *The Commission orders*

(A) The motion to reject the Central Illinois Public Service Company filing is hereby denied.

(B) Central Illinois Public Service Company's request for waiver of Section 35.3 of the Regulations under the Federal Power Act is hereby denied.

(C) The Central Illinois Public Service Company's proposed rates filed in this docket for the W-1 cooperative full requirement customers is hereby accepted for filing and permitted to become effective on February 10, 1980, without suspension.

(D) The Company's proposed rates filed in this docket with respect to the W-2 municipal full requirements customers and its W-3 municipal partial requirements customers are hereby accepted for filing, and suspended for 3 months to become effective on May 10, 1980, subject to refund, pending a hearing and decision thereon.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, specifically Sections 205 and 206, and by the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR Chapter I (1979)), a public hearing shall be held concerning the justness and reasonableness of the rates proposed and filed with this Commission by the Central Illinois Public Service Company with regard to the W-2 and W-3 schedules which pertain to its full requirements municipal customers and partial requirements municipal customers, respectively.

(F) The Illinois Municipal Group is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of

such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in its petition to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

(G) The Commission staff will serve Top Sheets in this proceeding on or before April 7, 1980.

(H) The motions for summary disposition are hereby denied.

(I) We hereby order initiation of price squeeze procedures and further order that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The Presiding Judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(J) The discrimination issue alleged by the Illinois Municipal Group concerning a favored rate for the W-1 cooperative customers over the W-2 and W-3 municipal customers shall be an issue in this proceeding.

(K) CIPS must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalizing its general and common plant.

(L) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing discovery conference in this proceeding to be held within 30 days of the issuance of this order in hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. This conference will be for the purpose of expediting discovery and resolving any initial controversies relating to date requests and discovery. In addition, the Presiding Judge shall convene a formal settlement conference to be held within 10 days of the service of Top Sheets. The Presiding Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(M) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-0740 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-197]

#### **Cities Service Gas Co.; Application**

February 6, 1980.

Take notice that on January 18, 1980, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-197 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain replacement facilities and permitting and approving abandonment of certain facilities on its transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authority to:

(1) Abandon by reclaim or in place approximately 7.93 miles of 3-, 4-, 8- and 10-inch pipeline and appurtenant facilities and construct approximately 5.50 miles of 4-, 6-, 8-, 12- and 16-inch pipeline and appurtenant facilities in the Piqua natural gas storage field located in Woodson and Allen Counties, Kansas.

(2) Abandon by reclaim or in place approximately 10.92 miles of 4-inch pipeline and replace by constructing 10.92 miles of 6-inch pipeline and appurtenant facilities in the Holton pipeline in Jackson County, Kansas.

(3) Abandon by sale in place to Gas Service Company (Gas Service) approximately 0.06 mile of 2-inch pipeline and appurtenant facilities in the Emma pipeline in Saline County, Missouri.

(4) Abandon by sale in place to Gas Service approximately 0.15 mile of 4-inch pipeline and appurtenant facilities in the Norborne pipeline located in Carroll County, Missouri.

(5) Abandon by reclaim approximately 0.37 mile of 12-inch pipeline and appurtenant facilities in the Phillips-West Edmond pipeline in Oklahoma County, Oklahoma.

Applicant anticipates that all construction and abandonments will be completed within 12 months.

Applicant states that the facilities proposed to be abandoned are largely inadequate and obsolete in view of operational requirements. Where

<sup>6</sup>In our order involving the Boston Edison Company, Docket No. ER78-304 issued May 30, 1978, which set the proceeding for hearing and involved motions to reject and also motions for summary disposition, we held that it is against the Commission's regulatory policy to allow tax clauses to serve as a basis for automatic changes in rates.

necessary, new facilities would, it is stated, replace inadequate and obsolete facilities in order to efficiently and economically meet market requirements on Applicant's pipeline and storage system. The proposed abandonments and replacements would, it is asserted, enhance Applicant's ability to provide service for its customers.

Applicant asserts the total estimated cost of all proposed facilities is \$1,009,000, which would be paid from treasury cash. The total reclaim cost for the proposed abandonments is stated to be \$62,710, and the estimated salvage value \$84,470, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
*Acting Secretary.*

[FR Doc. 80-8741 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. SA80-73]

**Delhi Gas Pipeline Corp.; Application for Adjustment**

February 19, 1980.

On January 28, 1980, Delhi Gas Pipeline Corporation (Delhi) filed with the Federal Energy Regulatory Commission an application for an adjustment under Section 502(c) of Title V of the Natural Gas Policy Act wherein Delhi sought relief from the Commission's regulations governing transportation by intrastate pipelines as set forth in 18 CFR 284.123 (b)(1)(ii). Delhi states that it is necessary for the Commission to grant this adjustment to remove major uncertainties associated with its performance of Section 311 transportation on behalf of an interstate pipeline in Texas. Delhi's application is on file with the Commission and is available for public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission rules of practice and procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 19, 1980.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 80-8742 Filed 3-3-80; 8:46 am]  
BILLING CODE 6450-85-M

[Docket No. CP77-590]

**Fair Environmental Deals for United People v. National Fuel Gas Supply Corporation and National Gas Storage Corp.; Extension of Time**

February 21, 1980.

On February 14, 1980, Commission Staff filed a request for an extension of time to file Briefs Opposing Exceptions to the Initial Decision issued January 14, 1980, in the above-docketed proceeding. The motion states that additional time is needed because of the lengthy Brief on Exceptions which was filed by the Respondents in this proceeding and because of the voluminous hearing record which will require a careful review by Staff. The motion further states that Staff Counsel assigned to this proceeding is the lead attorney for another Commission proceeding which is currently in hearing and is being handled on an expedited basis. On February 19, 1980, National Fuel Gas Supply Corporation and National Gas Storage Corporation filed an answer opposing the motion.

Upon consideration, notice is hereby given that an extension of time for filing Briefs Opposing Exceptions is granted to and including March 24, 1980.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 80-8743 Filed 3-3-80; 8:46 am]  
BILLING CODE 6450-85-M

[Docket No. RP80-56]

**Grand Bay Co.; Order Accepting for Filing and Suspending Rate Increase Subject to Conditions, Granting Waiver, and Granting Intervention**

February 8, 1980.

On January 11, 1980, Grand Bay Company (Grand Bay) filed a proposed rate change under section 4 of the Natural Gas Act (NGA) and § 154.63 of the Commission's regulations. Further, pursuant to § 154.51 of the Commission's regulations Grand Bay requests waiver of the Regulations requiring 30 days' notice of the proposed change in rates and requests an effective date of January 11, 1980, as well as other relief discussed below.

Grand Bay compresses and dehydrates gas produced from the Main Pass Block 140 Field, Offshore Louisiana to enable it to enter the interstate pipeline system of Mid-Louisiana Gas Company, United, and Southern, and into the gathering systems of Gulf Oil Corporation (Gulf) for delivery to Texas Eastern Transmission Corporation. The compression and dehydration facilities are situated at the Grand Bay Receiving Station, Plaquemines Parish, Louisiana.

The Commission order issued February 17, 1977, in Docket No. CI77-273 directed Gulf, the operator of Grand Bay Receiving Station, to file for a certificate of public convenience and necessity, or show cause why the services rendered should not be subject to the requirements of the Natural Gas Act. On January 11, 1977, Gulf formed Grand Bay Company which assumed the responsibility of filing pursuant to the show cause order. Therefore, on April 21, 1977, Grand Bay, a wholly owned subsidiary of Gulf, filed an abbreviated application for a certificate of public convenience and necessity and request for temporary certificate in Docket No. CP77-352. Further, on November 23, 1977, in Docket No. CP77-352, Grand Bay sought issuance of a temporary authorization to be effective January 11, 1977, to operate the facilities and to collect the contractual rates for compression services, subject to refund.

By order issued July 20, 1977, the Commission consolidated, for purposes of hearings and decisions thereon,

Grand Bay's certificate proceedings in Docket No. CP77-352 and Docket No. CI77-273 with Docket No. RP73-43, a rate increase filed by a Grand Bay customer, Mid-Louisiana Gas Company. A formal hearing was held on May 29 and 30, 1979. However, no initial decision has been issued to date. Although no certificate has been issued to Grand Bay in Docket No. CP77-352, the operation of the facilities commenced on January 11, 1977. Grand Bay states it cannot discontinue this service and has continued to provide compression services for its customers. Accordingly, Grand Bay now requests immediate issuance of temporary authorization as requested in Docket No. CP77-352, or in the alternative, waiver of § 154.22 of the Commission's regulations insofar as that section prohibits the filing of this rate change prior to the issuance of a certificate. Grand Bay further requests that this filing be accepted without prejudice to a final decision in Docket No. RP73-43 *et al.*, on Grand Bay's position that no rate change filing is required under the NGA when the rates change solely on the basis of the annual reserves redetermination and the operation of the amortization provision of the contract that is to be certificated.

The proposed rate change is based on Article III of a January 19, 1977 contract agreement between Grand Bay and its jurisdictional customers, which was tendered for filing as the Grand Bay rate schedule on November 15, 1977, in Docket No. CP77-352. Article III provides that Gulf (now Grand Bay) shall be paid for the operation performed by a charge on an Mcf throughput basis which will amortize the investment of Grand Bay and others in the compression station facilities and pay Grand Bay, as if it owned 100% of the facilities, an annual discounted cash flow rate of return, after income taxes, of 15%. The charges will be shared by and billed in proportionate amounts to the jurisdictional parties. In addition, operating and maintenance costs will be billed in the same manner.<sup>1</sup> The article provides for annually adjusted amortization charges based on new reserve calculations and/or adjusted production schedules so as to maintain Grand Bay's 15% discount cash flow rate of return after income taxes.

The 11.0¢ per Mcf proposed rate increase, which would provide a new rate, net of operating expenses, of 23.05¢ per Mcf, is based on revised reserve calculations. Grand Bay states that the

<sup>1</sup> The proposed increase is to a rate net of operating expenses. Operating expenses are billed, as incurred, each month.

rate of 9.77¢ per Mcf applicable in 1977 was based on a reserve estimate of 108,247 MMcf and a production schedule based on a 14-year reservoir life. According to Grand Bay, the rate of 12.05¢ per Mcf applicable in 1978 and 1979 was based on a reserve estimate of 89,892 MMcf and a production schedule based on an 11-year reservoir life. The proposed rate increase is based on recalculation of the reserve and production schedules. Grand Bay now estimates that 92,292 MMcf will be produced over the period 1977 through 1999 (23 years).

In addition, Grand Bay states that the proposed rate change is based on increased operating and maintenance expenses attributable to a projected inflation factor of 8 percent as applied to direct charges, contract services, ad valorem taxes, and common facilities charges. Grand Bay states this increase is partially offset by a decrease of \$14,408 in operating and maintenance expenses between 1977 and Grand Bay's claimed test year (12 months ending October 31, 1979).

Public notice of the filing was issued on January 17, 1980, providing for protests or petitions to intervene to be filed on or before January 31, 1980. Timely petitions to intervene were filed by Southern Natural Gas Company (Southern) and United Gas Pipe Line Company (United). The Commission finds that Southern and United have demonstrated an interest in this proceeding warranting their participation. Accordingly, we shall grant these petitions to intervene.

Based upon a review of Grand Bay's filing the Commission finds that the proposed rate change has not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the proposed rate increase for filing and suspend the effectiveness of such rates for one day to be effective January 12, 1980, subject to refund and as hereinafter conditioned.

As previously discussed, Grand Bay has filed this proposed rate increase for the performance of compression and dehydration services for which a certificate of public convenience and necessity under section 7(c) of the NGA has not been issued. Section 154.22 of the Commission's regulations, however, provides that any new rates may not be filed prior to the issuance of necessary certificates. Under this circumstance, Grand Bay has requested the immediate issuance of a temporary certificate, or in the alternative, waiver of § 154.22. The Commission notes that under similar circumstances in *United Gas Pipeline*

*Company*, Docket No. RP71-41, the Commission waived the provisions of § 154.22 in order to permit United to file for a rate increase prior to the issuance of a certificate of public convenience and necessity.<sup>2</sup> The Commission has determined that similar treatment of Grand Bay's filing is warranted in the immediate proceeding. Otherwise, if the proceedings in Docket No. CP77-352 result in the issuance of a certificate pursuant to section 7 of the NGA, then a section 4 rate filing would be required for any change in rates if Grand Bay's proposed cost of service tariff is not approved in the CP77-352 proceedings. Absent a section 4 filing in the circumstances just described, Grand Bay would be prohibited from charging the necessary increased rates applicable to the service, and would be required to continue charging rates at issue in Docket No. CP77-352 which are based on greater reserve calculations. Therefore, there exists the possibility that Grand Bay would be operating at a loss under current rates. Accordingly, the Commission will grant waiver of § 154.22 of our regulations to the extent necessary to permit Grand Bay to file its proposed rate increase.

Grand Bay also requests waiver of the 30-day notice period requirement of § 154.51 of the regulations in order to permit an effective date of January 11, 1980. Grand Bay states such waiver is necessary as Grand Bay's contract with its customers allows for an effective increase in rates on January 1 of each year, and such customers were notified prior to January 11, 1980, in accordance with the terms of the contract as to the level of charges under the contract for calendar year 1980. In addition, Grand Bay requests that the Commission waive the requirement of § 154.63(e)(6) that requires an opinion of an independent public accountant concerning the rate increase filing. Grand Bay states that because of the nature and size of its limited service operation, a special audit

<sup>2</sup> By order issued July 8, 1971, in Docket No. RP71-41, 46 FPC 28; rehearing denied, 46 FPC 582; affirmed *sub nom.*, *Louisiana Gas Service Company v. F.P.C.*, 480 F. 2d 933 (CA5-1973), the Commission accepted the proposed rates to become effective contingent upon a Commission finding of jurisdiction and the issuance of a certificate of public convenience and necessity in the related certificate proceeding, Docket No. CP71-89. The Commission found:

"If the sales and facilities in Docket No. CP71-89 are found to be jurisdictional, in the absence of the requisite Section 4 filing, United would be prohibited from charging increased rates applicable to that service and refunds would be in order. . . . Under those circumstances, United's Notice of Rate Change in Docket No. RP71-41 applicable to sales and facilities subject to proceedings at Docket No. CP71-89 is properly filed pursuant to the requirements of Section 4 of the Natural Gas Act and § 154.22 of the regulations should be waived."

is unduly costly and burdensome and should not be required. Alternatively, Grand Bay requests the Commission to defer the filing until after December 31, 1979, the close of Grand Bay's fiscal year. Under these circumstances, the Commission finds good cause to grant waiver of the 30-day notice requirement in order to permit an effective date of January 12, 1980. Further, the Commission finds good cause to waive the § 154.63(e)(6) requirement of an opinion of an independent public accountant.

As noted above, the Commission is approving the requested waivers and accepting Grand Bay's proposed rate increase for filing subject to refund and contingent upon the outcome of the proceeding in Docket No. CP77-352. A further condition of the Commission's acceptance of this filing is that Grand Bay file a tariff reflecting the proposed rate and the terms and conditions under which the service is being rendered.

#### *The Commission Orders*

(A) Subject to the conditions of the Ordering paragraphs below, Grand Bay's proposed rate increase is accepting for filing and suspended, and waiver of the notice requirements is granted such that the filing shall become effective January 12, 1980, subject to refund.

(B) Acceptance of this filing is conditioned upon Grand Bay's filing of a tariff which reflects the proposed rate and the terms and conditions under which service is being rendered.

(C) Waiver of § 154.22 of the Commission's regulations is granted to the extent necessary to permit Grand Bay to file this proposed rate increase concerning services which are not covered by a certificate of public convenience and necessity under section 7 of the NGA. Such waiver is conditional pending the outcome of Grand Bay's certificate proceeding in Docket No. CP77-352.

(D) Any determination with respect to the just and reasonableness of the proposed rates is subject to the outcome of the proceedings in Docket Nos. RP73-43 (PGA77-2), CI77-273, and CP77-352.

(E) The requirement under § 154.63(e)(6) of the Commission's regulations of the filing of an opinion of an independent public accountant concerning the rate increase filing is waived.

(F) The petitions to intervene filed by Southern Natural Gas Company and United Gas Pipe Line Company are granted, subject to the Commission's rules and regulations: *Provided,*

*however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided further,* That the admission of such intervenors shall not be construed as recognition that these intervenors might be aggrieved by any order entered in this proceeding.

By the Commission.  
Kenneth F. Plumb,  
*Secretary.*  
[FR Doc. 80-8744 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-95-M

#### [Docket No. ER80-231]

##### **Gulf States Utility Co.; Filing of Agreement**

February 22, 1980.

The filing Company submits the following:

Take notice that on February 12, 1980, Gulf States Utilities Company (Gulf States) tendered for filing a Letter Agreement amending the existing agreement between Gulf States and the Southwest Louisiana Electric Membership Corporation (SLEMCO) for the provisions of wholesale electric service. Gulf States indicates that the amendment lowers the number of Points of Delivery in the original agreement.

According to the Gulf States, a copy of the filing was served upon the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 7, 1980. 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 persons, 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. 80-8745 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-95-M

#### [Docket No. ER80-232]

##### **Gulf States Utilities Co.; Filing of Agreement**

February 22, 1980.

The filing Company submits the following:

Take notice that on February 11, 1980, Gulf States Utilities Company (Gulf States) tendered for filing a Letter of Agreement amending the existing agreement between Gulf States and Cajun Electric Power Cooperative, Inc. (CEPCO) for the provision of transmission services. Gulf States indicates that the amendment raises the number of Points of Delivery in the original agreement.

According to Gulf States, a copy of the filing was served upon the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 7, 1980. 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 persons 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. 80-8746 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-95-M

#### [Docket No. ER80-234]

##### **Gulf States Utilities Co.; Filing of Agreement**

February 22, 1980.

The filing Company submits the following:

Take notice that on February 11, 1980, Gulf States Utilities Company (Gulf States) tendered for filing a power interconnection agreement for transmissions services between it and Cajun Electric Power Cooperative, Inc. Gulf States indicates that the agreement provides for Gulf States to furnish transmissions services to Cajun Electric Power Cooperative, Inc. at Gulf States' standard rates and terms for such services, and supersedes the prior interconnection agreement between the parties.

According to Gulf States, a copy of the filing was served upon the Public Utility Commission of Texas, the Louisiana Public Service Commission, and the Cajun Electric Power-Cooperative, Inc.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 7, 1980. 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 persons 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. 80-6747 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-230]

**Kentucky Utilities Co.; Filing**

February 22, 1980.

The filing Company submits the following:

Take notice that on February 11, 1980, Kentucky Utilities Company (KU) tendered for filing a change in the demand charge for Unit Power included in Service Schedule B of the Kentucky-Indiana Pool Planning and Operating Agreement, designated as KU's Rate Schedule FERC No. 89. The Agreement is between KU, East Kentucky Power Cooperative, Inc., Indianapolis Power & Light Company, and Public Service Company of Indiana.

The Unit Power Demand Charges are determined by using plant cost per kilowatt, fixed charge rate and annual plant O&M expense. The change in the demand charge results from recalculations of these three figures.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 7, 1980. 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. 80-6749 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-221]

**Panhandle Eastern Pipe Line Co.; Application**

February 19, 1980.

Take notice that on February 1, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-221 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities required to make sales of natural gas for domestic, grain drying and irrigation purposes either directly or for resale through authorized local gas distribution companies pursuant to obligations contained in right-of-way easements or agreements, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the necessary taps and to provide service to right-of-way grantors whose easements provide for the contractual right to gas service as partial consideration for the easement to construct and operate pipeline facilities across their property.

Therefore, Applicant proposes the following:

(1) To construct and operate facilities required to make 55 direct sales of natural gas to right-of-way grantors of their successors in interest in Texas, Oklahoma, Kansas and Missouri for domestic, grain drying or irrigation fuel use.

(2) To construct and operate 2 new delivery points to Town Gas Company (Town Gas), an existing distribution company customer of Applicant in Illinois in order that Town Gas may provide natural gas service to a right-of-way grantor.

(3) To construct and operate 7 new delivery points to Indiana Gas Company (Indiana Gas), an existing distribution company customer of Applicant in Indiana in order that Indiana Gas may provide natural gas service to a right-of-way grantor.

Applicant asserts that of the 55 direct sales, 19 would be for irrigation fuel purposes and estimates that the cost of facilities associated with each irrigation tap would be \$3,250, or a total of \$61,750. Applicant also estimates that each of the proposed irrigation fuel sales would involve an average of 3,750 Mcf of natural gas per year. The remaining 36 direct sales would involve the end-use of natural gas for domestic or domestic and grain drying purposes and the cost of facilities required to establish these sales would be approximately \$450 each or a total of \$16,200 according to Applicant. In addition, Applicant estimates that the average volume of natural gas to be sold in these 36 transactions would be approximately 150 Mcf per year.

Applicant states that the average cost of the 9 new delivery points would be \$450 for a total of \$4,050. In addition, Applicant asserts that the natural gas associated with these 9 new points of delivery would be for grain drying or domestic purposes and the yearly volume associated with each new delivery point would be approximately 150 Mcf.

Applicant states that the total cost of facilities proposed herein would be \$82,000, which would be financed by Applicant from cash on hand.

Also, Applicant states that it does not propose herein to increase its currently authorized level of sales.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426; a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if

the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6750 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. ER80-140]

**Public Service Company of New Hampshire; Order Accepting for Filing and Suspending Rate Changes, Granting Interventions, and Providing for Hearing Procedures**

February 8, 1980.

On December 21, 1979, Public Service Company of New Hampshire (PSNH) submitted for filing a proposed two-step increase in rates for service to its six wholesale customers.<sup>1</sup> The proposal is that the first step of \$3,566,450 become effective January 21, 1980,<sup>2</sup> and that the second step of \$727,449 be accepted for filing as of February 20, 1980 and suspended until April 1, 1980.<sup>3</sup> The proposal would increase PSNH's jurisdictional revenues for the forecast test year of calendar year 1980 by \$4,239,989 (10.07%).

The increase sought in the first step is based upon a claimed return on equity of 15.3%. The increase sought in the second step is based upon alternate theories of: (a) A claimed return on equity of 18% or (b) a claimed return on equity of the same 15.3% claimed in the first step, but with the addition of an

<sup>1</sup>Concord Electric Company, Town of Ashland, New Hampton Village Precinct, Exeter and Hampton Electric Company, Town of Wolfeboro, and New Hampshire Electric Cooperative. See Attachment A for rate schedule designations.

<sup>2</sup>PSNH requests waiver of the notice requirements of § 35.3 of our regulations in order that the submittal may be accepted for filing January 21, 1980, and further requests a suspension period of no more than one day.

<sup>3</sup>PSNH requests that the second step be accepted for filing 60 days after the filing date and suspended until April 1, 1980. We shall treat this as a request for deferral of the effective date of the second step under § 35.3(a) of our regulations (18 CFR 35.3(a)) to permit the rate to become effective on April 1, 1980.

amount of CWIP<sup>4</sup> (\$3.9 million)<sup>5</sup> to jurisdictional rate base sufficient to compensate the Company for forgoing an 18% return on equity.

Notice of the submittal was issued December 31, 1979, with protests and petitions to intervene due January 21, 1980. Petitions to intervene were filed timely by Concord, Exeter and Hampton, and by New Hampshire Legislative Utilities Consumers Council (LUCC). Petitions were untimely filed by Ashland, Wolfeboro, and New Hampton. All of the petitioning customers consent in their petitions to the effective dates of both steps of the proposed increase requested by the Company;<sup>6</sup> provided that each step is suspended beforehand. Ashland, New Hampton, and Wolfeboro request that the Commission in its scope of review of PSNH's second step avoid consideration any justification of revenue requirement based upon the inclusion of CWIP balances in rate base. This request arises from Article 4.2<sup>7</sup> of the yet unapproved settlement agreement. LUCC, while raising no substantive issues in its petition to intervene, states its interest in this proceeding as that of a state agency representing the interests of residential end-users.

Our review of the filing submitted by PSNH indicates that it has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept the submittal of the two-step increase for filing as follows. Steps one and two shall be accepted, suspended for one day, and waiver of the notice requirements granted as necessary to

<sup>4</sup>This and all other references in the text of this order to CWIP are to CWIP relief based on financial stress described in § 2.16(b) of our regulations and do not refer to CWIP relief to cover the costs of pollution control or fuel conversion facilities described in Section 2.16(a).

<sup>5</sup>According to the Company, this amount is 3.5% of total average of 1980 CWIP allocable to jurisdictional service based upon beginning and year end balances.

<sup>6</sup>This is pursuant to Article 4.1 of the settlement agreement between these and the other parties in PSNH's consolidated rate filing and CWIP cases, Docket Nos. ER78-339 and EL78-5 (pending on briefs on exception) filed with the Commission January 22, 1980, and now pending.

<sup>7</sup>Article 4.2: The Company agrees that it will not attempt to support the \$727,449 second-step, increase in Docket No. ER80-140 by inclusion of CWIP in rate base on a service financial stress justification. It is agreed that the Company may, prior to any hearing in Docket No. ER80-140, submit supplemental prepare direct testimony and exhibits which undertake to justify the second-step increase on the basis of CWIP rate base treatment of pollution control facilities, by rate of return analysis or on whatever other basis the Company might advance, which prepare testimony the customers shall have the opportunity to answer with prepared testimony of their own.

allow the rates to be made effective on January 21, 1980 and April 1, 1980, respectively. The one day suspension periods we are granting here are based on the acquiescence of the intervenors to these effective dates. Intervenors' acquiescence, we recognize, is an expression of an obligation of theirs which only is embryonic inasmuch as the obligation arises from an unapproved settlement agreement. Accordingly, we wish to make clear that we are reserving our authority *sua sponte* to reconsider and order the maximum suspension periods allowed under Section 205 of the Federal Power Act, should we reject the settlement agreement pending in Docket Nos. EL78-15, ER78-339 (Consolidated).<sup>8</sup>

In the hearing to be convened in this docket, PSNH shall not be permitted to meet its burden of proof of showing the suspended second step to be just and reasonable by introducing any evidence bearing upon the inclusion of CWIP in jurisdictional rate base. If PSNH wishes to attempt to show that the second step increase level is just and reasonable based upon the appropriateness of CWIP relief, such a showing must be limited to rate relief which can go into effect only prospectively after a final Commission order pursuant to § 2.16(b) of our regulations.

All petitions to intervene indicate material interest in the outcome of this proceeding, may be in the public interest, and will be granted.

*The Commission orders:* (A) Waiver of the notice requirements of Section 35.3 of our regulations is granted for the PSNH submittal and it is accepted for filing.

(B) The first step of the proposed increase is suspended for one day, to become effective January 21, 1980, subject to refund.

(C) The second step of the proposed increase is accepted for filing as of February 20, 1980, the requested effective date deferred until May 31, 1980, and a one day suspension ordered, the rate to become effective, subject to refund, on April 1, 1980.

(D) Notice hereby is expressly provided that ordering paragraphs (B) and (C), above, are subject to reconsideration and modification, with resultant refunds being ordered, as may be in the public interest, should the settlement agreement in Public Service

<sup>8</sup>The choice of an appropriate suspension period is wholly within our administrative discretion, as also is such action by us to reconsider and modify the suspension period ordered herein. See Order, *Central Power & Light Co.*, Docket No. ER77-514, Issued September 8, 1979 (mimeo at 4); *off'd. Central Power & Light Co. v. FERC*, D.C. Cir. No. 77-1843, order issued Nov. 30, 1977 (unpublished opinion).

Company of New Hampshire, Docket Nos. EL78-15, ER78-339, be rejected.

(E) PSNH may not introduce any evidence in this proceeding in support of any rates suspended and allowed to become effective in this docket which include CWIP in jurisdictional rate base.

(F) All petitions to intervene are granted subject to the rules and regulations of the Commission; *Provided, however*, That participation by the intervenors shall be limited to matters set forth in their petition to intervene. *And provided, further*, That the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket.

(H) Staff shall serve top sheets in this proceeding on May 12, 1980.

(I) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(J) The Secretary shall promptly publish this order in the Federal Register.

By the Commission. Commissioner Hall voted present.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6752 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. ER80-235]

### Public Service Company of New Mexico; Filing

February 22, 1980.

The filing Company submits the following:

Take notice that on February 12, 1980, Public Service Company of New Mexico (PNM) submitted for filing a Contingent Capacity Sales Agreement (Agreement) between PNM and San Diego Gas & Electric Company (SDGE) for sale of 236 mw of contingent capacity from PNM's San Juan Generating Station Unit 4. The date of initial service shall begin on the commercial date of San Juan Unit 4 which is anticipated to be May 1, 1982. The Agreement shall continue thereafter until April 30, 1988 at which time it terminates. To enable the parties to have the assurance that the surplus capacity sale is approved and that the resource can be made a part of San Diego's resources, the parties have requested waiver of the Commission's 120 day notice provision.

Any person desiring to be heard or to protest said agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 7, 1980. 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. 80-6753 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket Nos. RP78-85, RP78-86]

### Village of Pawnee, Ill., et al.; Order Approving Settlements

February 8, 1980.

Village of Pawnee, Illinois, et al.,  
Complainants, v. Panhandle Eastern Pipe Line Company, Respondent, Docket No. RP78-85, Kaskaskia Gas Company, et al., Complainants, v. Trunkline Gas Company, Respondent, Docket No. RP78-86.

On December 6, 1979, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline), pursuant to the provisions of § 1.18(e) of the Commission's rules of practice and procedure (18 CFR 1.18), submitted for its approval certain Stipulations and Agreements in settlement of all matters in the above-styled proceedings. Throughout, the two cases have been considered together,

because the issues and a number of the participants are the same.

On August 30, 1978, the Village of Pawnee, Illinois, et al.<sup>1</sup> (Pawnee Petitioners) in Docket No. RP78-85, and the Kaskaskia Gas Company, et al.<sup>2</sup> (Kaskaskia Petitioners) in Docket No. RP78-87 (collectively referred to herein as Petitioners), filed petitions for relief pursuant to the provisions of Section 5 of the Natural Gas Act and the regulations thereunder<sup>3</sup> from certain provisions contained in the effective FERC Tariffs of Panhandle and Trunkline, respectively.

Specifically, Petitioners seek relief from the provisions in Panhandle's and Trunkline's tariffs that assess a penalty at a rate of \$10.00 per Mcf for volumes of natural gas taken in excess of the base volumes prescribed by Panhandle and Trunkline pursuant to terms of their currently effective tariffs. Pawnee Petitioners purchase their total supply of natural gas from Panhandle under that pipeline's G-2 and SG-2 rate schedules. Kaskaskia Gas Company and all other Petitioners purchase their total natural gas supply from Trunkline under that pipeline's SG-1 rate schedule.

Petitioners generally assert that under § 16.5(c)(4) of Panhandle's FERC Tariff and § 17.5(b)(2)(i)(a) of Trunkline's FERC Tariff they are effectively precluded from adding new customers to their systems while other classes of Panhandle and Trunkline customers are not subject to such restrictions. These provisions exempt Petitioners from the imposition of a penalty during periods of curtailment for overruns of base volumes up to Contract Demand, but only as long as Petitioners have not added new customers or gas usages, regardless of priority; after February 1, 1974 (in the case of Panhandle), or July 1, 1976 (in the case of Trunkline). If new

<sup>1</sup>The Village of Pawnee, Illinois, a municipal corporation was joined in the petition filed in Docket No. RP78-85 by: City of Auburn, Illinois, a municipal corporation; City of Bushnell, Illinois, a municipal corporation; Village of Divernon, Illinois, a municipal corporation; City of Pittsfield, Illinois, a municipal corporation; Village of Pleasant Hill, Illinois, a municipal corporation; Village of Riverton, Illinois, a municipal corporation; City of Montgomery, Missouri, a municipal corporation and Town Gas Company, a corporation and public utility operating in the State of Illinois.

<sup>2</sup>Kaskaskia Gas Company, a corporation and public utility operating in the State of Illinois, was joined in the petition filed in Docket No. RP78-86 by: Village of Cisne, Illinois, a municipal corporation; City of Fairfield, Illinois, a municipal corporation; Village of Louisville, Illinois, a municipal corporation; City of McLeansboro, Illinois, a municipal corporation and the Village of Wayne City, Illinois, a municipal corporation.

<sup>3</sup>The petitions stated they were filed "pursuant to the provisions of Section 7 of the Natural Gas Act;" the petitions are more properly complaints under Section 5 of the Act and will be so construed.

customers or usages have been added, the exemption is not available.

Petitioners assert that in order to remain free of the \$10.00 per Mcf penalty imposed for volumes taken in excess of their respective base volumes, they must abide by the curtailment tariff provisions applicable to them. They stress that in order to do so they are unable to add any new customers because they cannot risk the loss of exemption from such penalties for overruns of their base volumes. Petitioners contend that because of these restrictive provisions they have not been attaching any new Priority 1 loads, even though they have sufficient peak day gas volume capability to serve new residential and small commercial customers.

The stipulations and agreements herein were the outgrowth of an informal conference which was convened on October 28, 1979.<sup>4</sup> Under the terms of the settlement agreements, Trunkline's Small General Service Customers and Panhandle's Small General Service Customers and General Service Customers with a Contract Demand for every month of less than 6,000 Mcf or whose usage is all Priority 1 (herein collectively referred to as "Small Customers") will be authorized to utilize existing penalty waiver provisions incorporated in the tariffs of these pipelines and at the same time add specifically limited new residential and commercial (Priority 1) customers.

Under the terms of the settlements, the Small Customers will be permitted to add new Priority 1 requirements up to 10 percent of their original annual base period volumes during the first twelve-month period and up to 8 percent of their original annual base period volumes in each succeeding twelve-month period that the agreements are in effect. In adding new Priority 1 requirements, no Small Customer will be permitted to exceed its currently effective contract demand on any day without penalty.

The agreement terminates with respect to Panhandle at the end of any twelve-month period if Panhandle is required to curtail its Priority 2 base period requirements under its curtailment tariff in effect as of the date of the stipulation by 20 percent or more during any three months of the winter period. The agreement likewise terminates with respect to Trunkline at the end of any twelve-month period if Trunkline's annual sales volumes during such period are more than three percent

below 433,515,289 Mcf, which is the current sales level on which Trunkline's base rates have been established in Docket No. RP78-11. The purpose of the termination provisions is to assure that existing high priority industrial customers served by Panhandle and Trunkline are not adversely affected by the continued addition of Priority 1 customers in the event that the supply situation worsens.

No comments in opposition to the settlements were filed. Comments in support of the proposed settlements were filed by the Commission Staff and the Process Gas Consumers Group. These comments in support were generally of the view that Small Customers dependent upon Panhandle and Trunkline for their natural gas supplies should be afforded the limited relief provided for in the settlement agreements for the reasons previously indicated herein. On October 15, 1979, the General Service Customer Group filed a timely petition to intervene in both proceedings. The petition to intervene does not oppose the proposed settlements nor does it request a formal hearing.

The settlements proposed constitute a fair and reasonable means of resolving the issues presented in the two cases, and accordingly, the proposed settlements will be approved.

*The Commission finds and orders: (1) The Stipulation and Agreement filed by Panhandle in Docket No. RP78-85 is just and reasonable and otherwise in the public interest and the settlement of the issues proposed therein is hereby approved.*

*(2) The Stipulation and Agreement filed by Trunkline in Docket No. RP78-86 is just and reasonable and otherwise in the public interest and the settlement of the issues proposed therein is hereby approved.*

*(3) Panhandle and Trunkline shall file the necessary revisions to their currently effective tariffs to reflect the changes in service resulting from the approval of the proposed settlements within 30 days from the issuance date of this order.*

*(4) The Commission's approval of the settlement shall not constitute approval of or precedent regarding any principle or issue in these proceedings.*

*(5) The General Service Customer Group is permitted to intervene in these proceedings subject to the rules and regulations of the Commission: Provided, however, That the participation of the General Service Customer Group shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene; And provided*

*further, That the admission of the General Service Customer Group shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.*

By the Commission.  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-2748 Filed 3-3-80; 2:45 am]  
BILLING CODE 6450-85-M

[No. 150]

### Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

February 15, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

California Department of Conservation,  
Division of Oil and Gas

1. Control number (FERC/State).
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block number
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
  1. 80-13858/79-6-0065.
  2. 04-113-20488-0000
  3. 102 000 000
  4. Cities Service Co.
  5. Beoshantz A No. 1
  6. Dry slough
  7. Yolo, CA
  8. 100.0 million cubic feet
  9. January 31, 1980
  - 10.

Ohio Department of Natural Resources,  
Division of Oil and Gas

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block number
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
  1. 80-13859/06161
  2. 34-119-24841-0000
  3. 103 000 000
  4. Williston Oil Corp.
  5. Fraley No. 1
  - 6.
  7. Muskingum, OH
  8. 14.6 million cubic feet
  9. January 31, 1980
  - 10.

<sup>4</sup>Notice of this conference was duly published in the Federal Register on October 11, 1979 (44 FR 58793).

2. 34-119-24839-1400  
3. 103 000 000  
4. Williston Oil Corp.  
5. Fraley No. 2  
6.  
7. Muskingum, OH.  
8. 14.6 million cubic feet  
9. January 31, 1980  
10.  
1. 80-13861/08178  
2. 34-119-24848-4000  
3. 103 000 000  
4. Williston Oil & Development Corp.  
5. Wilson No. 6  
6.  
7. Muskingum, OH  
8. 14.6 million cubic feet  
9. January 31, 1980  
10.  
1. 80-13862/08213  
2. 34-103-22166-0000  
3. 103 000 000  
4. David Shafer Oil Producers Inc.  
5. Louis Gaiduk No. 1  
6.  
7. Medina, OH  
8. 24.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13863/08226  
2. 34-133-20648-0000  
3. 103 000 000  
4. Pommex Inc.  
5. Homer Lucas No. 1  
6.  
7. Portage County, OH  
8. 25.0 million cubic feet  
9. January 31, 1980  
10. Stark Oilfield Services, Inc.  
1. 80-13864/08230  
2. 34-013-20299-0000  
3. 103 000 000  
4. Appalachian Energy, Inc.  
5. Lulu Duvall No. 1 A-E-104  
6.  
7. Belmont, OH  
8. 30.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13865/08231  
2. 34-013-2301-0000  
3. 103 000 000  
4. Appalachian Energy, Inc.  
5. Paul Greenlee No. 1 A-E-122  
6.  
7. Belmont, OH  
8. 30.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13866/08232  
2. 34-013-20303-0000  
3. 103 000 000  
4. Appalachian Energy, Inc.  
5. James Dixon No. 1 A-E-120  
6.  
7. Belmont, OH  
8. 30.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13867/08233  
2. 34-089-23702-0000  
3. 103 000 000  
4. W. E. Shrider Co.  
5. Orville Felumlee No. 1  
6.  
7. Licking, OH  
8. 6.0 million cubic feet  
9. January 31, 1980  
10. National Gas & Oil Corp.  
1. 80-13868/08234  
2. 34-105-21856-0000  
3. 103 000 000  
4. BJVC Energy Management Corp.  
5. Fred Riggs No. 1  
6.  
7. Meigs, OH  
8. 5.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13869/08235  
2. 34-105-21848-0000  
3. 103 000 000  
4. BJVC Energy Management Corp.  
5. Harley E. Riggs No. 1  
6.  
7. Meigs, OH  
8. 6.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13870/08236  
2. 34-105-21854-0000  
3. 103 000 000  
4. BJVC Energy Management Corp.  
5. Cecelia Hart No. 1  
6.  
7. Meigs, OH  
8. 5.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13871/08237  
2. 34-105-21847-0000  
3. 103 000 000  
4. BJVC Energy Management Corp.  
5. Thomas Hart No. 1  
6.  
7. Meigs, OH  
8. 5.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13872/08238  
2. 34-105-21858-0000  
3. 103 000 000  
4. BJVC Energy Management Corp.  
5. Ola St. Clair No. 1  
6.  
7. Meigs, OH  
8. 5.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13873/08239  
2. 34-105-21840-0000  
3. 103 000 000  
4. BJVC Energy Management Corp.  
5. Roy Smith No. 1  
6.  
7. Meigs, OH  
8. 5.0 million cubic feet  
9. January 31, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-13874/08240  
2. 34-099-21133-0000  
3. 103 000 000  
4. Integrated Petroleum Company, Inc.  
5. Brown No. 1  
6.  
7. Mahoning, OH  
8. 30.0 million cubic feet  
9. January 31, 1980  
10. American Energy Service, Inc.  
1. 80-13875/08241  
2. 34-089-23675-0000  
3. 103 000 000  
4. American Well Management Company  
5. Westfall No. 1  
6.  
7. Licking, OH  
8. 18.0 million cubic feet  
9. January 31, 1980  
10.  
1. 80-13876/08242  
2. 34-157-23280-0000  
3. 103 000 000  
4. Vescorp Industries, Inc.  
5. J. Yoder No. 1  
6.  
7. Tuscarawas, OH  
8. 25.0 million cubic feet  
9. January 31, 1980  
10.  
1. 80-13877/08243  
2. 34-157-23295-0000  
3. 103 000 000  
4. The Clinton Oil Co.  
5. J. Immel No. 1  
6.  
7. Tuscarawas, OH  
8. 18.0 million cubic feet  
9. January 31, 1980  
10.  
1. 80-13878/08244  
2. 34-121-22136-0000  
3. 103,000,000  
4. The Benatty Corporation  
5. E K Reed 1-B  
6.  
7. Noble OH  
8. 50.0 million cubic feet  
9. January 31, 1980  
10. The East Ohio Gas Company  
1. 80-13879/08245  
2. 34-089-23694-0000  
3. 103,000,000  
4. Allied Develop & Explor Co Inc  
5. James C Martin #1  
6.  
7. Licking, OH  
8. 6.0 million cubic feet  
9. January 31, 1980  
10.  
1. 80-13880/08245  
2. 34-075-22267-0000  
3. 103,000,000  
4. John C Mason  
5. Raymond F Patterson #2  
6.  
7. Holmes OH  
8. 18.0 million cubic feet  
9. January 31, 1980  
10. Cincinnati Gas & Electric  
1. 80-13881/08247  
2. 34-127-24442-0000  
3. 103,000,000  
4. Jerry C Olds  
5. Lewis #2  
6.  
7. Perry OH  
8. 6.0 million cubic feet  
9. January 31, 1980  
10. Columbia Transmission Corp  
1. 80-13882/08248  
2. 34-089-23734-0000  
3. 103,000,000  
4. Jerry C Olds  
5. #1 Daniels

- 6.
7. Licking OH
8. 7.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13883
2. 34-031-23607-0000
3. 103,000,000
4. Frank W Hoover Producer
5. Milton B Waters #1
6. Blissfield
7. Coshocton OH
8. 5.5 million cubic feet
9. January 31, 1980
10. Columbia Gas Transmission Corp
1. 80-13884
2. 34-075-22264-0000
3. 103,000,000
4. Ohio Titan Energy L P
5. #2 Owen D Yoder
- 6.
7. Holmes OH
8. 200.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Trans Corp
1. 80-13885
2. 34-075-22287-0000
3. 103,000,000
4. Ohio Titan Energy L P
5. #3 Owen D Yoder
- 6.
7. Holmes OH
8. 193.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Trans Corp
1. 80-13886
2. 34-075-22290-0000
3. 103,000,000
4. Ohio Titan Energy L P 1979-7
5. #1 Eileen B Dehass
- 6.
7. Holmes OH
8. 750.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Trans Corp
1. 80-13887
2. 34-075-22295-0000
3. 103,000,000
4. Ohio Titan Energy L P 1979-8.
5. #2 R J Miller
- 6.
7. Holmes OH
8. 350.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Trans Corp
1. 80-13888
2. 34-075-22297-0000
3. 103,000,000
4. Ohio Titan Energy L P 1979-10
5. #1 Jonas Raber
- 6.
7. Holmes OH
8. 450.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Trans Corp
1. 80-13889
2. 34-075-22332-0000
3. 103,000,000
4. Ohio Titan Energy L P 1979-11.
5. #1 Melvin Miller
- 6.
7. Holmes OH
8. 650.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Trans Corp
1. 80-13890
2. 34-083-22635-0000
3. 103,000,000
4. Thomas C Whitney Jr
5. Donald E Ridgeway #1
- 6.
7. Knox OH
8. 15.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Transmission Corp
1. 80-13891
2. 34-103-22098-0000
3. 103,000,000
4. Woa-Mellenco Inc
5. Dr A H Franks #2
- 6.
7. Medina OH
8. 20.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13892
2. 34-103-22099-0000
3. 103,000,000
4. Woa-Mellenco Inc
5. Dr A H Franks #1
- 6.
7. Medina OH
8. 20.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13893
2. 34-119-24928-0000
3. 103,000,000
4. Guernsey Petroleum Corporation
5. Ohio Power 50MH
- 6.
7. Muskingum OH
8. .0 million cubic feet
9. January 31, 1980
10. East Ohio Gas Company
1. 80-13894
2. 34-121-22124-0000
3. 103,000,000
4. Oneal Productions Inc
5. Curtis Hill #4
- 6.
7. Noble OH
8. 20.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Transmission Corp
1. 80-13895
2. 34-121-22125-0000
3. 103,000,000
4. Oneal Productions Inc
5. Drumm Unit #1
- 6.
7. Noble OH
8. 20.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Tr
1. 80-13896
2. 34-127-24504-0000
3. 103,000,000
4. Don McKee Drilling Co Inc
5. Maybelle Huston #1
- 6.
7. Perry OH
8. 50.0 million cubic feet
9. January 31, 1980
10. Columbia Gas-
1. 80-13897
2. 34-127-24532-0000
3. 103,000,000
4. Jerry C Olds
5. Emmert #1
- 6.
7. Perry OH
8. 7.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13898
2. 34-133-21005-0000
3. 103,000,000
4. Waterco Inc
5. Beljon #1
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13899
2. 34-133-22093-0000
3. 103,000,000
4. Viking Resources Corporation
5. Myers/Korman Unit #1
- 6.
7. Portage OH
8. 30.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13900
2. 34-133-22094-0000
3. 103,000,000
4. Viking Resources Corporation
5. Korman-Myers Unit \$2
- 6.
7. Portage OH
8. 30.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13901
2. 34-151-22753-0000
3. 103,000,000
4. Viking Resources Corporation
5. Matz Well No 1
- 6.
7. Stark OH
8. 30.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13902
2. 34-155-21303-0000
3. 103,000,000
4. B & K Energy Company
5. Biggard Unit #1
- 6.
7. Trumbull OH
8. 30.0 million cubic feet
9. January 31, 1980
10. Columbia Gas Transmission Corp
1. 80-13903
2. 34-157-23438-0000
3. 103,000,000
4. Belden & Blake and Co L P No 73
5. F Andreas #1-927
- 6.
7. Tuscarawas OH
8. 38.5 million cubic feet
9. January 31, 1980
- 10.
1. 80-13904
2. 34-157-23439-0000
3. 103,000,000
4. Belden & Blake and Co L P No 73
5. H Andreas #1-928
- 6.
7. Tuscarawas OH
8. 38.5 million cubic feet
9. January 31, 1980
- 10.

1. 80-13905
2. 34-157-23440-0000
3. 103,000,000
4. Belden & Blake and Co L P No 73
5. H Andreas #2-929
- 6.
7. Tuscarawas OH
8. 38.5 million cubic feet
9. January 31, 1980
- 10.
1. 80-13908
2. 34-163-20400-0000
3. 103,000,000
4. American Well Management Company
5. Fuller No 3
- 6.
7. Vinton OH
8. 18.0 million cubic feet
9. January 31, 1980
- 10.
1. 80-13907
2. 34-169-22217-0000
3. 103,000,000
4. Joe L Schrimsher
5. Andrew Johnson #7
- 6.
7. Wayne OH
8. 20.0 million cubic feet
9. January 31, 1980
10. East Ohio Gas Co
1. 80-13908
2. 34-169-22218-0000
3. 103 000 000
4. Joe L Schrimsher
5. Ethel Graber #2
- 6.
7. Wayne, OH
8. 20.0 million cubic feet
9. January 31, 1980
10. East Ohio Gas Co
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual Volume
9. Date received at FERC
10. Purchaser(s)
1. 80-13840/01338
2. 35-121-20551-0000
3. 103 000 000
4. W P Lerblance Jr
5. Pruitt No 3
6. S Featherston
7. Pittsburg, OK
8. 38.0 million cubic feet
9. January 31, 1980
10. Gas Transmission Co.
1. 80-13841/01359
2. 35-121-00000-0000
3. 103 000 000
4. L O Ward
5. Baker 27-1
6. NE Canadian
7. Pittsburg, OK
8. 100.0 million cubic feet
9. January 31, 1980
10. Transok Pipeline Company
1. 80-13842/01366
2. 35-061-20207-0000
3. 102 000 000
4. Service Drilling Co
5. Cantrell #1-9
6. West Stigler
7. Haskell, OK
8. 511.0 million cubic feet
9. January 31, 1980
10. Tennessee Gas Pipeline Company, Delhu Gas Pipeline Co, Columbia Gas Transmission
1. 80-13843/01363
2. 35-061-20194-0000
3. 102 000 000
4. Service Drilling Co
5. Conklin #2-8
6. West Stigler
7. Haskell, OK
8. 208.0 million cubic feet
9. January 31, 1980
10. Tennessee Gas Pipeline Company, Delhu Gas Pipeline Co, Columbia Gas Transmission Corp
1. 80-13844/01370
2. 35-061-20192-0000
3. 103 000 000
4. Samson Resources Company
5. Hayes Unit No 1—Spiro
6. Kinta
7. Haskell, OK
8. 25.0 million cubic feet
9. January 31, 1980
10. Arkansas Louisiana Gas Company
1. 80-13845/01374
2. 35-081-20401-0000
3. 102 000 000
4. Jet Oil Company
5. Lincoln-State #1
6. Mt Vernon
7. Lincoln, OK
8. 75.0 million cubic feet
9. January 31, 1980
10. Sun Oil Company
1. 80-13846/00178
2. 35-093-21458-0000
3. 103 000 000
4. Lear Petroleum Corporation
5. Parker #1-21
- 6.
7. Major, OK
8. 240.0 million cubic feet
9. January 31, 1980
10. Delhu Gas Pipeline Corporation
1. 80-13847/00805
2. 35-107-00000-0000
3. 108 000 000
4. Vab Inc
5. Dwiggs No 4
6. Section 7-10N-12E
7. Okfuskee OK
8. 10.0 million cubic feet
9. January 31, 1980
10. Phillips Petroleum Company
1. 80-13848/00806
2. 35-107-00000-0000
3. 108 000 000
4. Vab Inc
5. Nazzarena-Holt No 3
6. Section 6-10N-12E
7. Okfuskee OK
8. 14.0 million cubic feet
9. January 31, 1980
10. Phillips Petroleum Company
1. 80-13849/00161
2. 35-071-60012-0000
3. 108 000 000
4. Vern C Shimp
5. #2 Shimp OTC #071-15317
6. North Vernon
7. Kay, OK
8. 16.7 million cubic feet
9. January 31, 1980
- 10.
1. 80-13850/00164
2. 35-071-00000-0000
3. 108 000 000
4. Vern C Shimp
5. #7A N Shimp #071-15318
6. North Vernon
7. Kay, OK
8. 3.2 million cubic feet
9. January 31, 1980
- 10.
1. 80-13851/00163
2. 35-071-60006-0000
3. 108 000 000
4. Vern C Shimp
5. #2 Cole OTC #071-15316
6. North Vernon
7. Kay, OK
8. 5.2 million cubic feet
9. January 31, 1980
- 10.
1. 80-13852/01339
2. 35-121-20538-0000
3. 103 000 000
4. W P Lerblance Jr
5. Pruitt No 2
6. South Featherston
7. Pittsburg, OK
8. 32.0 million cubic feet
9. January 31, 1980
10. Gas Transmission Co
1. 80-13853/00799
2. 35-107-00000-0000
3. 108 000 000
4. Vab Inc
5. Dwiggs No 5
6. Section 7-10N-12E
7. Okfuskee, OK
8. 14.0 million cubic feet
9. January 31, 1980
10. Phillips Petroleum Company
1. 80-13854/00807
2. 35-107-00000-0000
3. 108 000 000
4. Vab Inc
5. Nazzarena-Holt No 4
6. Section 6-10N-12E
7. Okfuskee, OK
8. 14.0 million cubic feet
9. January 31, 1980
10. Phillips Petroleum Company
1. 80-13855/01523
2. 35-149-20045-0000
3. 103 000 000
4. Enserch Exploration Inc
5. Maude G Birchett No 1
6. Burns Flat
7. Washita, OK
8. 720.0 million cubic feet
9. January 31, 1980
10. Natural Gas Pipeline Co of America
1. 80-13856/00801
2. 35-107-00000-0000
3. 108 000 000
4. VAB Inc
5. Dwiggs No 6
6. Section 7-10N-12E
7. Okfuskee, OK
8. 14.0 million cubic feet
9. January 31, 1980
10. Phillips Petroleum Company
1. 80-13857/00956

2. 35-139-21071-0000  
 3. 102 000 000  
 4. Cabot Corporation  
 5. Calvert #5  
 6. Lower Morrow  
 7. Texas OK  
 8. 250.0 million cubic feet  
 9. January 31, 1980  
 10. Kokomo Gas and Fuel Company

West Virginia Department of Mines Oil and Gas Division

1. Control Number (F.E.R.C./State)  
 2. API Well Number  
 3. Section of NGPA  
 4. Operator  
 5. Well name  
 6. Field or OCS area name  
 7. County, State or Block No.  
 8. Estimated annual volume  
 9. Date received at FERC  
 10. Purchaser(s)

1. 80-13909  
 2. 47-043-00810-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #105  
 6. Yawkey-Freeman  
 7. Lincoln WV  
 8. 4.6 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13910  
 2. 47-045-00012-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #41  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 2.0 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13911  
 2. 47-045-00045-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #48  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 3.3 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13912  
 2. 47-045-00047-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #50  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 4.2 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13913  
 2. 47-045-00049-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #51  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 3.6 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13914  
 2. 47-045-00050-0000  
 3. 108 000 000

4. Pennzoil Company  
 5. Yawkey-Freeman #52  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 1.7 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13915  
 2. 47-045-00065-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #58  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 18.0 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13916  
 2. 47-045-00068-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #60  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 4.0 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13917  
 2. 47-045-00070-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #61  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 3.0 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13918  
 2. 47-045-00075-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #68  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 5.7 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13919  
 2. 47-045-00081-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #75  
 6. Yawkey-Freeman  
 7. Logan WV  
 8. 3.8 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13920  
 2. 47-017-02321-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. S W Stout No. 23  
 6. Southwest  
 7. Doddridge WV  
 8. .8 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13921  
 2. 47-005-00758-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Wetherall J A #8  
 6. Washington  
 7. Boone WV  
 8. 4.1 million cubic feet

9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13922  
 2. 47-005-01219-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. J M Billups #1  
 6. Washington  
 7. Boone WV  
 8. 2.3 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13923  
 2. 47-005-01221-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. A B Chambers #1  
 6. Scott District  
 7. Boone WV  
 8. .9 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13924  
 2. 47-005-01228-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Ethel Phipps #1  
 6. Washington District  
 7. Boone WV  
 8. 3.4 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13925  
 2. 47-005-01263-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Yawkey-Freeman #40  
 6. Yawkey-Freeman  
 7. Boone WV  
 8. 2.4 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13926  
 2. 47-013-01497-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Chess Poling #2  
 6. Sherman District  
 7. Calhoun WV  
 8. 4.1 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13927  
 2. 47-017-00045-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. Harriet Townsend #1  
 6. New Milton  
 7. Doddridge WV  
 8. 2.1 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13928  
 2. 47-017-00568-0000  
 3. 108 000 000  
 4. Pennzoil Company  
 5. A L Maxwell #2  
 6. New Milton  
 7. Doddridge, WV  
 8. 1.5 million cubic feet  
 9. February 4, 1980  
 10. Consolidated Gas Supply Corp

1. 80-13929  
 2. 47-017-00594-0000

3. 108 000 000  
4. Pennzoil Company  
5. A L Maxwell #3  
6. New Milton  
7. Doddridge, WV  
8. 1.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13930  
2. 47-017-00635-0000  
3. 108 000 000  
4. Pennzoil Company  
5. A L Maxwell #4  
6. New Milton  
7. Doddridge, WV  
8. 1.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13931  
2. 47-017-00660-0000  
3. 108 000 000  
4. Pennzoil Company  
5. A L Maxwell #5  
6. New Milton  
7. Doddridge, WV  
8. 1.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13932  
2. 47-017-01108-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J B Maxwell #3  
6. New Milton  
7. Doddridge, WV  
8. 2.1 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13933  
2. 47-021-03334-0000  
3. 108 000 000  
4. Pennzoil Company  
5. H I Allman #1  
6. Troy  
7. Gilmer, WV  
8. 1.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13934  
2. 47-017-02209-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Louisa Fisher No. 5  
6. New Milton  
7. Doddridge, WV  
8. .8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13935  
2. 47-017-02213-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J M Gribble No. 2  
6. New Milton  
7. Doddridge, WV  
8. .8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13936  
2. 47-017-02229-0000  
3. 108 000 000  
4. Pennzoil Company  
5. A L Maxwell #1  
6. New Milton  
7. Doddridge, WV  
8. 1.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13937  
2. 47-039-03284-0000  
3. 108 000 000  
4. Pennzoil Company  
5. R O Baillie #1  
6. Cabin Creek  
7. Kanawha, WV  
8. 4.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13938  
2. 47-039-03285-0000  
3. 108 000 000  
4. Pennzoil Company  
5. R O Baillie #2  
6. Cabin Creek  
7. Kanawha, WV  
8. 11.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13939  
2. 47-039-03286-0000  
3. 108 000 000  
4. Pennzoil Company  
5. R O Baillie #3  
6. Cabin Creek  
7. Kanawha, WV  
8. 2.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13940  
2. 47-039-03287-0000  
3. 108 000 000  
4. Pennzoil Company  
5. R O Baillie #4  
6. Cabin Creek  
7. Kanawha, WV  
8. 1.4 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13941  
2. 47-039-03321-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Coalburg Colliery Co #7  
6. Cabin Creek  
7. Kanawha, WV  
8. .0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13942  
2. 47-045-01034-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #34  
6. Yawkey-Freeman  
7. Logan, WV  
8. 4.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13943  
2. 47-045-01032-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #31  
6. Yawkey-Freeman  
7. Logan, WV  
8. .8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13944  
2. 47-045-01030-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #17  
6. Yawkey-Freeman  
7. Logan, WV  
8. .8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13945  
2. 47-045-01029-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman Well #2  
6. Logan  
7. Logan, WV  
8. 1.8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13946  
2. 47-039-00991-0000  
3. 108 000 000  
4. Pennzoil Company  
5. R O Baillie #8  
6. Cabin Creek  
7. Kanawha, WV  
8. 3.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13947  
2. 47-045-00089-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #78  
6. Yawkey-Freeman  
7. Logan, WV  
8. 15.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13948  
2. 47-045-00095-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #80  
6. Logan  
7. Logan, WV  
8. 1.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13949  
2. 47-045-00102-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #85  
6. Chapmanville  
7. Logan, WV  
8. 2.7 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13950  
2. 47-045-00109-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #87  
6. Chapmanville  
7. Logan, WV  
8. 10.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13951  
2. 47-045-00113-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #89  
6. Logan

7. Logan, WV  
8. 13.5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13952  
2. 47-045-00131-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #94  
6. Yawkey-Freeman  
7. Logan, WV  
8. 3.8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13953  
2. 47-045-00780-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #108  
6. Chapmanville  
7. Logan, WV  
8. 7.2 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13954  
2. 47-085-02310-0000  
3. 108 000 000  
4. Pennzoil Company  
5. W B Morris #1  
6. Murphy District  
7. Ritchie, WV  
8. 4.6 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13955  
2. 47-039-01099-0000  
3. 108 000 000  
4. Pennzoil Company  
5. R O Baillie #10  
6. Cabin Creek  
7. Kanawha, WV  
8. .7 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13956  
2. 47-039-01100-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Chesapeake Mining Co #3  
6. Cabin Creek  
7. Kanawha, WV  
8. 2.4 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13957  
2. 47-043-00706-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman #100  
6. Yawkey-Freeman  
7. Lincoln, WV  
8. 2.3 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13958  
2. 47-043-00727-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman No. 101  
6. Yawkey-Freeman  
7. Lincoln WV  
8. 5.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13959  
2. 47-043-00745-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman No. 103  
6. Yawkey-Freeman  
7. Lincoln WV  
8. 2.4 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13960  
2. 47-045-01025-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Yawkey-Freeman No. 5  
6. Yawkey-Freeman  
7. Logan WV  
8. 1.8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13961  
2. 47-021-03336-0000  
3. 108 000 000  
4. Pennzoil Company  
5. M D Allman No. 1  
6. Troy  
7. Gilmer WV  
8. 1.1 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13962  
2. 47-017-01134-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J B Maxwell No. 2  
6. New Milton  
7. Doddridge WV  
8. 2.1 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13963  
2. 47-017-02192-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J A Bode No. 2  
6. Cove  
7. Doddridge WV  
8. .5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13964  
2. 47-017-02193-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J A Bode No. 4  
6. Cove  
7. Doddridge WV  
8. .5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13965  
2. 47-017-02194-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J A Bode No. 5  
6. Cove  
7. Doddridge WV  
8. .5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13966  
2. 47-017-02195-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J A Bode No. 6  
6. Cove  
7. Doddridge WV  
8. .5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13967  
2. 47-017-02196-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J A Bode No. 8  
6. Cove  
7. Doddridge WV  
8. .5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13968  
2. 47-017-02199-0000  
3. 108 000 000  
4. Pennzoil Company  
5. J A Bode No. 2  
6. Cove  
7. Doddridge WV  
8. .5 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13969  
2. 47-017-02201-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Connelly Heirs No. 2  
6. Cove  
7. Doddridge WV  
8. 1.3 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13970  
2. 47-017-02202-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Connelly Heirs No. 3  
6. Cove  
7. Doddridge WV  
8. 1.3 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13971  
2. 47-017-02231-0000  
3. 108 000 000  
4. Pennzoil Company  
5. Ida J Maxwell No. 2  
6. New Milton  
7. Doddridge WV  
8. 2.1 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13972  
2. 47-017-02260-0000  
3. 108 000 000  
4. Pennzoil Company  
5. S W Stout No. 6  
6. Southwest  
7. Doddridge WV  
8. .8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13973  
2. 47-017-02262-0000  
3. 108 000 000  
4. Pennzoil Company  
5. S W Stout No. 10  
6. Southwest  
7. Doddridge WV  
8. .8 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-13974

2. 47-017-02263-0000
3. 108 000 000
4. Pennzoil Company
5. S W Stout No. 34
6. Southwest
7. Doddridge WV
8. .8 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp
1. 80-13975
2. 47-017-02264-0000
3. 108 000 000
4. Pennzoil Company
5. S W Stout No. 35
6. Southwest New Milton
7. Doddridge WV
8. .8 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp
1. 80-13976
2. 47-017-02265-0000
3. 108 000 000
4. Pennzoil Company
5. S W Stout No. 42
6. Southwest New Milton
7. Doddridge WV
8. .8 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp
1. 80-13977
2. 47-017-02267-0000
3. 108 000 000
4. Pennzoil Company
5. S W Stout No. 47
6. Southwest New Milton
7. Doddridge WV
8. .8 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp
1. 80-13978
2. 47-017-02266-0000
3. 108 000 000
4. Pennzoil Company
5. S W Stout No. 45
6. Southwest New Milton
7. Doddridge WV
8. .8 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the commission's office of public information, room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission on or before March 19, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 80-8739 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

### No. 151

#### Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

February 15, 1980

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

#### Pennsylvania Department of Environmental Resources Division of Oil and Gas

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-14007/3810
2. 37-049-20809-0000
3. 103 000 000
4. Envirogas Inc
5. M Rickrode No. 1
6. North East Deep
7. Erie PA
8. 18.0 million cubic feet
9. February 4, 1980
10. National Fuel Gas Supply Corp
1. 80-13979/3385
2. 37-033-20853-0003
3. 103 000 000
4. J & J Enterprises Inc
5. H A Rorabaugh CLE-20853
6. Burnside
7. Clearfield PA
8. 3.2 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp
1. 80-13980/3386
2. 37-033-20854-0003
3. 103 000 000
4. J & J Enterprises Inc
5. H A Rorabaugh No. 2 CLE-20854
6. Burnside
7. Clearfield PA
8. 2.1 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp
1. 80-13981/3544
2. 37-049-20693-0003
3. 103 000 000
4. Envirogas Inc
5. X Meehl No. 1
6. North East
7. Erie PA
8. 18.0 million cubic feet
9. February 4, 1980
10. National Fuel Gas Supply Corp.
1. 80-13982/3545
2. 37-049-20700-0003
3. 103 000 000
4. Envirogas, Inc.
5. Clyde Burnham No. 3
6. North East
7. Erie, PA

8. 18.0 million cubic feet
9. February 4, 1980
10. National Fuel Gas Supply Corp.
1. 80-13983/3622
2. 37-049-20692-0000
3. 103 000 000
4. Envirogas, Inc.
5. Lyle Cook No. 1
6. North East
7. Erie, PA
8. 18.0 million cubic feet
9. February 4, 1980
10. National Fuel Gas Supply Corp.
1. 80-13984/3641
2. 37-063-24504-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. R & P Coal Company No. 4-221A
6. White
7. Indiana, PA
8. 21.0 million cubic feet
9. February 4, 1980
10. Columbia Gas Transmission Corp.
1. 80-13985/3642
2. 37-063-24502-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. R & P Coal Company No. 5-221A
6. White
7. Indiana, PA
8. 21.0 million cubic feet
9. February 4, 1980
10. Columbia Gas Transmission Corp.
1. 80-13986/3657
2. 37-033-20747-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. Blair S. Beatty No. 2 CLE-20747
6. Burnside
7. Clearfield, PA
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-13987/3658
2. 37-033-20533-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. Blair S. Beatty No. 1 CLE-533
6. Burnside
7. Clearfield, PA
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-13988/3659
2. 37-033-20879-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. R. Rorabaugh No. 1 CLE-20879
6. Burnside
7. Clearfield, PA
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-13989/3660
2. 37-033-20898-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. R. Rorabaugh No. 2 CLE-20898
6. Burnside
7. Clearfield, PA
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-13990/3661

2. 37-033-20889-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. Meckley Bros. No. 1 CLE-20889
6. Burnside
7. Clearfield, PA
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-13991/3662
2. 37-033-20775-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. Michael Meterko No. 1 CLE-20775
6. Burnside
7. Clearfield, PA
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-13992/3663
2. 37-033-20763-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. Theodore Solley No. 1 CLE-20763
6. Burnside
7. Clearfield, PA
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-13993/3664
2. 37-033-20774-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. E. Woodside No. 1 CLE-20774
6. Burnside
7. Clearfield, PA
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-13994/3682
2. 37-063-24775-0003
3. 103 000 000
4. Phillips Production Co.
5. David J. Vetula et ux No. 1
- 6.
7. Indiana, PA
8. 28.0 million cubic feet
9. February 4, 1980
- 10.
1. 80-13995/3683
2. 37-065-21887-0003
3. 103 000 000
4. Phillips Production Co.
5. Nick R. Monoskey et ux et al. No. 1
- 6.
7. Jefferson, PA
8. 40.0 million cubic feet
9. February 4, 1980
- 10.
1. 80-13996/3685
2. 37-063-24770-0003
3. 103 000 000
4. Phillips Production Co.
5. Arthur E. Lindenberg et ux No. 1
- 6.
7. Indiana, PA
8. 25.0 million cubic feet
9. February 4, 1980
- 10.
1. 80-13997/3717
2. 37-063-24773-0003
3. 103 000 000
4. Phillips Production Co.
5. Edward P. Avey et ux No. 1
- 6.
7. Indiana, PA
8. 75.0 million cubic feet
9. February 4, 1980
- 10.
1. 80-13998/3718
2. 37-0633-24771-0003
3. 103 000 000
4. Phillips Production Co.
5. William A. George et al #1
- 6.
7. Indiana, Pa.
8. 35.0 million cubic feet
9. February 4, 1980
- 10.
1. 80-13999/3725
2. 37-063-24774-0003
3. 103 000 000
4. Phillips Production Co.
5. Edward P. Avey et ux #2
- 6.
7. Indiana, Pa.
8. 65.0 million cubic feet
9. February 4, 1980
- 10.
1. 80-14000/3733
2. 37-063-24542-0003
3. 103 000 000
4. Phillips Production Co.
5. Frank H. Nichols et ux #1
- 6.
7. Indiana, Pa.
8. 45.0 million cubic feet
9. February 4, 1980
- 10.
1. 80-14001/3771
2. 37-049-20709-0000
3. 103 000 000
4. Envirogas Inc.
5. Donald Seymour #1
6. North East Deep
7. Erie, Pa.
8. 18.0 million cubic feet
9. February 4, 1980
10. National Fuel Gas Supply Corp.
1. 80-14002/3772
2. 37-749-20777-0003
3. 103 000 000
4. Envirogas Inc.
5. Glen Murphy #1
6. North East Deep
7. Erie, Pa.
8. 18.0 million cubic feet
9. February 4, 1980
- 10.
1. 80-14003/3788
2. 37-049-20746-0003
3. 103 000 000
4. Envirogas Inc.
5. Douglas Devore #1
6. North East Deep
7. Erie, Pa.
8. 18.0 million cubic feet
9. February 4, 1980
10. National Fuel Gas Supply Corp.
1. 80-14004/3792
2. 37-063-24132-0000
3. 103 000 000
4. J & J Enterprises, Inc.
5. Charles Snyder #1—Ind-24132
6. White
7. Indiana, Pa.
8. 20.0 million cubic feet
9. February 4, 1980
10. Columbia Gas Transmission Corp.
1. 80-14005/3793
2. 37-063-24133-0000
3. 103 000 000
4. J & J Enterprises, Inc.
5. Charles Snyder #2—Ind-24133
6. White
7. Indiana, Pa.
8. 20.0 million cubic feet
9. February 4, 1980
10. Columbia Gas Transmission Corp.
1. 80-14006/3794
2. 37-063-24136-0000
3. 103 000 000
4. J & J Enterprises, Inc.
5. Charles Snyder #3—Ind-24136
6. White
7. Indiana, Pa.
8. 20.0 million cubic feet
9. February 4, 1980
10. Columbia Gas Transmission Corp.
1. 80-14008/3887
2. 37-033-20896-0000
3. 103 000 000
4. J & J Enterprises, Inc.
5. E. E. Mitchell #B-7-20896
6. Burnside
7. Clearfield, Pa.
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14009/3888
2. 37-033-20888-0000
3. 103 000 000
4. J & J Enterprises, Inc.
5. Stephen Solits #1—20888
6. Bell
7. Clearfield, Pa.
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14010/3889
2. 37-063-21680-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. Max E. Pifer #1—21680
6. Henderson
7. Jefferson, Pa.
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-114011/3890
2. 37-063-24391-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. William Cameron #1—Ind-24391
6. Banks
7. Indiana, Pa.
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14012/3891
2. 37-063-24557-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. William Oberlin #1—Ind-24557
6. Grant
7. Indiana, Pa.
8. 20.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14013/3892
2. 37-033-20890-0003
3. 103 000 000
4. J & J Enterprises, Inc.
5. E. E. Mitchell #B-6-20890
6. Burnside

7. Clearfield, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14014/3893  
2. 37-065-21661-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Max E. Pifer #1—21661  
6. Henderson  
7. Jefferson, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14015/3920  
2. 37-049-20738-0000  
3. 103 000 000  
4. Envirogas, Inc.  
5. R. Jones #1  
6. Northeast Deep  
7. Erie, Pa.  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. National Fuel Gas Supply Corp.  
1. 80-14016/3924  
2. 37-049-20805-0003  
3. 103 000 000  
4. Envirogas, Inc.  
5. Herbert Burkett #1  
6. North East  
7. Erie, Pa.  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. National Fuel Gas Supply Corp.  
1. 80-14017/3928  
2. 37-063-23981-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Gladys B. Penrod #1—Ind-23981  
6. White  
7. Indiana, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-14018/3929  
2. 37-063-24322-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Student Coop. Assoc. Inc. #1—Ind-24322  
6. White  
7. Indiana, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-14019/3930  
2. 37-063-24323-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Student Coop. Assoc. Inc. #2—Ind-24323  
6. White  
7. Indiana, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-14020/3932  
2. 37-063-24077-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Reschini Insurance Agency #1—Ind-2  
6. White  
7. Indiana, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-14021/3998  
2. 37-123-27425-0003  
3. 102 000 000  
4. Red Leaf Oil Ltd.  
5. Warren Bartsch #1  
6. Sugar Grove  
7. Warren, Pa.  
8. 60.0 million cubic feet  
9. February 4, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-14022/3933  
2. 37-063-24282-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. St. Bernard Church #1—24282  
6. White  
7. Indiana, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-14023/3934  
2. 37-063-24711-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Donald J Burns #1—Ind-24711  
6. Montgomery  
7. Indiana, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14024/3935  
2. 37-063-24521-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. John P. Baker #1—Ind-24521  
6. Banks  
7. Indiana, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14025/3936  
2. 37-063-20893-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Mary McGee EST #B-8 CLE-20893  
6. Burnside  
7. Clearfield, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14026/3937  
2. 37-063-24804-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Lynn Shields #1 Ind-24804  
6. Banks  
7. Indiana, Pa.  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14027/3954  
2. 37-063-241040-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. William A. George et ux #1  
6.  
7. Indiana, Pa.  
8. 60.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14028/3955  
2. 37-063-23798-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. Jay T. Kissinger et al #2  
6.  
7. Indiana, Pa.  
8. 35.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14029/3956  
2. 37-063-23859-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Jay T. Kissinger, et al No. 4  
6.  
7. Indiana, PA  
8. 70.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14030/3957  
2. 37-063-23860-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Jay T. Kissinger, et al No. 5  
6.  
7. Indiana, PA  
8. 75.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14031/3958  
2. 37-063-23903-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Jennie B. Adams Estate No. 1  
6.  
7. Indiana, PA  
8. 35.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14032/3959  
2. 37-063-23904-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Jennie B. Adams Estate No. 2  
6.  
7. Indiana, PA  
8. 50.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14033/3960  
2. 37-063-23977-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Jennie B. Adams Estate No. 3  
6.  
7. Indiana, PA  
8. 50.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14034/3961  
2. 37-063-23976-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Jennie B. Adams Estate No. 4  
6.  
7. Indiana, PA  
8. 55.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14035/3962  
2. 37-063-23978-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Jennie B. Adams Estate No. 5  
6.  
7. Indiana, PA  
8. 65.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14036/3963

2. 37-063-23662-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Helen Rigely Estate No. 1  
6.  
7. Indiana, PA  
8. 50.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14037/3964  
2. 37-063-23965-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Helen Rigely Estate No. 2  
6.  
7. Indiana, PA  
8. 65.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14038/3965  
2. 37-063-23966-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Helen Rigely Estate No. 3  
6.  
7. Indiana, PA  
8. 35.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14039/3966  
2. 37-063-23967-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Helen Rigely Estate No. 4  
6.  
7. Indiana, PA  
8. 60.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14040/3999  
2. 37-065-21861-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Clarence Bowser-JEF-21861  
6. Gaskill  
7. Jefferson, PA  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14041/4000  
2. 37-033-20902-0003  
3. 103 000 000  
4. J & J Enterprises, Inc.  
5. Raymond Barrett CLE-20902  
6. Burnside  
7. Clearfield, PA  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14042/4009  
2. 37-063-24090-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. William R. Burkett et al; No. 1  
6.  
7. Indiana, PA  
8. 40.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14043/4010  
2. 37-063-24065-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. David L. Carnahan et ux No. 1  
6.  
7. Indiana, PA  
8. 45.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14044/4011  
2. 37-063-23930-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. Glenn L. Campbell No. 1  
6.  
7. Indiana, PA  
8. 50.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14045/4012  
2. 37-063-23959-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. Carl Haggerty No. 1  
6.  
7. Indiana, PA  
8. 45.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14046/4013  
2. 37-063-24135-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. William E. Donahue et ux No. 1  
6.  
7. Indiana, PA  
8. 25.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14047/4014  
2. 37-063-24907-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. Daniel R. Hauger et al No. 1  
6.  
7. Indiana, PA  
8. 45.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14048/4015  
2. 37-063-24003-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. Richard J. Patterson et ux No. 1  
6.  
7. Indiana, PA  
8. 55.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14049/4016  
2. 37-063-24946-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. Daniel R. Hauger et al No. 2  
6.  
7. Indiana, PA  
8. 25.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14050/4017  
2. 37-063-23799-0003  
3. 103 000 000  
4. Phillips Production Co.  
5. Robert E. Wissinger et ux No. 3  
6.  
7. Indiana, PA  
8. 65.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14051/4047  
2. 37-063-23058-0003  
3. 108 000 000  
4. J & J Enterprises, Inc  
5. Bratton & Long No. 1 IND-23058  
6. Banks  
7. Indiana, PA  
8. 21.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14052/4048  
2. 37-123-27430-0003  
3. 102 000 000  
4. Red Leaf Oil Ltd  
5. Ernest Hamilton No. 1  
6. Sugar Grove  
7. Warren, PA  
8. 60.0 million cubic feet  
9. February 4, 1980  
10. Columbia Gas Transmission Corp.  
1. 80-14053/4050  
2. 37-005-42328-0003  
3. 103 000 000  
4. Scott and Hussing  
5. Ruth L. Kimmel No. 124  
6. Plum Creek  
7. Armstrong, PA  
8. 35.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14054/4051  
2. 37-125-41159-0003  
3. 103 000 000  
4. Scott and Hussing  
5. Jones & Laughlin Steel Co No. 104  
6. Belle Vernon  
7. Washington, PA  
8. 20.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14055/4052  
2. 37-005-22329-0003  
3. 103 000 000  
4. Scott and Hussing  
5. Ruth L. Kimmel No. 2 No. 125  
6. Plum Creek  
7. Armstrong, PA  
8. 30.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14056/4053  
2. 37-129-41544-0003  
3. 103 000 000  
4. Scott and Hussing  
5. William H. Weimer No. 1 No. 131  
6. Saltsburg  
7. Westmoreland, PA  
8. 40.0 million cubic feet  
9. February 4, 1980  
10. Bethlehem Steel Corporation  
1. 80-14057/558  
2. 37-065-02943-0003  
3. 108 000 000  
4. J & J Enterprises, Inc  
5. First National Bank of IN JEF-943  
6. Young  
7. Jefferson, PA  
8. 8.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.  
1. 80-14058/583  
2. 37-063-22366-0003  
3. 108 000 000  
4. J & J Enterprises, Inc  
5. Josef C. Jordon No. 1 IND-2386  
6. Canoe

7. Indiana, PA  
8. 17.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14059/584  
2. 37-063-22379-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. J. C. Sunderland No. 1 Ind-2379  
6. Canoe  
7. Indiana, PA  
8. 15.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14060/586  
2. 37-063-22377-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Ralph W. Neal No. 2 Ind-2377  
6. Canoe  
7. Indiana, PA  
8. 6.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14061/588  
2. 37-063-22167-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Benjamin E. Nelson No. 1 Ind-2167  
6. Banks  
7. Indiana, PA  
8. 1.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14062/590  
2. 37-063-22351-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Prothero Heirs No. 1 (150A) Ind-2351  
6. Banks  
7. Indiana, PA  
8. 1.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14063/591  
2. 37-063-22395-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Prothero Heirs No. 2 (150A) Ind-2395  
6. Banks  
7. Indiana, PA  
8. 1.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14064/592  
2. 37-063-22350-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Prothero Heirs (17A) No. 1 Ind-2350  
6. Banks  
7. Indiana, PA  
8. 1.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14065/594  
2. 37-063-22166-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. George Watson No. 1 Ind-2166  
6. Banks  
7. Indiana, PA  
8. 1.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14066/595

2. 37-063-22352-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Josephine Tyger No. 1 Ind-2352  
6. Canoe  
7. Indiana, PA  
8. 11.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14067/596  
2. 37-063-20534-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Viola Shadle No. 1 CLE-534  
6. Burnside  
7. Clearfield, PA  
8. 9.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14068/597  
2. 37-033-20525-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Robert Rorabaugh No. 1 CLE-525  
6. Burnside  
7. Clearfield, PA  
8. 3.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14069/598  
2. 37-033-20531-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Lovella W. Weaver No. 1 CLE-531  
6. Bell  
7. Clearfield, PA  
8. 2.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14070/599  
2. 37-063-22385-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. E. Blaine Wright No. 2 Ind-2385  
6. Canoe  
7. Indiana, PA  
8. 10.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14071/600  
2. 37-063-22319-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Royal Oil & Gas No. 2 (100A) Ind-2319  
6. Banks  
7. Indiana, PA  
8. 13.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14072/601  
2. 37-063-22086-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. George Kinsler No. 1 Ind-2086  
6. Canoe  
7. Indiana, PA  
8. 9.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14073/602  
2. 37-063-21447-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. E. Blaine Wright No. 3 Ind-1447  
6. Canoe

7. Indiana, PA  
8. 1.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14074/639  
2. 37-063-22804-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Lynn Shields No. 1 TR 1 Ind-22804  
6. Banks  
7. Indiana, PA  
8. 3.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14075/640  
2. 37-063-22860-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Revere & Tom Blose No. 1 Ind-22000  
6. Montgomery  
7. Indiana, PA  
8. 4.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14076/641  
2. 37-063-22811-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. B. D. Houllian No. 3 148A Ind-22811  
6. Banks  
7. Indiana, PA  
8. 10.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14077/642  
2. 37-063-22816-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. B. D. Houllian 60A Ind-22810  
6. Canoe  
7. Indiana, PA  
8. 8.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14078/643  
2. 37-063-22912-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. H. McCartney No. 1 Ind-22912  
6. Montgomery  
7. Indiana, PA  
8. 2.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14079/644  
2. 37-063-22809-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. B. D. Houllian No. 1-148A Ind-22809  
6. Banks  
7. Indiana, PA  
8. 14.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14080/645  
2. 37-063-22781-0003  
3. 108 000 000  
4. J & J Enterprises, Inc.  
5. Jean Painter No. 1 Ind-22781  
6. Canoe  
7. Indiana, PA  
8. 5.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp.

1. 80-14081/646

2. 37-063-22793-0003
3. 108 000 000
4. J & J Enterprises, Inc.
5. Buterbaugh Bros. No. 1 Ind-22793
6. Banks
7. Indiana, PA
8. 10.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14082/647
2. 37-063-22744-0003
3. 108 000 000
4. J & J Enterprises, Inc.
5. Boyd Neal No. 1 Ind-22744
6. Banks
7. Indiana, PA
8. 6.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14083/648
2. 37-063-22802-0003
3. 108 000 000
4. J & J Enterprises, Inc.
5. E. O'Hara No. 1 77A Ind-22802
6. Banks
7. Indiana, PA
8. 1.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14084/649
2. 37-063-22801-0003
3. 108 000 000
4. J & J Enterprises, Inc.
5. E. O'Hara No. 1 55A Ind-22801
6. Banks
7. Indiana, PA
8. 8.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14085/650
2. 37-063-22838-0003
3. 108 000 000
4. J & J Enterprises, Inc.
5. Linnie Gromley No. 1 Ind-22838
6. Montgomery
7. Indiana, PA
8. 2.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14086/651
2. 37-063-22707-0003
3. 108 000 000
4. J & J Enterprises, Inc.
5. J. P. Prushnock No. 1-110A Ind-22707
6. Montgomery
7. Indiana, PA
8. 2.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14087/652
2. 37-063-22911-0003
3. 108 000 000
4. J & J Enterprises, Inc.
5. V. Conners-Irwin Shaffer 1 Ind-22911
6. Montgomery
7. Indiana, PA
8. 6.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14088/653
2. 37-063-22875-0003
3. 108 000 000
4. J & J Enterprises, Inc.
5. F. E. Blose-R. Blose No. 1 Ind-22885
6. Montgomery
7. Indiana, PA
8. 12.0 million cubic feet
9. February 4, 1980
10. Consolidated Gas Supply Corp.
1. 80-14089/654
2. 37-063-22861-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Arcadia-Pennington #1 Ind-22861
6. Montgomery
7. Indiana PA
8. 2.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14090/655
2. 37-063-22862-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Leroy Conner #1 Ind-22862
6. Montgomery
7. Indiana PA
8. 3.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14091/656
2. 37-063-22863-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Elmer Trimble #1 Ind-22863
6. Montgomery
7. Indiana PA
8. 1.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14092/657
2. 37-063-22724-0003
3. 108 000 000
4. J & J Enterprises Inc
5. L M Shields #1 Ind-22724
6. Banks
7. Indiana PA
8. 3.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14093/658
2. 37-063-22725-0003
3. 108 000 000
4. J & J Enterprises Inc
5. J A Fisher #1 Ind-22725
6. Banks
7. Indiana PA
8. 2.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14094/659
2. 37-063-22926-0003
3. 108 000 000
4. J & J Enterprises Inc
5. K Yanity #1 Ind-22926
6. Grant
7. Indiana PA
8. 10.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14095/660
2. 37-063-23074-0000
3. 108 000 000
4. J & J Enterprises Inc
5. Boyzy King #1 Ind-23074
6. Grant
7. Indiana PA
8. 13.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14096/661
2. 37-063-23060-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Boyzy King #2 Ind-23060
6. Grant
7. Indiana PA
8. 13.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14097/662
2. 37-063-23203-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Boyzy King #3 Ind-23203
6. Grant
7. Indiana PA
8. 13.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14098/663
2. 37-063-23150-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Earl Rickard #1 Ind-23150
6. Grant
7. Indiana PA
8. 6.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14099/664
2. 37-063-23151-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Earl Rickard #2 Ind-23151
6. Grant
7. Indiana PA
8. 6.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14100/665
2. 37-063-23152-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Earl Rickard #3 Ind-23152
6. Grant
7. Indiana PA
8. 6.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14101/666
2. 37-063-23041-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Maria Cicero #1 Ind-23041
6. Grant
7. Indiana PA
8. 3.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14102/667
2. 37-063-23050-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Maria Cicero #2 Ind-23050
6. Grant
7. Indiana PA
8. 3.0 million cubic feet
9. February 4, 1980.
10. Consolidated Gas Supply Corp
1. 80-14103/668
2. 37-063-23051-0003
3. 108 000 000
4. J & J Enterprises Inc
5. Maria Cicero #3 Ind-23051
6. Grant

7. Indiana PA  
8. 3.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14104/669  
2. 37-063-23036-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Ralph Roth #1 Ind-23036  
6. Grant  
7. Indiana PA  
8. 3.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14105/670  
2. 37-063-22879-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Ken Orr #1 Ind-22879  
6. Grant  
7. Indiana PA  
8. 5.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14106/671  
2. 37-063-22910-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Raymond Schrack #1 Ind-22910  
6. Grant  
7. Indiana PA  
8. 3.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14107/672  
2. 37-063-22836-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. W E Goss #2 50A-TR #2 Ind-22836  
6. Grant  
7. Indiana PA  
8. 18.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14108/673  
2. 37-063-23033-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Woodrow Schrock #2 Ind-23033  
6. Grant  
7. Indiana PA  
8. 8.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14109/674  
2. 37-063-23024-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Chas McCormick #1 Ind-23024  
6. Grant  
7. Indiana PA  
8. 4.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14110/675  
2. 37-063-23029-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Woodrow Schrock #1 Ind-23029  
6. Grant  
7. Indiana PA  
8. 9.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14111/676  
2. 37-063-23030-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Woodrow Schrock #3 Ind-23030  
6. Grant  
7. Indiana PA  
8. 9.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14112/677  
2. 37-063-23071-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Meade Spencer #1 Ind-23071  
6. Banks  
7. Indiana PA  
8. 6.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14113/678  
2. 37-063-23191-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Earl G Pifer #1 (105A) Ind-23191  
6. Grant  
7. Indiana PA  
8. 1.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14114/679  
2. 37-063-22803-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Merle Cary #2 Ind-22803  
6. Banks  
7. Indiana PA  
8. 5.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14115/680  
2. 37-063-23249-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Duane Neal #1 Ind-23249  
6. Banks  
7. Indiana PA  
8. 9.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14116/681  
2. 37-063-23250-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Duane Neal #2 Ind-23250  
6. Banks  
7. Indiana PA  
8. 9.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14117/682  
2. 37-063-23019-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. D W Oberlin #1 Ind-23019  
6. Grant  
7. Indiana PA  
8. 4.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14118/683  
2. 37-063-23326-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Earl A Rickard #1-19A Ind-23326  
6. Grant
7. Indiana PA  
8. 5.0 million cubic feet  
9. February 4, 1980.  
10. Consolidated Gas Supply Corp  
1. 80-14119/684  
2. 37-063-23047-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. O B Bair #1 Ind-23047  
6. Grant  
7. Indiana PA  
8. 5.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14120/685  
2. 37-063-23049-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. O B Bair #2 Ind-23049  
6. Grant  
7. Indiana PA  
8. 5.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14121/685  
2. 37-063-22993-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Mary Mullen #1 TR-2 Ind-22993  
6. Banks  
7. Indiana PA  
8. 7.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14122/687  
2. 37-063-23322-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Foster Blose #1 Ind-23322  
6. Montgomery  
7. Indiana PA  
8. 7.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14123/688  
2. 37-063-23224-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Earl Trimble #1 Ind-23224  
6. Montgomery  
7. Indiana PA  
8. 2.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14124/689  
2. 37-063-23016-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Paul Adams #1 Ind-23016  
6. Grant  
7. Indiana PA  
8. 3.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14125/690  
2. 37-063-23070-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Samuel Matechen #1 Ind-23070  
6. Banks  
7. Indiana PA  
8. 8.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14126/691

2. 37-063-22731-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. H E Brickell #1 Ind-22731  
6. Banks  
7. Indiana PA  
8. 1.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14127/692  
2. 37-063-23184-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Carlton States #1 Ind-23184  
6. Canoe  
7. Indiana PA  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14128/693  
2. 37-063-22976-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. American Trust & Trans #1 Ind-22976  
6. Montgomery  
7. Indiana PA  
8. 2.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14129/694  
2. 37-063-23223-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Elsie Olp #1 Ind-23223  
6. Grant  
7. Indiana PA  
8. 2.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14130/695  
2. 37-063-22764-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. W E Gross #1 50A-TR2 Ind-22764  
6. Grant  
7. Indiana PA  
8. 9.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14131/696  
2. 37-063-23366-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. J Lon Winebark Ind-23366  
6. Canoe  
7. Indiana PA  
8. 8.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14132/697  
2. 37-063-23451-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. V Hill #1 (FrmInd Ent) \*Ind-23451  
6. Canoe  
7. Indiana PA  
8. 5.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14133/698  
2. 37-063-23410-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Wasyle Lawer #1 Ind-23410  
6. Banks
7. Indiana PA  
8. 4.0 million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14134/699  
2. 37-063-23503-0003  
3. 108 000 000  
4. J & J Enterprises Inc  
5. Wasyle Lawer #2 Ind-23503  
6. Banks  
7. Indiana PA  
8. 4.0-million cubic feet  
9. February 4, 1980  
10. Consolidated Gas Supply Corp  
1. 80-14135/1889  
2. 37-049-20641-0003  
3. 103 000 000  
4. Envirogas Inc  
5. William Allen #1  
6. North East  
7. Erie PA  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. National Fuel Gas Supply Corp  
1. 80-14136/1890  
2. 37-049-20654-0003  
3. 103 000 000  
4. Envirogas Inc  
5. Charles Johnston #1  
6. North East  
7. Erie PA  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. National Fuel Gas Supply Corp  
1. 80-14137/1891  
2. 37-049-20592-0003  
3. 103 000 000  
4. Envirogas Inc  
5. Warren Lechtner #1  
6. North East  
7. Erie PA  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. National Fuel Gas Supply Corp  
1. 80-14138/1892  
2. 37-049-20636-0003  
3. 103 000 000  
4. Envirogas Inc  
5. Richard Meehl #1  
6. North East  
7. Erie PA  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. National Fuel Gas Supply Corp  
1. 80-14139/1893  
2. 37-049-20556-0003  
3. 103 000 000  
4. Envirogas Inc  
5. North East Township #1  
6. North East  
7. Erie PA  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. National Fuel Gas Supply Corp  
1. 80-14140/1894  
2. 37-049-20642-0003  
3. 103 000 000  
4. Envirogas Inc  
5. G R Orton #1  
6. North East  
7. Erie PA  
8. 18.0 million cubic feet  
9. February 4, 1980  
10. National Fuel Gas Supply Corp  
1. 80-14141/2181
2. 37-063-24460-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Helen McCormick #1  
6.  
7. Indiana PA  
8. 30.0 million cubic feet  
9. February 4, 1980  
10.  
1. 80-14142/2211  
2. 37-033-20704-0003  
3. 103 000 000  
4. Phillips Production Co  
5. William D Hoch ET UX #1  
6.  
7. Clearfield PA  
8. 30.0 million cubic feet  
9. February 4, 1980  
10.  
1. 80-14143/2212  
2. 37-033-20789-0003  
3. 103 000 000  
4. Phillips Production Co  
5. William I Hoch ET UX #1  
6.  
7. Clearfield PA  
8. 30.0 million cubic feet  
9. February 4, 1980  
10.  
1. 80-14144/2213  
2. 37-033-20828-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Wilson S Hoyt ET AL #1  
6.  
7. Clearfield PA  
8. 27.0 million cubic feet  
9. February 4, 1980  
10.  
1. 80-14145/2214  
2. 37-063-24345-0003  
3. 103 000 000  
4. Phillips Production Co  
5. William D McConnell Jr ET UX #1  
6.  
7. Indiana PA  
8. 50.0 million cubic feet  
9. February 4, 1980  
10.  
1. 80-14146/2215  
2. 37-063-24337-0003  
3. 103 000 000  
4. Phillips Production Co  
5. Warren R Zundel ET UX #1  
6.  
7. Indiana PA  
8. 27.0 million cubic feet  
9. February 4, 1980  
10.  
1. 80-14147/2216  
2. 37-063-24406-0003  
3. 103 000 000  
4. Phillips Production Co  
5. John D Bruce ET UX #1  
6.  
7. Indiana PA  
8. 27.0 million cubic feet  
9. February 4, 1980  
10.  
1. 80-14148/2217  
2. 37-063-24033-0003  
3. 103 000 000  
4. Phillips Production Co  
5. John L Weston ET UX #1  
6.

7. Indiana PA  
 8. 27.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14149/2218  
 2. 37-063-24440-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Olive C Stuhell et al No. 1  
 6.  
 7. Indiana, Pa  
 8. 27.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14150/2219  
 2. 37-063-24438-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Charles S Beatty et ux No. 1  
 6.  
 7. Indiana, Pa  
 8. 40.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14151/2220  
 2. 37-063-24437-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Helen R Peles No. 1  
 6.  
 7. Indiana, Pa  
 8. 40.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14152/2221  
 2. 37-063-24492-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. James P McConnell No. 1  
 6.  
 7. Indiana, Pa  
 8. 24.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14153/2222  
 2. 37-063-24528-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. W S Black et al No. 1  
 6.  
 7. Indiana, Pa  
 8. 35.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14154/2223  
 2. 37-063-24531-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Max M Lloyd No. 1  
 6.  
 7. Indiana, Pa  
 8. 40.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14155/2224  
 2. 37-063-24288-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Helen L Braugler No. 1  
 6.  
 7. Indiana, Pa  
 8. 30.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14156/2784

2. 37-063-24554-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Russell P Olson Jr et ux No. 1  
 6.  
 7. Indiana, Pa  
 8. 40.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14157/3214  
 2. 37-063-24538-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Frank W Clawson and Lous Emanuel No.  
 6.  
 7. Indiana, Pa  
 8. 40.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14158/3328  
 2. 37-065-21850-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Joseph Ferrara et al No. 1  
 6.  
 7. Jefferson, Pa  
 8. 60.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14159/3329  
 2. 37-065-21775-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Emmi M Guantz No. 1  
 6.  
 7. Jefferson and Indiana, Pa  
 8. 27.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14160/3331  
 2. 37-063-24541-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. W S Black et al No. 1  
 6.  
 7. Indiana, Pa  
 8. 50.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14161/3332  
 2. 37-063-24684-0003  
 3. 103 000 000  
 4. Phillips Production Co  
 5. Rev C C Vanleer Agt No. 1  
 6.  
 7. Indiana, Pa  
 8. 30.0 million cubic feet  
 9. February 4, 1980  
 10.  
 1. 80-14162/3333  
 2. 37-049-20572-0003  
 3. 103 000 000  
 4. Envirogas Inc  
 5. John Johnson No. 1  
 6. Erie Deep  
 7. Erie, Pa  
 8. 18.0 million cubic feet  
 9. February 4, 1980  
 10. National Fuel Gas Supply Corp  
 1. 80-14163/3382  
 2. 37-065-21728-0003  
 3. 103 000 000  
 4. J & J Enterprises Inc

5. A Lee Reitz No. 1 Jef-21728  
 6. Beaver  
 7. Jefferson, Pa  
 8. 18.0 million cubic feet  
 9. February 4, 1980  
 10. National Fuel Gas Supply Corp  
 1. 80-14164/3383  
 2. 37-065-21729-0003  
 3. 103 000 000  
 4. J & J Enterprises Inc  
 5. E M Reitz No. 1 Jef-21729  
 6. Beaver  
 7. Jefferson, Pa  
 8. 18.0 million cubic feet  
 9. February 4, 1980  
 10. National Fuel Gas Supply Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before March 19, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb  
 Secretary.

[FR Doc. 80-6751 Filed 3-3-80; 6:45 am]  
 BILLING CODE 6450-85-M

[Docket No. CP79-166]

### El Paso Natural Gas Co., Petition To Amend

February 28, 1980.

Take notice that on February 6, 1980, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-166 a petition to amend the order issued July 18, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the establishment of certain additional points of receipt located in Dewey County, Oklahoma, to be used for the delivery of natural gas to Petitioner by Michucan Wisconsin Pipe Line Company (Mich Wis), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that, by order issued July 18, 1979, at Docket Nos. CP79-166, *et al.*, Petitioner was authorized to exchange with Mich Wis volumes of natural gas

from the Lincoln Road area in Wyoming for gas volumes underlying High Island Block A-309 (Block A-309), located in the East Addition, High Island Area South Extension, Federal Domain, offshore Texas. It is stated that such natural gas volumes would be exchanged only in the event that Block A-309 natural gas volumes exceed those volumes that Mich Wis would have available from the Creston Nose area of Wyoming. It is further stated that the exchange of Lincoln Road and Block A-309 gas would be accomplished pursuant to the terms and conditions of the Lincoln Road gas exchange agreement (Lincoln Road agreement) between Petitioner and Mich Wis dated December 20, 1978.

Petitioner states that it is presently receiving 1,500 Mcf of natural gas per day for Mich Wis's account at an authorized point of receipt located in LaPlata County, Colorado, attributable to both the Creston Nose and Lincoln Road areas of Wyoming. It is stated that such volumes are considerably less than the volume of 7,000 Mcf per day which is attributable to Petitioner's interest in gas produced from Block A-309 and is available for exchange with Mich Wis.

It is further stated that, in order to assist the parties in eliminating any imbalance in deliveries under the authorized exchange arrangement, the parties have entered into an amendment to the Lincoln Road gas exchange agreement dated January 9, 1980, which agreement provides for the establishment of certain additional points of receipt by Petitioner from Mich Wis under the exchange agreement.

It is stated that, pursuant to the amended agreement, when Petitioner has quantities of natural gas available for it in excess of those volumes to be available to Mich Wis from the Lincoln Road area of Wyoming, then Mich Wis would deliver to Petitioner, as necessary, at Receipt Point Nos. 2 through 7 located in LaPlata County, Colorado, and Dewey County, Oklahoma, and would accept at such points of receipt, a volume of natural gas, equivalent on a million Btu basis, to the volume of natural gas received by Mich Wis from Petitioner for exchange in excess of the volume received by Petitioner for Mich Wis's account from the Creston Nose and Lincoln Road areas.

Petitioner states that the exchange agreement would continue as a gas-for-gas exchange between the parties. It is stated that Receipt Point Nos. 2 through 7 consist of six wells which are presently split-connected to Petitioner's and Mich Wis's respective gathering systems. Petitioner asserts that the

quantity of gas available for delivery by Mich Wis to Petitioner at the new receipt points is estimated to be sufficient to balance deliveries from Block A-309 in excess of volumes available from the Creston Nose and Lincoln Road areas of Wyoming. It is further stated that Mich Wis presently receives approximately 10,551 Mcf per day as its portion of the production attributable to the six wells.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6721 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket Nos. G-9262, G-18338, and CP70-104]

#### Florida Gas Transmission Co.; Petition To Amend

February 28, 1980.

Take notice that on February 8, 1980, Florida Gas Transmission Company (Petitioner), P.O. Box 44, Winter Park, Florida 32790, filed in Docket Nos. G-9262, G-18338 and CP70-104 a petition to amend the orders<sup>1</sup> issued December 28, 1956, August 9, 1961, and February 17, 1972, in said dockets, respectively, pursuant to Section 7(c) of the Natural Gas Act in the instant dockets, so as to authorize the extension of the terms of Petitioner's service agreement transferred from Florida Gas Company (FGC) to Peoples Gas Company (Peoples), and the extension of the terms of Petitioner's service agreements of Peoples' East and West Coast divisions to July 1, 1999, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

<sup>1</sup> This proceeding was commenced before the FGC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

It is stated that on July 2, 1979, FGC and Peoples executed a sale and purchase agreement pursuant to which FGC sold and Peoples acquired FGC's service agreements with Petitioner. Petitioner proposes the extension of said service agreements to July 1, 1999, and from year-to-year thereafter. It is stated that the sales to Peoples under the assigned service agreements would be made on the same basis as with FGC with no change being made in the volumetric entitlements under the assigned service agreements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6722 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. RA80-8]

#### Gold Key Shell; Filing of Petition for Review

Issued February 26, 1980.

Take notice that Gold Key Shell on January 15, 1980, as supplemented on February 19, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before March 14, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate must file a petition to

intervene. Such a petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 80-6754 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP78-391, etc.]

**Great Plains Gasification Associates, et al., Conference**

Issued February 26, 1980.

Notice is hereby given that a staff conference will be held in this proceeding on Monday, March 3, 1980, at 2:00 p.m. to discuss the tracking provisions proposed for inclusion in the tariffs of the pipeline companies that will purchase the synthetic gas produced by this project.

This conference is in addition to the previously announced conference to be held on Tuesday, March 4, 1980, which will commence at 10:00 a.m.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 80-6755 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. ES80-31]

**Gulf States Utilities Co., Application**

February 26, 1980.

Take notice that on February 15, 1980, Gulf States Utilities Company (Applicant), a Texas corporation qualified to transact business in the states of Louisiana and Texas, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order authorizing the issuance of unsecured promissory notes to banks in an aggregate principal amount not to exceed \$200,000,000 at any one time outstanding under a revolving standby loan agreement. Under the Loan Agreement, Applicant is to have the right to draw funds up to the aggregate amount prior to August 15, 1982, and will be obligated to repay the Loans in full by February 15, 1987.

Proceeds from the notes are to be used, among other things, to provide part of the funds for current construction

expenditures made and to be made by Applicant.

Any person desiring to be heard or to make any protest with reference to this application should, on or before March 14, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb  
*Secretary.*

[FR Doc. 80-6756 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. ES80-21]

**Gulf States Utilities Co., Supplemental Application**

February 26, 1980.

Take notice that on February 25, 1980, Gulf States Utilities Company (Applicant) filed an amendment to its application in Docket No. ES80-21 seeking permission to negotiate its proposed sale of up to \$100,000,000 of First Mortgage Bonds.

Applicant is incorporated under the laws of Texas with its principal business office in Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural Gas is purchased at wholesale and distributed at retail in the City of Baton Rouge and vicinity.

Any person desiring to be heard or to make any protest with reference to such application should on or before March 7, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

Kenneth F. Plumb  
*Secretary.*

[FR Doc. 80-6757 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Project No. 2911]

**Ketchikan Public Utilities; Extending Deadline for Comment on Staff Draft Environmental Impact Statement**

February 11, 1980.

On January 17, 1980, the State of Alaska filed a request for an extension of time in submitting its comments on the staff's Draft Environmental Impact Statement (DEIS) prepared in this proceeding. The State indicates, among other things, that roughly half of the 45-

day comment period had elapsed by the time it received the DEIS. For good cause shown, the deadline for the State of Alaska's submission of comments on the DEIS is extended to February 12, 1980.

Lois D. Cashell,  
*Acting Secretary.*

[FR Doc. 80-6723 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. ES80-32]

**Idaho Power Co., Application**

February 26, 1980

Take notice that on February 15, 1980, Idaho Power Company (Applicant), a corporation organized under the laws of the State of Maine, and qualified to transact business in the states of Idaho, Oregon, Nevada and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order authorizing the issuance of up to 500,000 shares of its Common Stock, par value of \$5.00 per share, pursuant to the Applicant's Dividend Reinvestment and Stock Purchase Plan.

If approved by the appropriate regulatory agencies the Common Stock will be reserved for issuance pursuant to the Dividend Reinvestment and Stock Purchase Plan. The net proceeds from the issuance and sale of the Common Stock are to be used for the Applicant's continuing construction program, which may include the repayment of short-term borrowings incurred for that purpose.

Any person desiring to be heard or to make any protest with reference to said application, should, on or before March 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 80-6758 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. ES80-30]

**Iowa Public Service Co., Application**

February 26, 1980.

Take notice that on February 14, 1980, Iowa Public Service Company (the "Company") filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the

issuance of (a) up to 175,000 shares of Common Stock (par value \$5 per share) in connection with the Company's Dividend Reinvestment and Stock Purchase Plan, as amended (the "DRP"), and (b) up to 110,000 shares of Common Stock (par value \$5 per share) in connection with the operation of the Employees' Stock Ownership Plan of Iowa Public Service Company and Participating Subsidiaries, as amended (the "ESOP"), and the related Employees' Stock Ownership Trust of Iowa Public Service Company and Participating Subsidiaries, as amended (the "Trust").

The Company is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

The Company proposes to use the proceeds from the issuance of the Common Stock to secure funds for construction purposes, to reduce short-term loans, if any, incurred and to be incurred prior to the sales of the Common Stock to secure funds for construction purposes or for other lawful corporate purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available to public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6759 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP80-230]

**Mid Louisiana Gas Co.; Application**

February 26, 1980.

Take notice that on February 7, 1980,<sup>1</sup> Mid Louisiana Gas Company (Applicant), 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP80-230 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's

<sup>1</sup>The application was initially tendered for filing on February 7, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until February 8, 1980; thus, the filing was not completed until the later date.

Regulations for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6760 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. RP80-23]

**Midwestern Gas Transmission Co.;  
Tariff Filing Pursuant to Order No. 49-A**

February 26, 1980.

Take notice that on February 20, 1980, Midwestern Gas Transmission Company (Midwestern), tendered for filing tariff sheets to its FERC Gas Tariff, to be effective December 1, 1979, consisting of the following:

*Third Revised Volume No. 1*

Original Sheet No. 86A

Substitute Original Sheet Nos. 95J, 95K and 95L

Substitute Third Revised Sheet No. 79

Substitute Fourth Revised Sheet No. 83

Fourth Revised Sheet No. 87

Substitute Fifth Revised Sheet Nos. 80, 81 and 84

Second Substitute Fifth Revised Sheet Nos. 82 and 86

Substitute Sixth Revised Sheet No. 85

Midwestern states that these tariff sheets reflect revisions to its previous filing of November 1, 1979 in this docket resulting from the Commission's Order No. 49-A. Midwestern states that it has requested the Commission to make effective on December 1, 1979 those tariff sheets filed on November 1, 1979 and conditionally accepted by the November 30, 1979 order which did not require revision.

Midwestern states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1980. 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6761 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP80-245]

**Mississippi River Transmission Corp.;  
Application**

February 28, 1980.

Take notice that on February 19, 1980, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP80-245 an application pursuant to section 7(b) of the Natural Gas Act and Section 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon, for the twelve month period commencing June 7, 1980, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales, measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission

by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-6724 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-232]

**National Fuel Gas Supply Corp.;  
Application**

February 28, 1980.

Take notice that on February 8, 1980, National Fuel Gas Supply Corporation (Applicant), 308 Seneca Street, Oil City, Pennsylvania 16301, filed in Docket No. CP80-232 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to certain customer, part of which would be resold to National Gas Storage Corporation (Storage Corporation) for use as base storage gas and part of which would be used in system supply, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to sell up to 3,244,340 Mcf of natural gas to certain customers, of which 1,419,340 Mcf would be immediately resold by such customers to Storage Corporation for use as base gas, and 1,825,000 Mcf would be used by the customers in their system gas supply. Applicant states it would make such sales on an interruptible basis under service agreements entered into pursuant to its Rate Schedule I-1, which rate would be equal to the rate per Mcf charged under its Rate Schedule G-1 at the time of delivery. It is further stated that maximum daily delivery quantities for base gas and fuel may be exceeded upon request by the customer.

Applicant states that the total volume under each agreement is expected to be sold between April 1, 1980, and October 31, 1980; however, Applicant seeks authorization to extend this period through March 31, 1981, to permit completion of such sales should injection conditions preclude completion as scheduled and surplus volumes continue to be available for sale.

Applicant proposes to make the following sales:

(Million cubic feet)			
Customer	Total base gas	Daily base gas	Total top gas
The Connecticut Gas Company .....	427,450	2,137	.....
Delmarva Power & Light Company .....	213,210	1,066	325,000
Elizabethtown Gas Company .....			1,500,000
Fitchburg Gas & Electric Light Company .....	14,420	72	.....
Gas Service, Inc. ....	58,850	283	.....
Haverhill Gas Company .....	99,910	500	.....
Lowell Gas Company .....	569,590	2,040	.....
Manchester Gas Company .....	38,110	191	.....
Total .....	1,419,340	7,097	1,825,000

Applicant further proposes to transport the base gas to Storage Corporation with delivery near Ellisburg, Pennsylvania. It is further stated there would be no separate charge for transportation.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 20, 1980, file with the Federal Energy Regulation Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the

certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6725 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP76-492]

**National Fuel Gas Supply Corp. and  
National Gas Storage Corp.;  
Amendment To Application**

February 28, 1980.

Take notice that on February 8, 1980, National Fuel Gas Supply Corporation (Supply), 308 Seneca Street, Oil City, Pennsylvania 16301, and National Gas Storage Corporation (Storage), 10 Lafayette Square, Buffalo, New York 14203, filed Docket No. CP76-492 pursuant to Section 7(c) of the Natural Gas Act, a further amendment to their application filed August 20, 1976,<sup>1</sup> as amended, in the instant docket so as to revise the proposed long-term storage service to render an additional 100,000 Mcf of limited term storage service during the period of April 1, 1981, through March 31, 1982, through their existing facilities to meet the needs of Storage arising from the service to an additional customer, Gas Service, Inc. (Gas Service), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants, in an amendment filed September 19, 1979, proposed to render storage service during the 1980-81 storage year to seven customers in an aggregate amount of 9,150,000 Mcf top gas storage capacity and also proposed to render storage service in the 1981-82 storage year to 17 customers (including those served in 1980-81) in an aggregate amount of 15,771,620 Mcf annual storage quantity. Applicants further proposed that Supply render up to 7,850,000 Mcf of best efforts underground storage service to Storage during the period 1980-81 and up to 6,171,620 Mcf during the period 1981-82. It was stated that this service would enable Storage to meet customer requirements in excess of available capacity in Storage's facilities and

thereby permit rendering the amount of service proposed.

Applicants further propose herein to increase the storage capacity to be leased by Storage from Supply during 1981-82 from 6,171,620 Mcf to 6,271,620 Mcf on a best-efforts basis in order to meet increased customer needs caused by the addition of storage service for Gas Service in that year. Applicants state the terms and conditions of service to be rendered to Gas Service would be identical to those set forth previously.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6726 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP79-212]

**National Gas Storage Corp.;  
Amendment To Application**

February 28, 1980.

Take notice that on February 8, 1980, National Gas Storage Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP79-212 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application dated March 9, 1979, in the instant docket so as to revise the proposed underground storage service to provide long-term underground storage service for Gas Service, Inc. (Gas Service), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that by adding Gas Service as a gas storage customer, its total number of customers would be raised to eight and corresponding maximum aggregate amount of top gas capacity would be raised to 3,521,620 Mcf in the storage year April 1, 1981,

through March 31, 1982, and to 3,761,620 Mcf in the storage year beginning April 1, 1982, and thereafter. Applicant states that Gas Service's annual storage quantity would be 100,000 Mcf for the 1982 storage year and 200,000 Mcf for the 1982-83 storage year and thereafter. The maximum daily injection volume would be 500 Mcf for the 1981-82 storage year and 1,333 Mcf for the 1982-83 year and thereafter, and the maximum daily withdrawal volume would be 667 Mcf for the 1981-82 storage year and 1,818 Mcf for the 1982 and thereafter, it is stated. It is asserted that the proposed service to be rendered to Gas Service and other customers would be through the facilities of Applicant as proposed in Docket No. CP76-492, *et al.* as supplemented during the 1980-81 storage year by facilities of National Fuel Gas Supply Corporation.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6727 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP80-135]

**Northern Natural Gas Co.; Amendment  
To Application**

February 28, 1980.

Take notice that on February 15, 1980, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-135 an amendment to its application in the instant docket pursuant to Section 7(c) of the Natural Gas Act, so as 1) to reflect the transportation and sale of increased seasonal service demand volumes to its customers purchasing gas under its Rate Schedule PL-1; 2) to reflect a minor change in the proposed increase in SS-1

<sup>1</sup> This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

service to Applicant's CD-1 customers; and 3) to reflect the minor changes in facilities necessary to accommodate the delivery of the proposed increase in peaking service, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that, subsequent to its original filing for the peak day expansion, discussions were held with those customers who purchase natural gas under Applicant's Rate Schedule PL-1 concerning their need for additional SS-1 volumes to serve only Priority 1 customers. It is stated that, as a result of these discussions, the customers have requested and Applicant has agreed to provide to its PL-1 customers a daily increase of 19,300 Mcf of seasonal service demand. Applicant states that, in addition to the volumes for the PL-1 customers, it has received requests from three of its CD-1 customers for minor changes in their proposed SS-1 volumes. It is stated that the net effect of the changes requested by the CD-1 customers would be a reduction of 500 Mcf per day of SS-1 volumes. It is further stated that CD-1 customers and PL-1 customers have jointly requested a total increase of 258,646 Mcf per day of seasonal service demand for the 1980-81 heating season.

Applicant states that the facilities requested to be constructed and operated in order to accommodate the delivery of the proposed increased seasonal service demand volumes would be three compressor stations totaling 7,530 horsepower, 65 miles of 4-inch through 8-inch branchline loops, measurement facilities, and appurtenances at an estimated cost of \$15,350,800. It is stated that the minor change in total horsepower is the result of a change in the proposed back-up horsepower to be installed at the Wakefield (Michigan) Compressor Station from one 2,250 horsepower reciprocating compressor unit to two 1,140 horsepower turbine driven compressor units. Applicant states that, in addition, the proposed location of the proposed Wakefield Compressor Station has been moved approximately one mile west to Section 6. It was also determined that the proposed Millard Branch Line Loop was not required.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or

1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again. Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 80-6728 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP80-237]

#### Northern Natural Gas Co., Application

February 28, 1980.

Take notice that on February 11, 1980, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-237 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for a twelve-month period commencing with the date an order is issued in this proceeding, various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment under § 157.7(g) would not exceed \$3,000,000, and no single project would exceed \$500,000. Applicant also states that the cost of said facilities would be financed from cash on hand and from funds generated through operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or

1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing there in must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 80-6729 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. ER79-616]

#### Northern States Power Co., Minn., and Northern States Power Co., Wis.; Order Denying Motion To Dismiss and Granting Request for Joint Conference

February 21, 1980.

This proceeding involves in Amendment to Coordinating Agreement filed by Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin). The Amendment confirms that, purportedly in accordance with Article 7.02 of the Coordinating Agreement,<sup>1</sup> the Companies will share in expenditures of approximately \$80 million which were incurred in connection with the planned construction and subsequent cancellation of a nuclear generating plant, the Tyrone Energy Park. On

<sup>1</sup> Article 7.02 provides that the annual fixed charges on generating facilities will be shared according to a formula based on each company's participation ratio.

October 22, 1979, the Commission accepted the proposed Amendment, suspended it for one day and ordered a public hearing to determine its justness and reasonableness.

On December 6, 1979, the Public Service Commission of Wisconsin filed a motion to dismiss<sup>2</sup> the Amendment on the ground that it "merely provides for the allocation of costs in a manner already authorized by the existing coordinating agreement." The Commission issued a notice of intent to act and granted an extension of time for filing responses on January 7, 1980.

In answer to the motion to dismiss, Northern States Power Companies state that the Wisconsin Commission's understanding of their filing is inaccurate and that they seek to have the Commission determine all matters within its jurisdiction, including the prudence of the Companies' carrying forward of the project and subsequent cancellation of it, the commencement and length of the amortization period, appropriate accounting, and the method to adjust for changes in the estimated write-off amount. Oppositions to the motion were filed by the Commission staff, the Wisconsin Intervenors, the South Dakota Public Utilities Commission and the Minnesota Public Service Commission. The South Dakota and Minnesota Commissions also have requested the Commission to call a joint conference under Section 1.37(c) of its Rules of Practice and Procedure in order to have representatives from all jurisdictions discuss the multi-jurisdictional issues involved in this case. Northern States Power Companies oppose this request.

The Commission finds that the Wisconsin Commission's motion to dismiss should be denied. Based on the pleadings filed, it appears that there may be a genuine issue of material fact as to whether the Coordinating Agreement implicitly provides for automatic write-off and allocation of the expenditures incurred in connection with the cancellation of the Tyrone Energy Park. However, this question need not be decided by the Commission at this stage of the Administrative process. Rather, the question of contract interpretation can be better be determined by the presiding judge in the hearing which has been set in this docket. The Commission denies the motion on another ground, as set forth below.

Northern States' application to amend their Coordinating Agreement does not,

<sup>2</sup> While the Wisconsin Commission filed this as a motion to dismiss, it is more properly a motion to reject a rate change filing.

as the Wisconsin Commission claims, merely provide for the allocation of costs in a manner already authorized by the existing Agreement. The Amendment filing also specifically requests the Commission to determine the appropriate amortization period, appropriate accounting treatment, and the method to adjust for changes in the write-off amount. Further the Coordinating Agreement is on file with the Commission as a rate schedule for both Companies, and the tendered Amendment is a rate change filing within the meaning of Section 205 of the Federal Power Act. The Commission has ordered a hearing to determine the justness and reasonableness of the Amendment, and a part of that determination involves the legitimacy of the costs which pass through the proposed rate. This includes the reasonableness and prudence of the costs sought to be amortized. The motion to dismiss Northern States' filing therefore cannot be granted.

The Commission finds good cause to grant the request by the South Dakota and Minnesota Commissions for an informal joint conference, subject to the following conditions:

- (1) All participants in this docket will be permitted to participate in the informal joint conference.
- (2) The Commission hereby designates William W. Lindsay, Director of the Office of Electric Power Regulation, and John B. O'Sullivan, Chief Advisory Counsel, to attend the conference on behalf of the Commission, and delegates to them the authority to designate an alternate in their stead.
- (3) All interested participants shall be prepared to discuss the following items, which will constitute the general, but not exclusive, agenda of topics to be addressed at the conference: a) whether the situation as it now exists in this proceeding would lend itself to the creation of a joint board under Section 209 of the Federal Power Act and Section 1.37 of the Commission's rules and, if so, what the board's functions would be and what representatives would serve on the board; b) whether the "multi-jurisdictional" questions raised by the participants are questions of law or questions of fact; c) if it is determined that there are any questions of law, a listing of legal issues should be compiled and consideration given to briefing those legal issues in advance of hearing; d) if it is determined that there are questions of fact, the participants shall identify those factual questions.

(4) The holding of the joint conference shall in no way interrupt or defer the proceeding in the instant docket.

The conference shall be held on March 7, 1980, commencing at 10:00 a.m. in a Commission hearing room at 825 North Capitol Street, Washington, D.C.

*The Commission orders:*

(A) The Public Service Commission of Wisconsin's motion to dismiss, filed December 6, 1979, is denied.

(B) The request by the South Dakota Public Utilities Commission and Minnesota Public Commission for a joint conference under Section 1.37(c) of the Commission's Rules of Practice and Procedure is granted in accordance with the terms of this order.

By the Commission.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-872 Filed 3-3-80; 8:45 am]  
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[Docket No. CP78-123, etc.]

**Northwest Alaskan Pipeline Co.; Order Attaching Conditions to Certificates of Public Convenience and Necessity**

February 28, 1980.

The Federal Energy Regulatory Commission (Commission) by this Order adopts two general conditions which will be incorporated into the conditional certificates of public convenience and necessity issued by the Commission in its Order of December 16, 1977 in Docket No. CP78-123, etc. In addition to other applicable law, this Order is being issued pursuant to Section 7(e) of the Natural Gas Act, 15 U.S.C. 717f(e), and Section 9 of the Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. § 717g.

**Background**

On May 17, 1979, the Commission issued an Order soliciting comments on proposed conditions to be appended to the conditional certificates of public convenience and necessity issued on December 16, 1977 in Docket No. CP78-123, etc. The provisions included in the May 17 Order would have required the project sponsors: 1) to prepare an informational booklet or "handbook" for private landowners explaining environmental protection practices, construction scheduling, government monitoring and enforcement functions, and other aspects of the project applicable to private land; 2) to establish informational telephone lines for use by affected landowners having questions or concerns regarding the projects; 3) to maintain a record of calls received, and actions taken, in connection with the informational telephone lines—this record would be reviewed by the Federal Inspector as

necessary to ensure adequate responsiveness to callers' inquiries; 4) to comply with the Commission's existing environmental guidelines in 18 CFR 2.69, governing the location and development of pipeline rights-of-way and related facilities; and 5) to comply with stop orders issued by the Federal Inspector where construction encounters or causes problems of a "serious and immediate" nature.

#### Summary of Comments

A total of seven parties filed comments in response to the Order, with two parties also filing reply comments.<sup>1</sup> In addition, on November 20, 1979, the Federal Inspector expressed his views in the form of a letter to the Commission.<sup>2</sup> A Copy of the Federal Inspector's letter is attached to this Order.

Of the proposed conditions discussed, the private landowners' handbook requirement received much of the commentors' attention. The three project sponsors and the Federal Inspector questioned the need for the handbook and made recommendations ranging from abandonment for the concept altogether to limitation of the purpose and content of the handbook. Other commentors generally supported the handbook; however, one party expressed some concern that its distribution might not be sufficiently extensive. The project sponsors viewed the handbook proposal as an "unprecedented" and "unnecessary" encroachment into their dealings with private landowners.

Other project sponsor comments were concerned with the provision for review by the Federal Inspector of the telephone log maintained on contracts with landowners. The concerns generally centered on two areas: 1)

<sup>1</sup> Comments were filed by the Upper Tanana Development Corporation (June 21, 1979), the Pacific Gas Transmission Company (June 20, 1979), the Alyeska Pipeline Service Company (June 20, 1979), the Minnesota Southwest Regional Development Commission (June 19, 1979), the Northwest Alaskan Pipeline Company (June 20, 1979), the Northern Natural Gas Company (June 20, 1979), and the United States Department of the Interior (June 10, 1979). Reply comments were filed by Northwest Alaskan Pipeline Company (July 6, 1979), and the Northern Natural Gas Company (July 6, 1979).

<sup>2</sup> Letter from the Federal Inspector to Chairman Curtis, dated November 20, 1979. As of the July 6, 1979, deadline for filing comments as prescribed in the May 17 Order, the Inspector had not yet been confirmed in office. The Commission welcomes the expression of views by the Inspector, whose office will bear the responsibility of enforcing the conditions adopted by this Order. In order to enable the Commission to accord appropriate weight to the Inspector's views, and in light of the fact that the parties to the proceeding have not previously had an opportunity to comment on those views, we will provide the parties an opportunity to file petitions for rehearing on the provisions adopted in this Order.

whether the practical benefits of the weekly review would justify the administrative burden; and 2) whether legal issues would be raised by divulgence of the content of the calls received. The Southwest Regional Development Commission, a Minnesota state land use agency, filed comments on the Order indicating an interest in reviewing the telephone log, and did not express concern with the administrative burden imposed thereby. The Federal Inspector indicated this position that the telephone line requirement is unnecessary as a "formal" FERC certificate condition.

All commentors either supported or did not express opposition to the requirement that the Commission's environmental guidelines in 18 CFR 2.69 be viewed as enforceable conditions for the project. The Upper Tanana Development Corporation filed extensive comments to the effect that the conditions proposed should address socioeconomic impacts, a topic not covered by Section 2.69.

Finally, nearly all commentors suggested revisions to the proposed "stop-work" order condition. These revisions included language further clarifying the scope and use of stop orders, special provisions proposed in connection with the TAPS oil pipeline system, and a request that the Commission elaborate on the role of state governments in the general enforcement and monitoring of project terms and conditions.

#### Discussion of Comments

##### 1. Landowner's Handbook and Informational Telephone Lines

The Commission's Order of May 17, 1979, set forth a detailed provision which would have required the project sponsors to prepare an informational handbook for distribution to private landowners on the ANGTS right-of-way. The purpose of the handbook was to inform landowners concerning proposed construction schedules, environmental and safety practices, Federal and state agency monitoring and enforcement functions, and basic legal information applicable to right-of-way settlements on private lands. The Commission also proposed that toll-free informational telephone lines be established by the project sponsors for use by landowners after distribution of the handbook.

Three pipeline companies, Northwest Alaskan Pipeline Company, the Pacific Gas Transmission Company, and the Northern Natural Gas Company,<sup>3</sup> filed

<sup>3</sup> These three companies, Northwest, PGT, and Northern Natural, are the respective lead parent companies for the three U.S. segments of the Alaska

comments on this aspect of the Commission's May 17 Order. In addition, the Federal Inspector has expressed his views concerning the Commission's proposed conditions on this subject.

In essence, the pipeline companies and the Federal Inspector are in agreement that the proposed handbook and telephone line requirements probably are not necessary to ensure that affected landowners are treated fairly during the process of acquiring pipeline rights-of-way. Concern was also expressed by these same commentors that the landowner's handbook might be too general to be of any real value and could, in fact, create confusion. The views expressed by the Federal Inspector summarize these concerns:

Due to environmental variations, differences in applicable state and local laws, and changing construction schedules, it would be difficult to prepare anything other than a very general handbook for widespread distribution. In addition, past experience indicates that, in general, pipeline companies create and maintain good relationships with private landowners throughout the right-of-way acquisition, construction, and restoration processes. Likewise, it is obviously in the companies' best interest to expedite this project in every possible way; yet blatant disregard for landowners' concerns would only result in costly and lengthy delays. I see no reason for the companies to pursue any policy which would only serve to create resentment among private landowners affected by this pipeline. Thus, I do not believe that it is necessary to require either a landowner's handbook or a toll-free telephone line as a formal condition attached to the FERC Certificate.

Based on these comments and views, the Commission is persuaded that the project sponsors have an adequate incentive to maintain good business dealings with private landowners without the imposition of the originally proposed handbook and telephone line conditions. We have decided to require neither the preparation of an informational landowner's handbook nor the establishment of informational telephone lines and associated logbook review procedures. However, this decision does not preclude the Federal Inspector or the project sponsors from conducting whatever informational programs they may deem appropriate, without prejudice to our review of the costs associated with these programs in rate proceedings.

Natural Gas Transportation System (ANGTS), i.e., the Alaska segment, the "Western Leg" running from Idaho to California, and the "Northern Border" running from Montana to Illinois.

## 2. Compliance With Section 2.69

The commentors generally agreed with the proposed condition requiring pipeline company adherence to the Commission's § 2.69 guidelines for the location, clearing, and maintenance of pipeline rights-of-way and sites for related facilities. Section 2.69 deals with such matters as erosion control, revegetation, pipeline alignment with respect to existing land uses, and compressor station noise abatement. It is intended that these guidelines provide a basis for the Federal Inspector to take enforcement action should serious problems develop during pipeline construction on private lands.

Both PGT and Northwest suggested that an excerpt from the § 2.69 guidelines, concerning settlements with private landowners, be explicitly stated in the certificate condition. It is not necessary to reprint that particular provision, however, since it will be fully applicable by virtue of the reference to the entire section of the regulations.

## 3. Socioeconomic Impact in the State of Alaska

An issue not addressed in the Commission's May 17 Order is socioeconomic impact related to pipeline construction in Alaska. This issue was discussed in considerable detail by one commentor, the Upper Tanana Development Corporation (UTDC). The UTDC comments summarize their position as follows:

The Upper Tanana region of Alaska is the primary cultural and economic impact area of the gas line project. The region, the homeland of the Northern Athabaskan Indians, will be dissected by the gasline, and the adverse consequences on the local inhabitants will be severe and irreparable unless necessary ameliorating steps are taken in the planning and execution of gasline construction.

The UTDC position is generally supported by the record developed in *El Paso Alaska Co.*, Docket Nos. CP75-96, etc., which formed the basis for the selection of the Northwest Alaska (formerly Alcan) pipeline route. Among the forms of socioeconomic impact described in that proceeding were effects on native subsistence resources, increased use of alcohol and other drugs among residents faced with changing social conditions, and increased inflation impact on low income groups such as the elderly, as well as a spectrum of other concerns.<sup>4</sup> The UTDC maintains that it is incumbent upon the Commission to issue terms and

conditions to address socioeconomic impact problems.

The Commission observes that there is now some Federal legislation designed to deal with socioeconomic impact resulting from Federally authorized development.<sup>5</sup> Additional legislation specifically directed towards energy related impacts is under consideration.<sup>6</sup> The general approach to this problem which seems common to both existing and proposed legislation is provision for planning grants upon appropriate application, and for loans to assist infrastructure development against future property and other tax revenues. This also is essentially the same approach which has been established to deal with socioeconomic impact in Canada's Yukon Territory as part of the U.S.-Canada *Agreement on Principles*.<sup>7</sup>

In this context, the Commission believes that UTDC's proposal, i.e., specific terms and conditions to address socioeconomic impact problems, is inappropriate. The Commission is aware, through its representation on interagency working groups to coordinate pipeline-related activities, that socioeconomic impact assistance, particularly for the Alaska segment, is a subject under discussion among appropriate Federal, State and company representatives. The Commission expects those discussions to produce results which are appropriate and consistent with Federal energy impact assistance policy. If those discussions indicate a need for specific socioeconomic terms and conditions which are within the Commission's authority to impose, the Commission would be prepared to consider any such proposal at that time.

## 4. Stop-Work Order Provision

The parties offered a number of suggestions, generally of a clarifying nature, concerning the Commission's

<sup>4</sup> Report to the President: Energy Impact Assistance, Energy Impact Assistance Steering Group (March 1978).

<sup>5</sup> Three separate bills, S. 1699, s. 971, and S. 1900, have been introduced in the current Congressional session. The primary purpose of these bills would be to fill gaps in presently existing impact assistance programs, particularly those programs applicable to inland (as opposed to coastal) areas experiencing energy development.

<sup>7</sup> Agreement Between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline, Article 5 (particularly paragraph 5(6) (ix)). The Agreement was signed by representatives of the two governments on September 20, 1977, and was made part of the President's Decision and Report to Congress on the Alaska Natural Gas Transportation System Sept. 1977, appearing at pages 47-83. Inasmuch as the Decision was subsequently approved by Congress, it (including the Agreement on Principles) has the legal status of a statute.

proposed stop-work order provision. Most of the parties and the Federal Inspector expressed the wish that the criteria governing the use of stop-work orders be carefully thought out in advance, and that the provisions applicable on private lands be consistent with those approved for Federal lands. The modified conditions set forth in this Order, while somewhat longer than that originally proposed by the Commission, contains no major substantive changes and tracks closely the stop-work provision developed by the U.S. Department of the Interior for application on Federal lands. A number of suggested changes proposed by the Alyeska Pipeline Service Company would have afforded special protective provisions related to the Trans-Alaska Oil Pipeline.<sup>8</sup> However, the Commission believes that the stop-work order condition as presently structured is sufficiently comprehensive to alleviate any special concern over the gas pipeline construction impact on the adjacent oil pipeline system.

## Summary of Changes

The originally proposed "handbook" and "telephone hotline" conditions have been deleted. The condition which establishes § 2.69 of the Commission's Statements of Policy and Interpretations as a basis for enforcement actions by the Federal Inspector on private lands will be adopted as proposed, without modification.

The stop-work order provision has been expanded to clarify the precise circumstances in which such orders may be issued and to prescribed related recordkeeping requirements. In addition, the language now tracks more closely with the similar provision developed by the U.S. Department of the Interior for application on Federal lands. As modified, that condition will be adopted.

### The Commission Finds:

For the reasons stated above, the conditions attached to this order are required by the public convenience and necessity to be attached to the condition certificates issued by the Commission on December 16, 1977, in Docket Nos. CP78-123, etc.

### The Commission Orders:

(A) The conditions attached to this Order shall be incorporated into the conditional certificates issued by the Commission in its Order of December

<sup>8</sup> Inasmuch as the matter of stop-work orders on Federal lands will be addressed by the Department of Interior in its right-of-way authorization, the Commission's condition on this subject will be limited to application only on non-Federal land.

<sup>9</sup> The Trans-Alaska Oil Pipeline and the ANGTS would lie in close proximity over a substantial portion of the route in Alaska.

<sup>4</sup> A discussion of socioeconomic impacts in Alaska may be found in the *Alaska Natural Gas Transportation System, FPC Draft Environmental Impact Statement, Volume 1* (November 1975).

16, 1977, to become effective 65 days from the date of issuance of this order.

(B) Parties in Docket Nos. CP-123, etc. may file petitions for rehearing of this Order within 30 days of the date of issuance of this Order, pursuant to the procedure set forth in Section 1.34 of the Commission's Rules of Practice and Procedure.

By the Commission.  
Kenneth F. Plumb,  
Secretary.

#### Conditions

(A) With respect to construction activities conducted on non-Federal lands, only field representatives expressly designated in writing by the Federal Inspector may issue a stop-work order at the site of an activity. Such order must be issued to a designated field representative of the sponsoring pipeline company. Upon receipt of a stop-work order, the sponsoring pipeline company shall cause that particular activity to cease immediately. Except in emergencies, all stop-work orders shall be in writing, and, when issued orally, they shall be conformed in writing as quickly as possible. The stop-work order or written confirmation of the order shall specify:

(1) The specific construction activity or activities which must be stopped;

(2) The reason for issuance of the order, including a description of the serious and immediate problem which requires the cessation of a particular construction activity;

(3) The name of the designated field representative of the Federal Inspector issuing the order;

(4) The name of the designated field representative of the pipeline company to whom the order is issued;

(5) The time and date of the order, and the site of the construction activity at which it is issued.

(B) The Federal Inspector shall maintain a record of all such stop-work orders issued pursuant to Condition (A) above. The record shall include the same information specified in Condition (A). Resumption of any construction activity suspended under a stop-order shall be immediately authorized in writing by the Federal Inspector or a designated field representative once mitigating, corrective, or alternative measures have been implemented by the sponsoring pipeline company.

(C) Stop-work orders issued pursuant to Condition (A) above may be issued only when:

(1) An issue arises with respect to compliance with Federal permits, certificates, conditions, stipulations, or

notices to proceed authorizing the construction activity in question; and

(2) The Federal Inspector or his field representative determines that such issue presents problems or conflicts of a serious and immediate nature; and

(3) The Federal Inspector or his field representative of the sponsoring pipeline, and no agreement can be reached on mitigating or corrective measures that can be implemented immediately.

(D) The certificate holder shall comply with Section 2.69 of the Commission's Statement of General Policy and Interpretations (18 CFR 2.69).

Federal Inspector  
Alaska Natural Gas Transportation System  
P.O. Box 19400  
Washington, D.C. 20036  
November 20, 1979.

Honorable Charles B. Curtis,  
Chairman, Federal Energy Regulatory  
Commission, 825 N. Capitol Street, N.E.,  
Washington, D.C. 20426.

Dear Chairman Curtis: As recently requested by members of the Federal Energy Regulatory Commission's (FERC) staff, I am providing the following comments regarding the FERC Order Proposing Terms and Conditions, issued May 17, 1979.

In this Order, the FERC proposed that the project sponsors prepare an informational handbook for distribution to private landowners affected by the Alaska Natural Gas Transportation System. Although I support the intent of the handbook, I do not believe that a formal FERC Certificate Condition is the best way to achieve the purpose of providing private landowners with the necessary information. The formal comments filed in this proceeding support this conclusion.

Due to environmental variations, differences in applicable state and local laws, and changing construction schedules, it would be difficult to prepare anything other than a very general handbook for widespread distribution. In addition, past experience indicates that, in general, pipeline companies create and maintain good relationships with private landowners throughout the right-of-way acquisition, construction, and restoration processes. Likewise, it is obviously in the companies' best interest to expedite this project in every possible way; yet blatant disregard for landowners' concerns would only result in costly and lengthy delays. I see no reason for the companies to pursue any policy which would only serve to create resentment among private landowners affected by this pipeline. Thus, I do not believe that it is necessary to require either a landowner's handbook or a toll-free telephone line as a formal condition attached to the FERC Certificate.

The current Department of the Interior (DOI) Stipulations for Federal lands contain a stop-work order provision which is quite similar, but not identical, to that proposed in the FERC's May 17 Order. In my view, expeditious, cost effective, and environmentally sound construction can be achieved only by establishing an

administrative structure and a procedural framework which are manageable, efficient, and consistent. The DOI stop-work provision has undergone extensive review and is now in a form acceptable to all parties. I therefore recommend that FERC use the DOI's current language for the Certificate condition, except where modifications are necessary to reflect the different Federal Jurisdiction on private lands. Accommodation of this difference can be achieved by modifying the first reason for issuance listed in the DOI Stipulations to read as follows: "(1) an activity is in violation of applicable Federal statutes, regulations, permits, or certificates." The rest of the provisions (reinstatement conditions, documentation requirements, and expiration period) should be identical, regardless of the ownership of the land affected.

I hope these views are of use to you in your consideration of appropriate Certificate conditions.

Sincerely yours,

John T. Rhett,  
Federal Inspector.

[FR Doc. 80-6763 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

#### [Docket No. CP80-141]

#### Oklahoma Natural Gas Gathering Corp.; Amendment To Application

February 28, 1980.

Take notice that on February 5, 1980,<sup>1</sup> Oklahoma Natural Gas Gathering Corporation (Applicant), 624 South Boston Avenue, Tulsa, Oklahoma 74119, filed in Docket No. CP80-141 pursuant to section 7(c) of the Natural Gas Act an amendment to its pending application in said docket so as to reflect the acquisition of eight taps and meters, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states in the application that it asserted all facilities which would be used to make the proposed sales to eight residential farm customers were owned by Applicant; however, now it has been determined that the 8 taps and meters needed to provide service are owned by Oklahoma Natural Gas Company. Therefore, Applicant proposes to acquire the eight taps and meters at the depreciated original cost of \$1,041.98 in order to offer the service sought in the application.

According to Applicant, the purchase of the 8 taps, meters and domestic service settings would have no effect on the rates which it would charge the eight residential customers and which it would charge any other customer.

<sup>1</sup> The amendment was initially tendered for filing on February 5, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until February 13, 1980; thus, the filing was not completed until the latter date.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6730 Filed 3-3-80; 8:45 am]  
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[Docket No. ER80-242]

**Pacific Power & Light Co.; Cancellation**

February 26, 1980.

Take notice that on February 20, 1980, Pacific Power & Light Company (PP&L) tendered for filing a notice of cancellation of FERC Supplement No. 19 to Rate Schedule FPC No. 45, dated March 1, 1979.

PP&L states that the proposed expiration date is November 8, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1980. 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. 80-6764 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP80-231]

**Panhandle Eastern Pipe Line Co. and Stauffer Chemical Co. of Wyoming; Application**

February 28, 1980.

Take notice that on February 8, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Stauffer Chemical Company of Wyoming (Stauffer), 636 California Street, San Francisco, California 94108, filed in Docket No. CP80-231 a joint application for authorization pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and, additionally, with respect to Panhandle, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) implementation of a gas exchange agreement between the Applicants dated June 29, 1979, as amended November 6, 1979, by which they would exchange thermally equivalent volumes of natural gas for a term in excess of 2 years and (2) Panhandle to construct and operate certain facilities necessary to connect new supplies of natural gas in the State of Wyoming to the existing intrastate pipeline of Stauffer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to implement a certain gas exchange agreement entered into between Panhandle and Stauffer dated June 29, 1979, as amended. Under the agreement, which has a term of 20 years, it is stated that Panhandle has the right to deliver to Stauffer's pipeline system in Wyoming volumes of natural gas committed to Panhandle and produced from specified areas in the southwestern portion of Wyoming near Stauffer's existing pipeline system, while Stauffer has the right under the agreements to deliver to Panhandle in Wyoming, or to the pipeline system of a third party in Wyoming for the account of Panhandle, natural gas which is committed to Stauffer and produced from the Madden Unit area located in Fremont and Natrona Counties, Wyoming.

Additionally, Panhandle proposes to construct and operate certain pipeline and related facilities in Sweetwater and Lincoln Counties, Wyoming, to facilitate the subject exchange. Panhandle proposes to construct 5.7 miles of 6-inch pipeline, 5.5 miles of 10-inch pipeline, 10.9 miles of 8-inch pipeline and related facilities, 1.9 miles of 6-inch pipeline, 15.5 miles of 4-inch pipeline and related facilities required to connect twenty-nine wells. Panhandle estimates the cost

of the proposed facilities to be \$5,445,000 which cost would be financed by Panhandle from general corporate funds on hand at the time of construction.

Applicants state that Panhandle and Colorado Interstate Gas Company (CIG) entered into a gas purchase, transportation and exchange agreement dated December 1, 1978, as amended June 27, 1979, and August 13, 1979, which provide, in part, for the transportation of natural gas by CIG on behalf of Panhandle from the Madden Unit area through existing facilities of CIG in that area. Thus, it is contemplated that exchange volumes from the Madden Unit area would be delivered by Stauffer to CIG for the account of Panhandle.

Applicants state that the instant proposal stems from the fact that the new gas supplies in the Madden Unit area which Stauffer needs transported to its soda ash plant are very close to existing interstate pipeline facilities which can be utilized by Panhandle, and that, similarly, Panhandle has new gas supplies in the southwestern area of Wyoming which are located much closer to the existing intrastate pipeline systems of Stauffer than to Panhandle's or any other interstate pipeline's facilities. Thus, by virtue of the exchange arrangement, it is asserted that new supplies of natural gas can flow to both Panhandle and Stauffer without the necessity of substantial additional facilities and coincident transportation costs which would be necessitated if the parties are forced to construct their own separate facilities for the transportation of the volumes involved.

In order to eliminate any potential question concerning the instant arrangement, Stauffer requests that the Commission make a finding in its order in this matter that the implementation of the proposed exchange transaction is in accordance with Part 284 of the Commission's Regulations and would not subject Stauffer to the Natural Gas Act jurisdiction of the Commission.

Further, Panhandle and Stauffer request that the Commission provide that points of delivery may be added and/or deleted from the agreement by way of amendment without additional authorization with the parties agreeing to submit to the Commission an annual listing of the then current points of delivery.

Applicants propose to exchange up to 20,000 Mcf per day. Applicants further assert that the exchange is on a gas-for-gas basis with no monetary compensation.

Any person desiring to be heard or to make any protest with reference to said

application should on or before March 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate to Panhandle is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-6731 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. CP70-309]

#### Panhandle Eastern Pipe Line Co.; Petition To Amend

February 28, 1980.

Take notice that on January 24, 1980, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP70-309 a petition to amend the order issued pursuant to Section 7(c) of the Natural Gas Act on November 9, 1970,<sup>1</sup> as amended on August 17, 1979, in said docket so as to authorize operation of an underground gas storage reservoir facility located in Doyles and Champaign Counties, Illinois (Tuscola Storage Project) and an increase in the

<sup>1</sup>This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

maximum reservoir gas content of said project from 9,000,000 Mcf to 15,000,000 Mcf, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued November 9, 1970, Petitioner was authorized to construct and operate certain natural gas facilities for the testing and development of a potential underground gas storage reservoir located in Doyles and Champaign Counties, Illinois. At that time, 7,500,000 Mcf was established as the maximum reservoir gas content. The Commission issued an order amending the original order on August 17, 1979, authorizing an increase of the maximum storage volume to 9,000,000 Mcf.

Petitioner states that, as a result of subsequent testing under the Tuscola Storage Project, it has determined that the Mt. Simon Formation has the capability safely and efficiently to maintain a reservoir gas content of 15,000,000 Mcf. In order to increase the reservoir gas content, Petitioner states that it would have to inject an additional 5,477,000 Mcf of natural gas into the Mt. Simon Formation for base or cushion gas. At full development, Petitioner estimates that it would have approximately 3,000,000 Mcf of working storage and that it would need 12,000,000 Mcf of cushion gas at the Tuscola Storage Field. Petitioner, therefore, seeks authorization for an increase in the maximum reservoir content of the Mt. Simon Formation underlying the project from the presently authorized maximum of 9,000,000 Mcf of natural gas to 15,000,000 Mcf and for the acquisition of additional natural gas to be utilized as base or cushion gas for said increase. Petitioner also requests that the Commission issue permanent authorization for the operation of the Tuscola Storage Project.

Petitioner was originally authorized to construct and operate two 1,000 horsepower compressor units to be used in the operation of the Tuscola Storage Project. Petitioner states that the second unit would be operational by March 1, 1980, which would permit Petitioner to increase the reservoir gas content to 15,000,000 Mcf without additional facilities.

Originally, Petitioner was authorized to expend \$13,004,000 for the testing and development of the Tuscola Storage Project. Because testing and development did not progress as readily as expected, Petitioner asserts that actual costs of the project are \$24,503,000. Petitioner therefore requests that the order be amended to provide for the cost of \$24,503,000. Petitioner therefore requests that the order be

amended for the cost of \$24,503,000. Petitioner asserts the additional cost would be financed with internally generated funds and short-term bank borrowing.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-6732 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. EF79-3012]

#### Southeastern Power Administration; Order Confirming and Approving Extension of Rates

Issued January 22, 1980.

On May 2, 1979, the Assistant Secretary for Resource Applications of the Department of Energy confirmed and approved, on an interim basis, a three-month extension of rates previously approved by the Commission.<sup>1</sup> The rates are applicable to hydroelectric power marketed by the Southeastern Power Administration (SEPA) from nine Corps of Engineers multipurpose reservoir projects known at the Georgia-Alabama Projects.<sup>2</sup>

Pursuant to section 5 of the Flood Control Act of 1944<sup>3</sup> and Delegation Order No. 0204-33 of the Department of Energy, the Assistant Secretary for Resource Applications submitted these interim rates to the Federal Energy Regulatory Commission for confirmation and approval or disapproval on a final basis. Public notice of this filing was published in the Federal Register on August 26, 1979. Protests and petitions to intervene were due on or before September 7, 1979. No protests or petitions were received.

<sup>1</sup> See Department of Energy Rate Order No. SEPA-3, "Order Confirming and Approving Extension of Power Rates on an Interim Basis."

<sup>2</sup> See Attachment for rate schedule designations.

<sup>3</sup> 16 U.S.C. § 825g.

By order issued November 29, 1976, in Docket No. E-7160,<sup>4</sup> the Commission confirmed and approved on a final basis certain rate schedules for SEPA applicable to the Georgia-Alabama Projects. These rates, which were approved for the period ending June 30, 1979, have been extended through September 30, 1979, on an interim basis by the Assistant Secretary for Resource Applications. It is this extended period which is the subject of this docket. The Assistant Secretary has also approved on an interim basis new rates for the Georgia-Alabama Projects to cover a period commencing October 1, 1979. Those rates, however, are currently under review and are not the subject of this docket.

We have reviewed SEPA's proposal to extend the previously approved rates through September 30, 1979, and find that such extension is in the public interest. We also find that these rates meet the statutory criterion of being "the lowest possible rates to consumers consistent with sound business principles."<sup>5</sup> We shall therefore confirm and approve on a final basis the rates recommended by the Assistant Secretary for Resource Applications.

*The Commission Orders:*

(A) The rates for the sale of hydroelectric power from the Georgia-Alabama Projects by the Southeastern Power Administration, as submitted by the Assistant Secretary for Resource Applications of the United States Department of Energy, are hereby confirmed and approved for the period July 1, 1979 through September 30, 1979.

(B) The Secretary shall promptly publish this order in the Federal Register,

By the Commission.  
Kenneth F. Plumb,  
Secretary.

**Attachment**

Rate schedule	Used by	Project supplying power	Delivery
GAMF-1-A	Public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida.	Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters projects.	Wheeled by Alabama, Georgia, Mississippi or Gulf Power Companies

GAMF-2-A	Georgia, Alabama, Mississippi, and Gulf Power Companies.	Same as above.	At the projects
ALA-1-A	Alabama Electric Coop.	Same as above.	At the Walter F. George Project
MISS-1-A	South Mississippi Electric Power Assoc.	Same as above.	Wheeled by Mississippi Power Company
SC-1- (Revised).	South Carolina Public Service Authority.	Clark Hill Project.	At the project
SC-2	Public bodies and cooperatives in the service area of the South Carolina Public Service Authority.	Clark Hill project.	Wheeled by South Carolina Public Service Authority
CAR-1- (Revised).	Public bodies and cooperatives in the service area of Duke Power Co.	Hartwell and Clark Hill projects.	Wheeled by Duke Power Company
CAR-2- (Revised).	Duke Power Co.	Hartwell and Clark Hill projects.	At the projects

[FR Doc. 80-6770 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-35-M

[Docket No. ER80-243]

**Southern Company Services, Inc.; Filing**

February 26, 1980.

The filing Company submits the following:

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (the Operating Companies) on February 19, 1980 tendered for filing a power sale agreement providing for a long term power sale from the Operating Companies to Jacksonville Electric Authority (JEA). The power sale agreement also provides for economy energy sales from the Operating Companies to JEA. The service under the rate schedule is scheduled to commence on March 1, 1980. The power sale agreement between the Operating Companies and JEA makes provision for long term power and economy energy sales from the Operating Companies to JEA and specifies the rates for capacity and energy transactions to be conducted pursuant to such agreement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1980. 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. 80-6766 Filed 3-3-80; 8:45am]  
BILLING CODE 6450-35-M

[Docket No. ER80-58]

**Southern Company Services, Inc.; Order Accepting for Filing Initial Rate, Setting Rate for Investigation and Hearing, Granting Waiver of Notice Requirement, and Granting Petition To Intervene**

February 12, 1980.

On October 31, 1979, Southern Company Services, Inc. (SCSI) filed on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Operating Companies) an Interchange Contract between Florida Power & Light Company (FP&L) and the Operating Companies dated October 19, 1979. The Operating Companies and SCSI are subsidiaries of the Southern Company and are all parties to the Interchange Contract.

The Interchange Agreement provides for the first direct interconnection between the Operating Companies and FP&L, by means of a 230 kV transmission line between Georgia Power Company and FP&L, which will interconnect the two at the Georgia-Florida State line. SCSI's October 31, 1979, filing indicated that service under the Interchange Contract was scheduled to commence on January 1, 1980. On December 21, 1979, however, FP&L filed a letter stating that the necessary interchange facilities were in place and available for use. Accordingly, FP&L requests waiver of the Commission's

<sup>4</sup> "Order Confirming and Approving Rate Schedules."

<sup>5</sup> Section 5 of the Flood Control Act of 1944.

notice requirements to allow the Interchange Contract to become effective as of December 21, 1979, but in any event no later than January 1, 1980. FP&L stated that SCSJ concurs in this request for a December 21, 1979, effective date.

The Interchange Contract provides for the coordination and interconnected operation of both systems and for the exchange of the following services: Emergency Assistance—Service Schedule A, Short-Term Power—Service Schedule B, and Economy Energy—Service Schedule C.

The service schedules submitted with the Interchange Contract contain a formulary rate allowing for a periodic calculation of charges for emergency assistance and short-term power. This rate includes a 15% rate of return on common equity. A manual has been filed as a supplement to the Interchange Contract which contains a description of the methodology and procedures to be used to calculate charges assessed by the Operating Companies for emergency assistance and short-term power provided to FP&L. The charges for emergency assistance and short-term power provided from FP&L to the Operating Companies are to be computed in accordance with the formulary rate set out in the respective service schedules and the support schedules of FP&L. SCSJ states that the Operating Companies intend to revise the charges for such services each calendar year to be effective for the following year. While the transmittal letter indicates that FP&L support schedules are to be revised periodically to reflect changes in cost under the formula, it does not indicate at what intervals these revisions are intended to be made. Economy energy is available under the Interchange Contract at a "split-the-savings" rate.

FP&L and the Operating Companies request that the Commission approve the formulary rate form. The parties to the contract contemplate that any periodic calculation of charges pursuant to the formulary rate will not be a change in rates necessitating a filing under Section 205 of the Federal Power Act.

Notice of the filing was issued on November 5, 1979 with comments, protests or petitions to intervene due on or before November 27, 1979.

On November 27, 1979 Alabama Electric Cooperative (AEC) filed a petition to intervene, protest, and motion for a hearing. In support of its petition AEC states that it is a generation and transmission cooperative, nine of whose members receive all or a portion of their bulk

power requirements from Alabama Power Company and four of whose members receive all or a portion of their bulk power requirements from Gulf Power Company. AEC further states that its system is physically surrounded by that of Alabama Power and its affiliate Gulf Power. AEC asserts that it has been negotiating a new interconnection and coordination agreement with Alabama Power since September 1977 and that in the course of these negotiations Alabama has proposed the use of service schedules in the form of formulary rates. AEC alleges that the formulary rates proposed by Alabama Power are almost identical to the formulary rates proposed in the instant docket. AEC alleges that the parties to the Interchange Contract are endeavoring to establish a pattern applicable to their relationships with other electric systems such as AEC. AEC concludes that its interest in the outcome of this proceeding is direct, immediate and substantial.

AEC states that it takes no position as to whether SCSJ's filing constitutes an initial rate or a change in rate and does not request a suspension of the rates proposed in the Interconnection Contract.

AEC alleges that the formulary rate method proposed effectively denies the purchaser the rights of protest, suspension and refund traditionally allowed under Section 205 of the Federal Power Act. Specifically AEC takes issue with the fact that the proposed rates are to be changed by periodic revision of projected data in the informational schedules, rather than actual data. AEC also alleges that the use of capitalized lease accounting fails to reasonably reflect the true costs of lease payments. AEC contends that SCSJ's cost of capital and 15% rate of return are unsupported. AEC also takes issue with the use of a 45-day convention for determining cash working capital.

AEC concludes its petition by requesting that it be granted intervention and that the rates proposed by SCSJ be set for investigation.

#### Discussion

The proposed Interchange Contract was filed as an initial rate under Section 35.12 of the Commission's regulations. Since this contract will constitute the first electric service of any kind between Florida Power & Light Company and the Operating Companies, the rates contained therein constitute initial rates and shall be accepted for filing without suspension. However, we shall set for investigation and hearing the justness and reasonableness of the rate levels proposed in this docket as well as the

justness and reasonableness of the formulary method proposed by FP&L and the Operating Companies for determining rate levels in the future.

On January 8, 1980, representatives of the Commission Staff, FP&L, AEC and the Operating Companies held a meeting to discuss the filing. The participants agreed at the meeting that if the Operating Companies and FP&L would file subsequent statements agreeing to make any change in the rate level under the formulary method subject to refund, Staff would agree to support waiver of the filing requirements upon each rate change under the formulary rate. On January 18, 1980, the Operating Companies filed a letter in this docket, agreeing to the following conditions:

1. With reference to Service Schedule A providing for emergency assistance between the Operating Companies and FP&L, the rates shown on Informational Schedule A, Page 1 of 10, will be placed in effect for the calendar year 1980 not subject to refund; however, if the formulary rate contained in the interchange contract operates to increase any component of such rates in the calendar year 1981 or subsequent years, amounts collected pursuant to such increases will be subject to refund, pending final disposition of any proceeding initiated by the Commission with respect to the subject interchange contract filing.

2. With reference to Service Schedule B providing for short-term power exchange between FP&L and the Operating Companies, the rates shown on Informational Schedule B, Page 1 of 10, will be placed in effect for the calendar year 1980 not subject to refund; however, if the formulary rate contained in the interchange contract operates to increase any component of such rates in the calendar year 1981 or subsequent years, amounts collected pursuant to such increases will be subject to refund, pending final disposition of any proceeding initiated by the Commission with respect to the subject interchange contract filing.

3. With reference to Service Schedule C providing for economy energy exchange between FP&L and the Operating Companies, the charges for economy energy will not be subject to refund.

On January 25, 1979, FP&L submitted a letter agreeing to similar conditions.<sup>1</sup>

<sup>1</sup> FP&L's formula rate, unlike Operating Companies', would operate on a monthly basis. Therefore, FP&L has agreed that all increases for non-variable-type components above the level of charges during the first month in which the company makes sales under Service Schedule A or renders service under Service Schedule B will be subject to refund.

We believe that the Operating Companies and FP&L, by their filing, have demonstrated good cause to waive the Commission's filing requirements when application of the formulary rate works a change in the rate level under Schedules A and B.

Moreover, as FP&L and the Operating Companies have stated in the transmittal letter, "if future changes are made in the formulary rate or the fixed components of that rate (such as return on common equity) a filing under Section 205 of the Federal Power Act will be required."

The Commission believes that AEC has demonstrated that its participation as a party in this proceeding would be in the public interest. Consequently, AEC shall be permitted to intervene. Moreover, we believe that good cause has been shown to permit waiver of the notice requirements so that the rates may be made effective on December 21, 1979.

#### *The Commission orders*

(A) The rates contained in the proposed Interchange Contract between FP&L and the Operating Companies are hereby accepted for filing and waiver of the notice requirements is granted so that the filing can become effective December 21, 1979. Any increase in any rate components effected by the operation of the formula shall be a change in rate and shall be collected subject to refund as described herein, pending a hearing and decision on the proposed rates.

(B) Waiver of the notice and filing requirements is hereby granted for rate changes made pursuant to the formula.

(C) Petitioner AEC is hereby permitted to intervene in this proceeding subject to the Commission's Rules and Regulations. Participation by the intervenor shall be limited to matters set forth in its petition to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by subsection 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and Regulations under the Federal Power Act (18 CFR Ch. 1 (1978)), a public hearing shall be held concerning the justness and reasonableness of the proposed rates for interchange service and of the proposed formulary method for determining rate levels in the future.

(E) A Presiding Administrative Law Judge, to be designated by a Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding, to be held within 30 days of the issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the Federal Register.

By the Commission,  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-3788 Filed 3-3-80; 8:46 am]  
BILLING CODE 6450-36-M

[Docket No. CP80-238]

**Southern Natural Gas Co.; Application  
February 28, 1980.**

Take notice that on February 12, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-238 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to render a transportation service for Transco pursuant to a transportation agreement between the parties dated June 12, 1979. According to Applicant it would transport up to approximately 3 billion Btu's equivalent of natural gas per day for Transco acting individually and as agent for the owners of certain working interests in wells located on State Lease Nos. 6750 and 6752, in Big Point Field, St. Tammany Parish, Louisiana, which is inaccessible to Transco's facilities.

Because it maintains transmission facilities in the vicinity of said leases, Applicant states it has agreed to transport such gas from a point at or near Mile Post 1 on Applicant's 6-inch lateral pipeline located in St. Tammany Parish, Louisiana, to an existing point of interconnection between the pipeline facilities of Applicant and Transco located near Jonesboro, Georgia. Applicant asserts it would retain 3.5

percent of the volumes to account for fuel, company used and lost or unaccounted for gas.

Applicant further states it would charge 35.0 cents per million Btu of gas delivered to Transco.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-4734 Filed 3-3-80; 8:46 am]  
BILLING CODE 6450-35-M

[Docket No. CP79-490]

**Southwest Gas Storage Co. and  
Panhandle Eastern Pipe Line Co.;  
Amendment to Application**

**February 28, 1980.**

Take notice that on February 8, 1980, Southwest Gas Storage Company (Southwest) 344 Broadway, Kansas City, Missouri 64111, and Panhandle Eastern Pipe Line Company (Panhandle), 3444

Broadway, Kansas City, Missouri 64111, filed in Docket No. CP79-490 pursuant to Section 7(c) of the National Gas Act an amendment to their pending application, in said docket so as to reflect certain changes by Southwest in the financial structure of the proposed Borchers North Field storage project located in Meade County, Kansas, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants state that on September 17, 1979, they filed a joint application for authorization to develop, test and operate a new storage field located in the Brochers North Field, Meade County, Kansas. Southwest proposes to make several amendments to that application as hereinafter described.

In the joint application, Southwest proposed, it is stated, a composite depreciation rate of 6.67 percent based on the expected life of the storage project. Southwest now proposes to lower said rate to 5.25 percent, said rate to remain in effect until changed by a Commission order in a Southwest rate proceeding.

As part of the joint application, Southwest stated that it proposed a 13 percent overall rate of return on its rate base in this storage project predicated on a project capitalization consisting of 75 percent long term debt and 25 percent common equity capital, with the overall rate of return predicated on an estimated cost of long term debt of 12 percent and an allowance on equity capital at 16 percent, it is stated.

Southwest asserts that it is willing to accept an overall rate of return of 11.81 percent based on the same capitalization proposed in the joint application but initially utilizing an estimated long term debt cost of 11 percent and an allowance on common equity capital of 14.25 percent. Southwest's agreement to modify its request overall rate of return is made with the understanding that Southwest would be authorized by the Commission to adjust its overall rate of return to reflect the actual cost of its long term debt at the time such debt is issued, it is asserted. Southwest proposes to make a one time upward or downward adjustment to its overall rate of return to include Southwest's actual cost of long term debt when such debt is issued by Southwest. Such an adjustment to the overall rate of return, it is stated, would be based and computed on the capitalization and equity allowances as modified by the subject amendment and would be reflected in Southwest's filed rates for the storage service without

suspension or the need for general rate filing in compliance with requirements of Section 154.63 of the Regulations under the Natural Gas Act or any superseding regulations.

In order to implement this adjustment, Southwest requests that the Commission include the following condition in its certificate order in Docket No. CP79-490:

Southwest shall adjust its initial rates approved herein upward or downward to reflect the actual cost of its long term debt within forty five days of the time such long term debt is issued by Southwest. Such adjustment shall be made from the estimated cost of long term debt of 11 percent included in the overall rate of return underlying Southwest's initial rates and shall not include any other changes in the authorized herein. Southwest shall file a revision to its FERC Tariff for the changes in storage rates within forty five days of the date on which its long term debt is in place and such filing shall include workpapers in the same format as Revised Exhibit P-2 of the Supplement to the Joint Application of Southwest and Panhandle in Docket No. CP79-490, as well as the material required to be filed by Section 154.63(b)(1) of the Regulations. With the exception noted above, Southwest need not include the materials submitted with a change in rates under Section 154.63 of the Commission's Regulations. Should the Commission find that the filing conforms, this rate adjustment shall become effective without suspension thirty days following the time the adjustment in rates is filed by Southwest.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-6735 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-241]

### Superior Water, Light & Power Co.; Proposed Changes in Rates and Charges

February 26, 1980.

The filing Company submits the following:

Take notice that Superior Water, Light and Power Company (SWL&P), on February 19, 1980, tendered for filing proposed changes in its FERC Electric Rate Schedule No. 12. The proposed changes would increase revenues from jurisdictional sales and service by \$147,879, based on the 12-month period ending May 31, 1980. SWL&P proposes an effective date of April 21, 1980.

The proposed rate changes and rate charges are designed to increase the revenue from Dahlberg Light & Power Company, SWL&P's only jurisdictional customer, sufficiently to recover the proportionate share of the increase in the cost of purchased power from SWL&P's supplier and to raise the rate of return on the investment necessary to serve jurisdictional customer to an acceptable level.

Copies of the filing were served upon SWL&P's jurisdictional customer and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-6767 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-185]

### Texas Eastern Transmission Corp.; Petition To Amend

February 28, 1980.

Take notice that on February 8, 1980, Texas Eastern Transmission Corporation (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket

No. CP77-185 a petition to amend the order issued pursuant to section 7(c) of the Natural Gas Act and Section 2.79 of the Regulations thereunder (18 CFR 2.78) on October 18, 1978, in the instant docket so as to authorize the addition of a new delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued October 18, 1978, Petitioner was authorized to transport natural gas for Nabisco, Inc. (Nabisco) for use at its Philadelphia and Pittsburgh, Pennsylvania, and Buffalo and Niagara Falls, New York, plants to offset curtailment from its suppliers, National Fuel Gas Distribution Corporation (National) and Equitable Gas Company (Equitable). Petitioner's resale customers.

Petitioner states that Nabisco has received notice that due to capacity problems, Transcontinental Gas Pipe Line Corporation (Transco) has had to interrupt its transportation service to Nabisco's Fair Lawn, New Jersey, plant served by Public Service Electric and Gas Company (PSEG). Petitioner requests authorization to transport and deliver on behalf of Nabisco to PSEG at any of the existing delivery points between Petitioner and PSEG in Middlesex County, New Jersey, 684 dekatherms equivalent of natural gas per day for redelivery to the Fair Lawn plant. Petitioner states that it would obtain the stated quantities of natural gas by transferring 684 dt equivalent per day that was the maximum daily delivery obligation to Philadelphia Gas Works to the PSEG delivery point. No extension beyond the current expiration date of Petitioner's existing certificate authorization is requested and all other terms and conditions of the certificate authorization would remain unchanged.

Implementation of the proposed transportation would, it is asserted, enable Nabisco to receive the needed gas supplies which can no longer be provided by Transco. Petitioner states that it has ample capacity on its system to render the transportation service which would have no significant effect on the operation of its system.

Nabisco's use of the natural gas at its Fair Lawn plant is, it is stated, for a high priority process for which there is no non-gaseous alternate fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-8796 Filed 3-3-80; 8:46 am]

BILLING CODE 6450-95-M

[Docket No. CP79-80]

**Trailblazer Pipeline Co., et al;  
Amendment to Application**

February 26, 1980.

Take notice that on February 12, 1980, Trailblazer Pipeline Company (Trailblazer), 122 South Michigan Avenue, Chicago, Illinois 60603, Overthrust Pipeline Company (Overthrust), 36 South State Street, Salt Lake City, Utah 84111, and Colorado Interstate Gas Company (CIG), P.O. Box 1987, Colorado Springs, Colorado 80944, filed in Docket No. CP79-80 an amendment to their pending application, as amended, filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to reflect certain changes in the Trailblazer System which have been brought about as a result of Northern Natural Gas Company (Northern) becoming a participant in Trailblazer and Overthrust, and as a result of the dedication of additional gas reserves which are available for transportation, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that in the amended application filed in the instant docket, Applicants requested authorization to construct and operate facilities to be known as the Trailblazer System, which system consists of three segments which together would be an integrated facility designed to transport gas from the Rocky Mountain Area to existing markets in the Eastern, Midwestern and Western regions of the United States.

It is stated herein that Applicants and Northern have reached agreement whereby Northern would become a partner, in the segments being constructed by Trailblazer and by Overthrust. It is further stated that, as a result of the participation of Northern, the Overthrust pipeline segment would be owned by a partnership consisting of

CIG Gas Supply Company, which is a subsidiary of CIG, Columbia Gulf Transmission Company (Columbia Gulf), Mountain Fuel Resources, Inc., NGPL-Overthrust Inc., which is a subsidiary of Natural Gas Pipeline Company of America (Natural), and Northern.

Applicants further proposed to reflect additional dedicated reserves to the project which, it is stated, have required an increase in the capacity of the proposed project with total possible reserves of 80,000,000,000 Mcf available in the Rocky Mountain area.

Applicants state that the revised Overthrust segment would consist of approximately 88 miles of 36-inch diameter pipeline, and other appurtenances which would have a daily capacity of approximately 400,000 Mcf and the cost of said Overthrust facilities would be \$56,752,000.

Applicants state that the amendment also revises the CIG segment by adding two 4,000 horsepower compressors in Carbon County, Wyoming, and two 2,700 horsepower compressors in Weld County, Wyoming. It is stated that with such compression the CIG segment would have a daily design capacity of approximately 866,000 Mcf and that the total estimated cost of the CIG segment is \$195,407,000.

The amendment proposes to add a 4,500 horsepower compressor to the Trailblazer segment in Lincoln County, Nebraska. It is stated that the addition of the compressor would result in a daily design capacity of approximately 525,000 Mcf, and that the total estimated cost of the Trailblazer segment is \$280,953,000.

Applicants assert that the cost of the proposed facilities would be financed utilizing a capitalization of 30 percent equity and 70 percent long-term debt.

Trailblazer and Overthrust estimate that during the first year of operations their respective annual cost of service would be \$74,496,000 and \$15,374,000 assuming an 11.8 percent overall rate of return. CIG estimates its first year cost of service would be \$50,479,000 with a pro-forma 11.37 percent overall rate of return.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-8768 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-235]

### Transcontinental Gas Pipe Line Corp.; Application

February 28, 1980.

Take notice that on February 11, 1980, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-235 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an additional point of delivery to Washington Gas Light Company (Washington) for service rendered under Applicant's Rate Schedules CD, GSS, and WSS, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is currently authorized to deliver gas to Washington pursuant to said rate schedules at the following points of delivery:

- (1) Herndon Meter Station located in Fairfax County, Virginia; and,
- (2) Bull Run Meter Station located in Prince William County, Virginia.

It is stated that, in order to alleviate a heating value imbalance which exists on Washington's distribution system, Applicant proposes to add an additional point of delivery to Washington so as to facilitate the mixture of its gas supplies with high-Btu gas, which Washington purchases from Columbia Gas Transmission Corporation. The proposed delivery point would be as follows:

Dranesville Meter Station located at milepost 1599.4 on Applicant's main transmission line located two miles eastward from Dranesville, Virginia, on Virginia Highway 7.

Applicant states that no additional facilities are proposed at this time to effectuate deliveries at the proposed point of delivery.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington,

D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 80-8737 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-236]

### Transcontinental Gas Pipe Line Corp.; Application

February 28, 1980.

Take notice that on February 11, 1980, Transcontinental Gas Pipe Line Company (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-236 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 5.5 miles of 6-inch pipeline, 2.0 miles of 8-inch pipeline and appurtenant metering, regulating and other facilities

to attach new gas supplies located in Eugene Island Block 136, offshore Louisiana, to Applicant's existing 24-inch Southeast Louisiana Gathering System (SELGS). It is stated that the proposed facilities would connect with SELGS at a subsea tie-in in Eugene Island Block 153.

Applicant states that the cost of the proposed facilities would be \$4,830,000, which would be financed initially from funds on hand or short-term borrowings, with permanent financing to be arranged at a later date.

Applicant states it has entered into a gas purchase contract with Shell Oil Company (Shell) covering Shell's 100 percent interest in Eugene Island Block 136 which reserves should be ready for production upon completion of the proposed facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6738 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket No. ER80-233]

**Washington Water Power Co.; Filing**

February 22, 1980.

The filing Company submits the following:

Take notice that on February 11, 1980, The Washington Water Power Company (Washington) tendered for filing copies of Amendment No. 2 to an earlier filed transmission service contract dated December 3, 1976, under which Washington provides transmission service for Pacific Power & Light Company (Pacific). This amendment extends for one additional year (through November 1, 1980) the provisions of the above contract. In addition, this amendment provides for the sale of surplus thermal energy to Washington by Pacific under Pacific's Rate Schedule FERC No. 145.

Under the above transmission service contract, Washington provides 200 Mw of transmission capacity from its interconnection with Idaho Power Company in the Oxbow-Lolo 230-Kv line to the Lolo terminal of the Walla Walla-Lolo 230-Kv line. The agreement (as amended) is to terminate on the earlier of the date that Pacific's proposed Midpoint-Malin 500-Kv line is placed in service or November 1, 1980. This amendment provides, in addition, for the sale of up to 120,000 mwh of surplus thermal energy between November 1, 1979, and March 31, 1980, to Washington by Pacific.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 7, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party 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. 80-6771 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Project No. 3005]

**W. P. B. Power, Inc.; Application for Preliminary Permit**

February 28, 1980.

Take notice that on December 3, 1979, W. P. B. Power, Incorporated (Applicant) filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)-825(r)] to study the feasibility of rehabilitating an existing abandoned water power project, to be known as Tygh Valley Power Plant Project No. 3005, located on the White River, in Tygh Valley State Park, in Wasco County, Oregon. Pacific Power and Light Company abandoned the project in 1969, and transferred ownership of the project to the State of Oregon. Correspondence with the Applicant should be directed to: William P. Bowman, President, P.O. Box 182, Moro, Oregon 97039. Power to be generated by the project may affect the interests of interstate commerce.

**Purpose of the Project**—Applicant proposes to sell project power to the Pacific Power and Light Company.

**Proposed Scope and Cost of Studies Under Permit**—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare a definitive project report concerning engineering and economic feasibility of rehabilitating the project, prepare an environmental report, obtain agreements with various Federal, State, and local agencies, and prepare a FERC license application. The cost of these activities is estimated by the Applicant to be about \$44,000.

**Project Description**—The proposed run-of-the-river project would consist of: (1) an existing concrete overflow dam, 8 feet high (streambed to crest) and 226 feet long, creating a pondage of 8 acre-feet; (2) a 1,300-foot-long, 7-foot-diameter steel penstock connected to; (3) an existing powerhouse, to contain 3 new turbine-generator units having a total rated capacity of 6,042 kW; and (4) approximately 400 feet of transmission line to be constructed between the powerhouse and Pacific Power and Light Company's existing substation.

**Purpose of Preliminary Permit**—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of

application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, Applicant seeks a 36-month permit.

**Agency Comments**—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (Copies of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

**Protests, and Petitions To Intervene**—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests.

In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any comment, protest, or petition to intervene must be filed on or before May 7, 1980. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

**Competing Applications**—Anyone desiring to file a competing application must submit to the Commission, on or before May 7, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than July 7, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18

CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 80-6733 Filed 3-3-80; 8:45 am]  
BILLING CODE 6450-85-M

[Docket Nos. G-7004, etc.]

### Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates<sup>1</sup>

February 26, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft <sup>3</sup>	Pressure base
G-7004, D, Feb. 1, 1980	Pennzoil Co., P.O. Box 2967, Houston, Tex. 77001	Consolidated Gas Supply Corp., Central District, Doddridge County, W. Va.	Seller sold to Vinson Oil and Gas Drilling Company certain leases as more fully set out in the agreement dated Jan. 1, 1980.	
G-11855, C, Jan. 28, 1980	Mobil Oil Corp., 9 Greenway Plaza, Suite 2700, Houston, Tex. 77046	Trunkline Gas Co., San Carlos Field, Hidalgo County, Tex.	(1)	14.65
G-15270, Jan. 28, 1980	Mobil Oil Corp.	Trunkline Gas Co.		
G-20092, C, Jan. 18, 1980	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221	Arkansas Louisiana Gas Co., Rocky Mount Field, Bossier Parish, La.	(1)	15.025
C163-607, D, Feb. 7, 1980	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79189	Transwestern Pipeline Co., Section 871, Block 43, H&TC Survey, Lipscomb County, Tex. (Schultz "F" #1).	Leak in casing and depleted condition of well makes remedial economically unfeasible.	
C169-514, C, Feb. 5, 1980	Conoco Inc., P.O. Box 2197, Houston, Tex. 77001	Kansas-Nebraska Natural Gas Co., Inc., Red Lion Field, Sedgwick County, Colo.	(1)	14.65
C169-669, D, Feb. 4, 1980	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla. 73125	Transcontinental Gas Pipe Line Corp., Block 256, portion of the Ship Shoal, Block 239 Unit, Terrebonne Parish, La.	(1)	
C176-93, C, Feb. 7, 1980	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160	Tennessee Gas Pipeline Co., Northern half of the southwest quarter of Ship Shoal Block 183, Offshore Louisiana.	(1)	15.025
C176-141, C, Feb. 5, 1980	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001	Columbia Gas Transmission Corp., Lrette Field, Terrebonne Parish, La.	(1)	15.025
C177-41, D, Dec. 17, 1979	Mobil Oil Exploration and Producing, Southeast Inc., 9 Greenway Plaza, Suite 2700, Houston, Tex. 77046	Sea Robin Pipeline Co., Eugene Island, Block 330, Offshore Louisiana.	(1)	
C178-616, C, Jan. 28, 1980	Hondo Oil & Gas Co., P.O. Box 2819, Dallas, Tex. 75221	El Paso Natural Gas Co., W/2 Sec. 30-T20S-R28E, Millman Area, Eddy County, N. Mex.	(1)	14.65
C178-832, Nov. 6, 1979	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001	Transcontinental Gas Pipe Line Corp., Louisiana Land and Exploration (LL&E) Well No. 1 in the Lake Washington Field, Bayou Chalard Area, Plaquemines Parish, La.		
C180-34 (C163-1011), B, Feb. 11, 1980	A. L. Rhodes, Operator, et al, 126 Citizens Bank Building, Abilene, Tex. 79601	El Paso Natural Gas Co., Noelke (Bouscaren "A" Lease), Crockett County, Tex.	Producing zones depleted—lease has expired—state authorities (Texas RRC) has ordered plugging of the two (2) old wells on subject lease.	
C180-173 (G-20326), B, Jan. 14, 1980	Monsanto Co., 5051 Westheimer, 1300 Post Oak Tower, Houston, Tex. 77056	El Paso Natural Gas Co., East Bisti Field, San Juan County, N. Mex.	(1)	
C180-176 (C177-160), B, Jan. 21, 1980	Phillips Petroleum Co., 5 C4 Phillips Building, Bartlesville, Okla. 74004	El Paso Natural Gas Co., Cabana No. 1 Well, Cabin Lake Field, Eddy County, N. Mex.	The only well covered by the contract was plugged in July 1978, which resulted in surrender of the lease.	
C180-182 (C178-1116), B, Jan. 8, 1980	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001	El Paso Natural Gas Co., Tunstill, East (Wolfcamp) Field, Loving County, Tex.	Well plugged.	
C180-184, B, Feb. 1, 1980	James P. Gourley, R.D. #2, New Bethlehem, Pa. 16242	Columbia Gas & Transmission Corp., Clarion County, Pa.	(1)	
C180-186 (C170-930), B, Jan. 31, 1980	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001	Michigan Wisconsin Pipe Line Co., Garden City Field, St. Mary Parish, La.	Depleted and the contract has been cancelled.	
C180-187, A, Feb. 7, 1980	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150	Transcontinental Gas Pipe Line Corp., South Pelto Blocks 9 and 10, Ship Shoal Block 68, Offshore Louisiana.	(1)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft <sup>3</sup>	Pressure base
C180-188 (C169-979), B, Feb. 5, 1980.	Texas Gas Exploration Corp., P.O. Box 52310, Houston, Tex. 77052.	Texas Gas Transmission Corp., Block 99 Eugene Island Field, Offshore Louisiana.	The gas reserves covered by Applicant's FERC Gas Rate Schedule No. 36 have been depleted to the extent the continuance of service is unwarranted.	_____
C180-189, E, Feb. 6, 1980	Gulf Oil Corp. (Succ. in Interest to Kewanee Oil Co.) P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Certain acreage located in the Pecos Valley Field, Pecos County, Tex.	(*) _____	14.65
C180-190, A, Jan. 22, 1980	Arco Oil & Gas Co., Division of Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Pacific Alaska LNG Co., West Foreland Field, Cook Inlet Area, Alaska.	(*) _____	14.73
C180-191, A, Jan. 22, 1980	Arco Oil & Gas Co., Division of Atlantic Richfield Co.	Pacific Alaska LNG Co., Falls Creek Field, Cook Inlet Area, Alaska.	(*) _____	14.73
C180-192, A, Jan. 22, 1980	Arco Oil & Gas Co., Division of Atlantic Richfield Co.	Pacific Alaska LNG Co., Birch Hill Field, Cook Inlet Area, Alaska.	(*) _____	14.73
C180-193, A, Jan. 22, 1980	Arco Oil & Gas Co., Division of Atlantic Richfield Co.	Pacific Alaska LNG Co., North Fork Field, Cook Inlet Area, Alaska.	(*) _____	14.73
C180-194 (C176-11), B, Feb. 11, 1980.	Texas Gas Exploration Corp., P.O. Box 52310, Houston, Tex. 77052.	Kansas-Nebraska Natural Gas Co., Inc., McKenzie Assignment of Interest Field, Weld County, Colo.	_____	_____
C172-255, C, Nov. 18, 1977	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Eugene Island Area, Block 296 Field, Offshore Louisiana.	(*) _____	15.025
C176-450, A, Dec. 17, 1979 <sup>18</sup>	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001	El Paso Natural Gas Co., Anson Field, Eddy County, N. Mex.	(*) _____	14.65
C176-730, C, Nov. 23, 1979	Mobil Oil Exploration & Producing Southeast Inc., 9 Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Tennessee Gas Pipeline Co. and Columbia Gas Transmission Corp., South Timberline, Blocks 29, 37 and 38, Offshore Louisiana.	(*) _____	15.025
C179-114, A, Nov. 3, 1978	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Southern Natural Gas Co., Mississippi Canyon Block 311, Offshore Louisiana.	(*) _____	15.025
C179-115, A, Nov. 3, 1978	Shell Oil Co.	Florida Gas Transmission Co., Mississippi Canyon Block 311, Offshore Louisiana.	(*) _____	15.025

<sup>1</sup> Applicant requests that the Certificate in Docket No. G-11955, be further amended so that the Gas Purchase Contract dated Jan. 1, 1975, filed as Mobil's Gas Rate Schedule No. 52 may be further affected by Amendment effective Jan. 1, 1979, which adds Mobil's interest now covered under Gas Purchase Contract dated Apr. 18, 1958, (Mobil's Gas Rate Schedule No. 152) and certificated in Docket No. G-15270 which expired under its own terms effective Jan. 1, 1979, and which Mobil requested Complete Cancellation of its Rate Schedule No. 152 and Request to Terminate its Certificate of Public Convenience and Necessity in Docket No. G-15270.

<sup>2</sup> Applicant is requesting to Terminate its Certificate of Public Convenience and Necessity in Docket No. G-15270 and Gas Rate Schedule No. 152, pursuant to the Natural Gas Act and applicable Commission Regulations. By Order issued May 5, 1979, the Commission granted Mobil a Certificate of Public Convenience and Necessity authorizing such sale in Docket No. G-15270. Mobil and Trunkline Gas Company are parties to a certain Gas Purchase Contract dated Apr. 18, 1958, as amended, and Mobil states said Contract expired under its own terms on Jan. 1, 1979. All acreage committed under the expired contract is non-producing with last production occurring in October 1978.

<sup>3</sup> Applicant is filing under Gas Purchase Contract dated Oct. 5, 1959, amended by Agreement dated Mar. 18, 1979.

<sup>4</sup> By Assignment dated Dec. 19, 1973, and made effective Oct. 1, 1973, Sturco Oil Company, Inc., sold and assigned to Conoco the Sturco interest in certain leases located in the Red Lion Field, Sedgwick County, Colo.

<sup>5</sup> The OCS-G 1032 Well No. 1 was drilled on Block 256 as a dry hole and was plugged and abandoned on July 15, 1967. The OCS-G 1032 Well No. 2 was drilled as a dry hole and was plugged and abandoned on Nov. 7, 1973. The Unit of which Block 256 was a part was terminated effective Apr. 21, 1977, and the lease thereon was relinquished by all leasees. Such relinquishment was accepted by the U.S.G.S. and the lease was cancelled in its entirety effective Apr. 25, 1977. No natural gas was ever produced or sold from Block 256 under Kerr-McGee's FERC Gas Rate Schedule No. 110 pursuant to the Certificate of Public Convenience and Necessity issued to Kerr-McGee effective Sept. 9, 1971, in Docket No. C169-698.

<sup>6</sup> Applicant is filing under Gas Purchase Contract dated Aug. 1, 1975, amended by Amendment dated Dec. 18, 1979.

<sup>7</sup> Applicant is filing under Gas Purchase and Sales Agreement dated Aug. 13, 1975, amended by Agreement dated Jan. 17, 1980, and agrees to accept a permanent Certificate of Public Convenience and Necessity in accordance with the Natural Gas Policy Act of 1978 and the Commission's Regulations under said Act.

<sup>8</sup> Applicant requests authority to discontinue the service of approximately 25 percent of the dedicated gas reserves from the subject acreage for utilization in a gas injection project that will result in an estimated recovery of 6.1 million barrels of oil.

<sup>9</sup> Applicant is filing under Gas Purchase Agreement dated Mar. 6, 1978, amended by Agreements dated Oct. 1, 1979, and Oct. 22, 1979.

<sup>10</sup> On May 1, 1979, the State of Louisiana's Office of Conservation, Department of Natural Resources determined that the gas produced from the LL&E Well No. 1 in the Lake Washington Field qualified to receive the maximum lawful price allowed under Section 102(c)(1)(C) of the NGPA of 1978 (NGPA). Such notification was received by the Commission on May 18, 1979, and inasmuch as the Louisiana Office of Conservation determination was not reversed or remanded during the forty-five (45) day period following May 18, 1979, such determination is final by operation of law. Section 601(a)(1)(B) of the NGPA provides that the provisions of the NGA and the jurisdiction of the Commission under such Act shall not apply to "new natural gas" as defined in Section 102(c) of the NGPA. Now, therefore, for the foregoing reasons, TXC petitions the Commission to terminate the above-mentioned Certificate of Public Convenience and Necessity and cancel the related Rate Schedule No. 26 effective as of July 2, 1979, the date the NGPA § 102 determination became final.

<sup>11</sup> Not used.

<sup>12</sup> Nonproductive, contract expired by its own terms on Jan. 25, 1980, and the leases covered under it were surrendered eight years ago. Monsanto has no further interest in these properties.

<sup>13</sup> Line pressure 34#, well pressure 5#. Applicant purchased this well from G. W. Walters, Acme St., Pipersburg, Pennsylvania 16248 and they have an opportunity to sell to Peoples Gas with a line pressure of 5#.

<sup>14</sup> Applicant is filing under Gas Purchase Contract Dated Jan. 22, 1980.

<sup>15</sup> Effective as of July 1, 1978, Applicant acquired all of Kewanee's interest in properties covered by contract dated Sept. 15, 1960, as amended.

<sup>16</sup> Applicant is filing under Gas Sale and Purchase Agreement dated Mar. 1, 1978, as amended Mar. 1, 1978, June 30, 1978, and Sept. 30, 1978.

<sup>17</sup> Applicant is filing under Contract dated Jan. 6, 1977.

<sup>18</sup> Request for an additional delivery point at the tailgate of Cities Service Gas Company's Burton Flats Gas Processing Plant, Eddy County, N. Mex.

<sup>19</sup> Applicant is filing under Contract dated Feb. 4, 1976, amended by Letter Agreement dated Mar. 6, 1978.

<sup>20</sup> Applicant is filing under Contract dated Aug. 3, 1976, amended by Amendment dated Aug. 20, 1979.

<sup>21</sup> Applicant is filing under Letter Agreement dated Sept. 24, 1978, and Contract dated July 1, 1979.

<sup>22</sup> Applicant is filing under Letter Agreement dated Sept. 27, 1978, and Contract dated Aug. 1, 1979.

Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 80-8785 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-85-M

## Office of Hearings and Appeals

### Cases Filed Week of November 16, 1979, through November 23, 1979

Notice is hereby given that during the week of November 16, 1979 through November 23, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings

and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice

shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,  
Director, Office of Hearings and Appeals.  
February 28, 1980.

## List of Cases Received by the Office of Hearings and Appeals

[Week of Nov. 16 through Nov. 23, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 16, 1979	Peerless Petrochemicals, Inc., Washington, DC	BED-0016; BEJ-0002	Motion for Discovery; Protective Order. If granted: Discovery would be granted to Peerless Petrochemicals, Inc. in connection with documents submitted by Commonwealth Oil Refining Company, Inc. in its application for exception relief. A Protective Order would be issued by the DOE to ensure the confidentiality of any information provided to Peerless Petrochemicals, Inc.
Nov. 19, 1979	Bowman Petroleum Co., Inc., Tunkhannock, PA	BEE-0363	Allocation Exception. If granted: Bowman Petroleum Co., Inc. would receive an exception from the provisions of 10 CFR Part 211, increasing the firm's allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 19, 1979	Chevron U.S.A. Inc., San Francisco, CA	BEA-0065	Appeal of Assignment Order. If granted: An October 12, 1979, Assignment Order issued to Chevron U.S.A. Inc. by the Economic Regulatory Administration, Region IV, regarding Chevron's supply obligations to Publix Oil Company Inc. would be rescinded.
Nov. 19, 1979	Darrel B. Baird, Distr., Inc., Central City, KY	BEE-0366	Allocation Exception. If granted: Darrel B. Baird, Distr., Inc. would receive an exception from the provisions of 10 CFR Part 211 increasing the firm's allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 19, 1979	Energy Cooperative, Inc., East Chicago, IL	BEX-0012	Supplemental Order. If granted: An October 3, 1979 Decision and Order (Case No. DEL-8112) issued to Energy Cooperative Inc. would be clarified with respect to the weighted average price at which the firm could receive volumes of crude oil under the DOE Buy/Sell Program.
Nov. 19, 1979	Miller and Chevalier, Washington, DC	BFA-0066	Appeal of Information Request Denial. If granted: An October 19, 1979 Information Request Denial issued by the Assistant Administrator for Enforcement would be rescinded and Miller & Chevalier would be granted access to certain DOE documents.
Nov. 19, 1979	Office of Special Counsel, Washington, DC	BRR-0013	Request for Modification. If granted: The DOE's August 8, 1979 Decision and Order (Case No. DRD-0010), would be modified in connection with documents used by the ERA in formulating the interpretation of the term "purchased" in the Proposed Remedial Order issued to Ashland Oil, Inc.
Nov. 19, 1979	Petraco-Valley Oil and Refining Company, Houston, TX	BEL-0019	Temporary Allocation Exception. If granted: Petraco-Valley Oil and Refining Company would receive a Temporary Exception from the provisions of 10 CFR 211.87 (the Entitlements Program) with respect to the firm's entitlements purchase obligation for its start-up inventory of crude oil.
Nov. 19, 1979	UPG, Inc., Omaha, NE	BSG-0005	Petition for Special Redress. If granted: The DOE would rescind portions of the September 27, 1979 Notice of Probable Violation issued to UPG, Inc. by the Economic Regulatory Administration, Region VII.
Nov. 19, 1979	Vickers Petroleum Corporation, Washington, DC	BEA-0067	Appeal of an Assignment Order. If granted: The October 19, 1979, Assignment Order issued to Vickers Petroleum Corporation by the Economic Regulatory Administration, regarding Vickers' supply obligations to American Petrofina, Inc. would be rescinded.
Nov. 20, 1979	Ashland Oil, Inc., Washington, DC	BEE-0373; BEL-0373; BSG-0007	Allocation Exception and Temporary Exception; Petition For Special Redress. If granted: Ashland Oil, Inc. would receive an exception from the provisions of 10 CFR Part 211 that would permit the firm to obtain additional supplies of crude oil to enable it to continue the operation of its refineries, and a temporary exception would be granted pending final determination of the exception application.
Nov. 20, 1979	Ashland Petroleum Company, Ashland, KY	BEA-0070; BES-0070	Appeal of ERA Assignment Order, Request for Stay. If granted: The October 11, 1979, Assignment Order issued to Ashland Petroleum Company by the Economic Regulatory Administration, Region VII, regarding the firm's supply obligation to American Agri-Fuels Corporation would be rescinded.
Nov. 20, 1979	Associated Master Barbers, Charlotte, NC	BEE-0372	Exception from the Emergency Building Temperature Restrictions. If granted: Associated Master Barbers would receive an exception from the provisions of 10 CFR Part 490, the Emergency Building Temperature Restrictions.
Nov. 20, 1979	Atlantic Richfield Company, Los Angeles, CA	BEA-0068	Appeal of Assignment Order. If granted: The October 19, 1979, Assignment Order of the Economic Regulatory Administration regarding Atlantic Richfield Company's supply obligation to American Petrofina, Inc. would be rescinded.
Nov. 20, 1979	Cities Services Company, Tulsa, OK	BEE-0367; BEL-0020	Allocation Exception, Temporary Allocation Exception. If granted: Cities Service Company would receive an exception from the provisions of 10 CFR Part 211 that would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol. The firm would receive a Temporary Exception pending a determination on its Application for Exception.
Nov. 20, 1979	Kerr-McGee Refining Corporation, Oklahoma City, OK	BEA-0063	Appeal of Assignment Order. If granted: The October 11, 1979, Assignment Order issued to Kerr-McGee Refining Corporation by the Economic Regulatory Administration, Region VII regarding Kerr-McGee's supply obligations to American Agri-Fuels Corporation would be rescinded.
Nov. 20, 1979	Molo Oil Company, Dubuque, IA	BEE-0349	Allocation Exception. If granted: Molo Oil Co. would receive an exception from the provisions of 10 CFR Part 211, that would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 20, 1979	Petroleum Delivery Service, Atlanta, GA	BED-0017; BEJ-0003	Motion for Discovery and Protective Order. If granted: The DOE would issue a protective order and discovery would be granted in connection with an Application for Temporary Exception filed by Southern Bell Telephone and Telegraph (Case No. DEL-0002).
Nov. 20, 1979	Six Flags Corporation, Washington, DC	BEE-0371; BES-0371; BEL-0371	Allocation Exception, Request for Stay, Request for Temporary Exception. If granted: Six Flags Corporation would receive an exception from the provisions of 10 CFR Parts 211 and 212, regarding the allocation and pricing of retail gasoline sold through facilities located on the premises of its amusement parks.
Nov. 20, 1979	Standard Oil Co. of Ohio, Cleveland, OH	BEA-0069	Appeal of Assignment Order. If granted: The October 19, 1979, Assignment Order issued to Standard Oil Company of Ohio by the Economic Regulatory Administration regarding the firm's supply obligations to American Petrofina, Inc. would be rescinded.
Nov. 20, 1979	Sun Oil Company of Pennsylvania, Washington, DC	BEA-0071	Appeal of Assignment Order. If granted: The October 11, 1979, Assignment Order issued to Sun Oil Company of Pennsylvania by the Economic Regulatory Administration, Region VII, regarding the firm's gasoline supply obligations to American Agri-Fuels would be modified or rescinded.
Nov. 21, 1979	Baxter-Meadows Oil Company, Inc. Washington, DC	BEE-0379	Allocation Exception. If granted: Baxter-Meadows Oil Company, Inc. would receive an exception from the provisions of 10 CFR Part 211 that would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 21, 1979	Edward F. Canfield, Washington, DC	BFA-0073	Appeal of Information Request Denial. If granted: The October 30, 1979 Information Request Denial issued by the Office of Procurement Operations would be rescinded and Edward F. Canfield would receive access to certain DOE documents.
Nov. 21, 1979	City of Cartersville, Cartersville, GA	BEE-0375	Exception from Reporting Requirements. If granted: The City of Cartersville would not be required to file Form EIA-149 ("Natural Gas Supply Requirements and Usage").

## List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Nov. 18 through Nov. 23, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 21, 1979	Gulf Oil Corporation, Tulsa, OK	BXE-0367	Extension of relief granted in <i>Gulf Oil Corporation 3 DOE Par.</i> — (September 12, 1979). If granted: Gulf Oil Corporation would be permitted to continue to sell the crude oil produced from the NW Graylin "D" Sand Unit located in Logan County, Colorado, at upper tier ceiling prices.
Nov. 21, 1979	Haber Oil Products, Pleasant Hill, CA	BEE-0382	Allocation Exception. If granted: Haber Oil Products would receive an exception from the provisions of 10 CFR Part 211 that permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 21, 1979	Henry Engineering, Midland, TX	BXE-0367	Extension of Relief Granted in <i>Henry Engineering 3 DOE Par.</i> — (August 27, 1979). If granted: Henry Engineering would be permitted to continue to sell the crude oil produced from the Robert Wiley "Deep" Lease site located in Gaines County, Texas at upper tier ceiling prices.
Nov. 21, 1979	J. C. Roberts, Jr. Company, New Roads, LA	BEE-0390	Allocation Exception. If granted: J. C. Roberts, Jr. Company would receive an exception from the provisions of 10 CFR Part 211 that would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 21, 1979	Allen N. Keith, Panama City, FL	BEN-0004	Request for Interim Order. If granted: An Interim Order would be issued allowing Allen N. Keith to receive an increased allocation of gasoline pending a final determination on a Statement of Objections (Case No. BEO-0181).
Nov. 21, 1979	La Gloria Oil & Gas Company, Houston, TX	BEA-0072	Appeal of Assignment Order. If granted: The October 19, 1979, Assignment Order issued to fifteen firms by the Economic Regulatory Administration regarding La Gloria Oil & Gas Co.'s supply obligations to American Petroleum, Inc. would be rescinded.
Nov. 21, 1979	Mobil Oil Corporation, New York, NY	BES-0019; BST-0019.	Request for Stay and Temporary Stay. If granted: Mobil Oil Corporation would receive a stay and temporary stay of the provisions of the Supplemental Allocation Notices issued by the Economic Regulatory Administration on October 17 and October 23, 1979 in connection with the Canadian Crude Allocation Program.
Nov. 21, 1979	Naph-Sol Refining Company, Inc. et al, Washington, DC	BSG-0006	Petition for Special Redress. If granted: Documents and comments relating to a consent order between the Office of Special Counsel and Cities Service Company would be made available to the public.
Nov. 21, 1979	Natogas, Inc., Minneapolis, MN	BEE-0380	Allocation Exception. If granted: Natogas, Inc. would receive an exception from the provisions of 10 CFR Part 211.9 that would permit the firm to purchase propane from a new lower-priced supplier.
Nov. 21, 1979	Phillips Petroleum Company, Bartlesville, OK	BEA-0075	Appeal of Assignment Order. If granted: The October 11, 1979 Assignment Order issued to Phillips Petroleum Company by the Economic Regulatory Administration, Region VII, regarding Phillips' gasoline supply obligations to American Agri-Fuels Corporation would be rescinded.
Nov. 21, 1979	Stubbs Oil Company, Inc., Statesboro, GA	BEE-0385	Allocation Exception. If granted: Stubbs Oil Company, Inc. would receive an exception from the provisions of 10 CFR Part 211 that would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 21, 1979	Texaco, Inc., White Plains, NY	BED-0018	Motion for Discovery. If granted: Discovery would be granted to Texaco, Inc. in connection with comments submitted on behalf of an Application for Exception filed by Energy Cooperative, Inc. (Case No. DEE-8112).
Nov. 21, 1979	Vickers Petroleum Corporation, Wichita, KS	BEA-0074; BES-0018; BST-0018.	Appeal of Assignment Order, Request for Stay and Temporary Stay. If granted: The October 11, 1979, Assignment Order issued to Vickers Petroleum Corporation by the Economic Regulatory Administration, Region VII, regarding Vickers' gasoline supply obligations to American Agri-Fuels Corporation would be rescinded. A stay and temporary stay would be issued pending final determination of the appeal.
Nov. 21, 1979	Church & Son Oil Co., Clayton, GA	BEE-0377	Allocation Exception. If granted: Church & Son Oil Company would receive an exception from the provisions of 10 CFR Part 211 that would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 23, 1979	Energy Cooperative, Inc., Washington, DC	BES-0021; BST-0021.	Request for Stay and Temporary Stay. If granted: Energy Cooperative, Inc. would receive a stay and temporary stay of the November 15, 1979, Temporary Assignment Order issued by the Economic Regulatory Administration, Region VII, regarding the Energy Cooperative, Inc.'s gasoline supply obligations to Foremost Petroleum Company pending an appeal of the Order.

## List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of November 16 Through November 23, 1979

If granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

November 16, 1979.

Academy Service Station BEE-0355  
Massachusetts.

Adams, Erwin BEE-0353 Ohio.

Giant Industries, Inc. BEE-0884 District of  
Columbia.

Lincoln Coach Lines BEE-0354 Pennsylvania.

Mission Car Care BEE-0351 California.

Pickering Petroleum Co. BEE-0356  
Massachusetts.

Rogers Oil Company BEE-0358 Georgia.

Wahl, Carl H. BEE-0352 Texas.

November 19, 1979.

Clark, Stanley E. BEE-0365 California.

Columbia "20" Union Auto/Truck BEE-0364  
South Carolina.

Sonny's Amoco #2 BEE-0361 Virginia.

Walton's Corner, Inc. BEE-0362 Missouri.

November 20, 1979.

Big Bear Lake Valley BEE-0369 California.

Capital Service BEE-0368 Wisconsin.

Gas &amp; Go BEE-0370 California.

L. M. Petroleum Company BEE-0374  
Connecticut.

November 21, 1979

Bob McCaslin-Steel Erection Co. BEE-0381  
Texas.Joe's Gulf Service Center BEE-0376 New  
Hampshire.John B. Walker Texaco, Inc. BEE-0368  
Mississippi.

Kay Peterson Distributing BEE-0384 Utah.

Swithers Heating Oil Serv., Inc. BEE-0386  
Pennsylvania.Tucson Fuel Company, Inc. BEE-0378  
California.Vinings Oil Company BEE-0383 North  
Dakota.W. W. Fowler Oil Company BEE-0408  
Georgia.

November 23, 1979

Curcio's Mini-Market BEE-0391  
Pennsylvania.

Items Retrieved; 25.

[FR Doc. 80-5713 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-61-M

**ENVIRONMENTAL PROTECTION  
AGENCY**
**Region 6**
**[FRL 1427-1]**
**Approval of Revision to Previously  
Approved NESHAPS Application of  
Georgia-Pacific Corp.**

Notice is hereby given that on November 23, 1979, the Environmental Protection Agency approved an amendment to an application submitted by Georgia-Pacific Corporation to construct new integrated vinyl chloride monomer (VCM)-oxychlorination ethylene dichloride (EDC) facilities at its existing chemical complex in Plaquemine, Louisiana, and approved by the Environmental Protection Agency on June 12, 1978.

This revision to an Application for Approval of Construction has been approved under EPA's National Emission Standards for Hazardous Air Pollutants (NESHAPS) to construct Vinyl Chloride Sources (40 CFR Part 61, Subpart A and F). It was determined that emissions in violation of the NESHAPS standards for vinyl chloride would not result from the following revisions:

1. The catalytic liquid incinerator to be installed at the approved EDC-VCM facility will now be replaced with a thermal liquid incinerator to destroy liquid by-product wastes which include liquid wastes from EDC purification equipment.

2. Only one of the two approved gaseous thermal incinerators will now be installed for the control of vented gaseous VCM emissions. The proposed liquid thermal incinerator will also serve as a back-up or "duplicate spare" incinerator for the vented gaseous VCM emissions and will have sufficient capacity to incinerate all of the liquid by-product wastes or all of the gaseous VCM emissions from the new EDC-VCM facility.

**NESHAPS Approval of Construction**

The revision is reviewable under Section 307(b)(1) of the Clean Air Act only in the U.S. Court of Appeals for the Fifth Circuit. A petition for review must be filed on or before May 5, 1980.

Copies of the revision are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6,  
Air Section, First International Building,  
1201 Elm Street, Dallas, Texas 75270.

Air Quality Division, Department of Natural Resources, 325 Loyola Avenue, New Orleans, Louisiana 70160.

Date: February 12, 1980.

Adlene Harrison,

*Regional Administrator, Environmental Protection Agency, Region 6.*

[FR Doc. 80-6702 Filed 3-3-80; 8:45 am]

BILLING CODE 6560-01-M

**[FRL 1428-1]**
**Issuance of PSD Permit**

Notice is hereby given that the Environmental Protection Agency (EPA) has issued a Prevention of Significant Deterioration (PSD) permit, under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52) regulations.

Source: Boise Cascade Corporation, P.O. Box 310, Kettle Falls, Washington 99141.

**Plywood Plant**

The permit issued on December 18, 1979 constitutes approval to construct a new veneer dryer and modify the existing veneer dryer at the plywood plant in Kettle Falls, Washington, subject to certain conditions, including:

1. Emission of particulate matter (PM) shall not exceed the following:

Emission Limitations			
Facility	Pollut- ant	Tons per year	Concentration or emission factor
FBI-Veneer Dryer	PM	186	0.04 gr/dscf. at 10% opacity.
Hog Fuel Boiler	PM	196	

2. With the exception of particulate matter, potential emissions of any pollutant regulated under the Clean Air Act will be less than 250 tons per year.

**Lumber Mill**

The permit issued July 19, 1979 constitutes approval to construct a hogged fuel boiler at the lumber mill in Kettle Falls, Washington, subject to the following conditions:

1. Boise Cascade shall comply with the terms of approval specified in the Washington Department of Ecology Order, Docket No. DE 78-496 (First Amendment), issued on March 30, 1979. (Future modifications of the permit do NOT automatically amend this PSD permit.)

2. Boise Cascade shall not cause or allow particulate emissions from the subject operation to exceed 50 tons per year, 1,000 pounds per day, or 100 pounds per hour. A source test will be conducted using EPA method 5 and a

copy sent to the Washington Department of Ecology (DOE) within ninety (90) days of the boiler becoming operational. On the basis of the source test information, the State will determine the maximum allowable average steaming rate to assure that emissions remain below the 50 tons per year limit. The State permit will then be modified to specify this steaming rate as a permit condition. Yearly, the source will send the average steaming rate and hours of operation to the State for purposes of compliance assurance. EPA will contemporaneously be sent a copy of this information.

3. With the exception of particulate matter, potential emissions of any pollutant regulated under the Clean Air Act will be less than 250 tons per year.

The PSD permits are reviewable under Section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before:

Copies of the permits are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Date: February 25, 1980.

Donald P. Dubois,

*Regional Administrator-Region 10.*

[FR Doc. 80-6700 Filed 3-3-80; 8:45 am]

BILLING CODE 6560-01-M

**[FRL 1427-8]**
**Issuance of PSD Permit**

Notice is hereby given that the Environmental Protection Agency (EPA) has issued a Prevention of Significant Deterioration (PSD) permit, under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52) regulations.

Source: Bergsoe Metal Corporation, 200 S.W. Market Street, Portland, Oregon 97201.

This permit, issued August 20, 1979 constitutes approval to construct a secondary lead smelter at St. Helens, Oregon, subject to certain conditions, including:

1. Emissions of sulfur dioxide (SO<sub>2</sub>) and total suspended particulates (TSP) shall not exceed the following:

## Emission Limitations

Facility	Pollutant	Kilo-grams <sup>1</sup> per hour	Metric tons per year	Concentration <sup>1</sup>
Process	SO <sub>2</sub>	26.5	232	40 parts per million.
Stack	TSP	4.0	35	15 milligrams per dry standard cubic meter 10% opacity.
Fuel burning sources	SO <sub>2</sub>	5.8	51	0.5% sulfur in the fuel oil.
	TSP	1.3	11	

<sup>1</sup> Based on a monthly average. However, any source last performed to demonstrate compliance must also meet these emission limitations.

## 2. Fugitive Particulate Emissions

All reasonable control measures must be taken to prevent particulate matter from becoming airborne. These measures include, but are not necessarily limited to the following:

a. Enclosure storage press for battery scrap and other potentially dusty materials.

b. Maintain and operate the hooding and ventilation system to capture emissions from tap holes, ladles, and kettles and vent them into the baghouse.

c. Maintain and operate a washing and sweeping program for the paved surface in and around the facility.

3. With the exception of Pb, TSP, and SO<sub>2</sub>, potential emissions of any pollutant regulated under the Clean Air Act will be less than 100 tons per year.

The PSD permit is reviewable under Section 307 of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before February 25, 1980.

Donald P. Dubois,

Regional Administrator-Region 10.

[FR Doc. 80-6699 Filed 3-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRC 1427-2]

### Science Advisory Board, Health Effects Research Review Subcommittee; Open Meeting

Under Public Law 92-463, notice is hereby given that a two-day meeting of the Health Effects Research Review Subcommittee of the Science Advisory Board will be held on March 20 and 21, 1980 in Classroom 1, Environmental Research Center, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. The meeting will start at 9:00 a.m. on March 20, 1980. The Environmental Research Center is located at the intersection of Highway N.C. 54 and T. W. Alexander Drive.

The Health Effects Research Review Subcommittee was established to assist the Science Advisory Board's Environmental Health Committee in

providing scientific peer review for selected portions of the Agency's health research efforts.

The purpose of the meeting will be to discuss the inhalation toxicology program of EPA's Health Effects Research Laboratory located at Research Triangle Park and to provide the Subcommittee with information necessary to carry out scientific peer review of that program.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper, or wishing further information, should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. March 14, 1980. Please ask for Mr. Kenneth B. Goggin. The telephone number is (202) 472-9444.

Richard M. Dowd,

Staff Director, Science Advisory Board.

February 28, 1980.

[FR Doc. 80-8701 Filed 3-3-80; 8:45 am]

BILLING CODE 6560-01-M

### FEDERAL COMMUNICATIONS COMMISSION

[BC 26733; BC Docket Nos. 80-78, 80-79; File Nos. BPCT-781016KE, BPCT-781011KE]

Bridgeways Communications Corp., and Hi-Ho Television Corp.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing

Adopted: February 15, 1980.

Released: February 29, 1980.

By the Chief, Broadcast Bureau.

In the matter of applications of Bridgeways Communications Corporation, Bridgeport, Connecticut (BC Docket No. 80-78, File No. BPCT-781016KE) and Hi-Ho Television Corporation, Bridgeport, Connecticut (BC Docket No. 80-79, File No. BPCT-781011KE): For construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority under § 0.281(a)(11)(i) of the Commission's Rules, 47 CFR 0.281(a)(11)(i), has under consideration the above-captioned mutually exclusive applications, filed by Bridgeways Communication Corporation (Bridgeways) and Hi-Ho Television Corporation (Hi-Ho) for a new commercial television station on

Channel 43, Bridgeport, Connecticut;<sup>1</sup> and related pleadings.<sup>2</sup>

### Bridgeways Communications Corporation

2. The financial data submitted by Bridgeways (Section III, at 1, 2, Bridgeways' application) reveals that approximately \$545,900 will be required to construct and operate the proposed station for three months, estimated as follows:

Equipment down payment (including installation)	\$278,250
Equipment payments with interest (three months; 4 years @ 7%)	66,780
Buildings	40,000
Legal and engineering	10,000
Operating costs (three months)	150,875

To meet these expenditures, Bridgeways relies upon approximately \$1,334,400, itemized as follows:

Cash on hand	\$80,000
New capital balance due on stock subscriptions	675,000
Net bank loan	569,415

3. Analysis of the financial data presented in paragraph 2 leads to the following determinations:

(a) Concerning the stock subscriptions, two of the 28 subscribers have not submitted current balance sheets (dated at least within 90 days of the filing of the application) evidencing the subscribers' ability to meet the stock subscription commitments.<sup>3</sup> In addition, the vast majority of the balance sheets submitted by the subscribers do not show a breakdown of current assets, a specification of current liabilities or identification of securities that would render these marketable pursuant to FCC Form 301, Section III, at 3, Item 4(b). Furthermore, all stock subscription agreements (Exhibit 3, Attachments) are

<sup>1</sup> There is pending an application (BTC-79-0007FT) filed by WDJZ Broadcasting Company, permittee of Station WDJZ, Bridgeport, Connecticut, for transfer of control from Daniel J. Femicolli and Arthur L. McClinch to F. Francis D'Addario, majority stockholder of Hi-Ho Television Corporation. If the transfer application is granted, Hi-Ho would have to address the Commission's "one-to-a-market" policy, as required by § 73.636, note 8, before Hi-Ho could receive a grant of its television application.

<sup>2</sup> On March 23, 1979, Bridgeways requested expedited processing because of its all-female ownership structure. On April 1, 1979, Hi-Ho opposed that request, stating its concern about a possible "premature prejudgment, on comparative grounds, of the programming and integration factors of the Bridgeways application." In this regard, in a mutually exclusive proceeding, the processing staff does not concern itself with comparative factors among applicants, for that is precisely within the realm of the hearing directed by this designation order.

<sup>3</sup> Marilyn P. LaBonte, balance sheet dated April 1, 1978; Deborah Mellen, no balance sheet submitted. Although Dorothy Singer submitted no balance sheet, Colonial Bank's letter of credit indicates that her financial ability to meet the commitment has been established. (Exhibit 3, Attachment 18B.)

conditioned upon Bridgeways' entering into an affiliation agreement with one of the three major television networks. In this regard, no such network has provided reasonable assurances to Bridgeways regarding a possible affiliation agreement. A question arises, therefore, as to the availability of the stock subscription capital as a source of funds.

(b) The Citytrust Bank commitment (Exhibit 3, Attachment 29) is contingent upon a not less than 83% guarantee of the bank obligation by the Small Business Administration (SBA). However, there is no documentation evidencing the SBA's guarantee. Moreover, the Bank's commitment calls for each director of Bridgeways to pledge her corporate stock as further security for the loan. However, there is no direct statement by any director to this effect. The Bank's loan commitment also adopts all conditions and requirements which affect investor subscriptions as outlined in the stock subscription agreement. In this regard, the effect of the condition concerning major television network affiliation is indicated at paragraph 3(a), *supra*. It cannot be determined, therefore, that the bank loan will be available.

Accordingly, limited financial issues will be specified against Bridgeways under (a) and (b), *supra*.

4. Bridgeways proposes to lease the land on which it intends to construct its proposed facilities (Section III, at 1). However, Bridgeways has not submitted a copy of the land lease and thus it cannot be determined whether a transmitter site is available. In addition, the cost of leasing the land cannot be established, as required by Question 1(b), Section III, FCC Form 301. Therefore, appropriate issues will be specified.

5. Question and Answer 36 of the *Primer on Ascertainment of Community Problems by Broadcast Applicants (Primer)*, 27 FCC 2d 650, 687 (1971), states that an applicant is expected to schedule the presentation of broadcast matter addressing community problems at a time when it could reasonably be expected to be effective. Bridgeways has not specified the time segments for its list of typical programs proposed to be broadcast (Exhibit P-2). Accordingly, an appropriate issue will be specified.

#### *Hi-Ho Television Corporation*

6. Hi-Ho estimates (Section III, at 1, 2; Exhibit 7, Hi-Ho's application) that it will require approximately \$270,500 to construct and operate the proposed station for three months, as follows:

Equipment, cash purchases .....	\$203,000
Building .....	3,000
Legal, engineering, installation and other miscellaneous expenses .....	20,500
Operating costs (three months) .....	44,000

To meet these expenditures, Hi-Ho relies upon approximately \$306,500, itemized as follows: \*

Cash on hand .....	\$1,500
Prepaid legal and engineering expenses .....	5,000
Loan commitment from F. Francis D'Addario .....	225,000
Loan commitment from Jerome Kurtz .....	75,000

7. Neither Mr. D'Addario nor Mr. Kurtz has submitted balance sheets and therefore it is not clear that they possess sufficient liquid assets to meet the loan commitments, and to make these loans available to Hi-Ho. Furthermore, the second paragraph of the personal letters of commitment to Hi-Ho (Exhibit 7, Attachments D, F) contains contradictory terms. The first sentence indicates that repayment of principal and interest by Hi-Ho would be due 15 months from the date on which the FCC grants program test authority. On the other hand, the second sentence indicates that repayment of principal and interest would begin on the first day of the first month following grant of program test authority.<sup>5</sup> As a result, the date on which Hi-Ho must commence its payments cannot be established. Based on these determinations, limited financial issues will be specified against Hi-Ho to determine whether the personal loans will be available, and, if so, to determine the date on which Hi-Ho must begin repayment.

8. Rule 73.613 requires either that the main studio of a television station be located in the principal community to be served or that good cause be shown for locating the studio outside this community. Hi-Ho proposes to locate the studio outside the corporate boundaries of Bridgeport, at the same location previously used by former Station WICC-TV, Bridgeport, Connecticut.<sup>6</sup> Hi-Ho states that the proposed location is easily accessible to

\* Hi-Ho also proposes as sources of funds the revenues from two advertising contracts from Trinity Advertising Agency and Christian Broadcasting Network, Inc. (Exhibit 7, Attachments H, I). However, advertising revenues are not immediate sources of funds unless their full realization can be expected within the three-month financial qualifications standard. FCC Public Notice 79-299, dated May 11, 1979.

<sup>5</sup> The second paragraph reads: No repayment of principal or interest will be due until fifteen months from the date on which the Federal Communications Commission grants program test authority for the new television station. Thereafter, payment of principal and interest will be made in forty (40) equal quarterly installments, beginning on the first day of the first full month following grant of said program test authority.

<sup>6</sup> Station WICC-TV changed its call letters to WFTT-TV on January 13, 1967; an Order deleting those call letters was issued on July 20, 1971.

the residents of Bridgeport and that the use of this existing studio/transmitter location will reduce its construction and operating costs. (Letter dated October 11, 1978, accompanying the application.) In light of these circumstances, it appears that adequate justification has been provided for the proposed studio location.

9. Except as indicated by the issues specified below, the Commission finds Bridgeways Communications Corporation and Hi-Ho Television Corporation legally, financially, technically and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of the applications will serve the public interest, convenience and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

10. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Bridgeways:

(a) whether a transmitter site is available, and, if so, on what terms and conditions;

(b) whether, in light of the evidence adduced pursuant to the foregoing issue, the cost estimate for the first three months of operation should be reassessed;

(c) the availability of sufficient funds to meet the estimated construction and operation costs;

(d) whether, in light of the evidence adduced pursuant to (a), (b) and (c) above, applicant is financially qualified to construct and operate as proposed; and

(e) whether applicant has complied with the provisions of Question and Answer 36 of the *Primer*.

2. To determine, with respect to Hi-Ho:

(a) whether the personal loans from Mr. D'Addario and Mr. Kurtz are available;

(b) whether, in light of paragraph 2 of the loan commitment letters of Messrs. D'Addario and Kurtz, applicant must make any repayments during the first three months of operation; and

(c) whether, in light of the evidence adduced pursuant to (a) and (b) above, applicant is financially qualified to construct and operate as proposed.

3. To determine which of the applications would better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, shall file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

12. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission,  
Richard J. Shibben,  
Chief, Broadcast Bureau.

[FR Doc. 80-6866 Filed 3-3-80; 8:45 am]  
BILLING CODE 6712-01-M

[BC Docket No. 80-80, File No. BPCT-5179;  
BC Docket No. 80-81, File No. BPCT-  
780907K1]

**David Livingstone Missionary  
Foundation, Inc. and Alden  
Communications Corp.; Applications  
for Construction Permit for New  
Television Broadcast Station; Order  
Designating Applications for  
Consolidated Hearing**

Adopted: February 21, 1980.  
Released: February 28, 1980.

By the Chief, Broadcast Bureau:  
1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of David Livingstone Missionary Foundation, Inc. (David Livingstone) and Alden Communications Corp. (Alden) for a new commercial television station to operate on Channel 47, Tulsa, Oklahoma.

2. David Livingstone proposes predominately religious programming but has not demonstrated its intention to provide a "fair break" to others that do not share the same precepts as the applicant. Consequently, a limited issue as to programming policy will be

specified against David Livingstone. *Noe v. FCC*, 280 F.2d 739 (D.C. Cir. 1958); *Young People's Association for the Propagation of the Gospel*, 6 FCC 178 (1938).

3. It appears that Alden would require approximately \$2,770,000 to construct its proposed facility and to operate it for three months:

Antenna System .....	\$632,000
FR Generating Equipment .....	560,000
Monitoring and Test Equipment .....	44,000
Program Origination Equipment .....	830,000
STL Equipment .....	96,000
Land .....	105,000
Buildings .....	120,000
Other .....	48,000
Operating Costs .....	102,250
<b>Total .....</b>	<b>\$2,770,250</b>

To meet this requirement, Alden intends to rely on a \$5,000,000 loan from the Bank of America National Trust and Savings Association, Los Angeles, California.\* The Loan commitment is conditioned on Alden's (or its subsidiary's) ability to meet such terms and conditions that the Bank might later require. Further, the loan "would be made . . . with such amortization requirements as may be indicated by (Alden's) financial condition at that time." These conditions and requirements are so uncertain that the firmness of the bank's commitment is called into question. In addition, the bank letter fails to comply with Paragraph 4(e) of Section III of the application, in that it does not specify the terms of repayment or collateral or security required, if any.

4. Further, Alden proposes to purchase \$1,962,000 of broadcast equipment on an installment sale basis from RCA; however, it appears that RCA's commitment expired in August, 1979. Accordingly, limited financial issues will be specified against Alden.

5. From the information before the Commission, it appears that Alden has not provided a threshold showing of compliance with certain basic requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971). Although Alden has set out a general description of Tulsa, the applicant failed to submit demographic data necessary to indicate the minority, racial, or ethnic breakdown as required by Question and Answer 9 of the *Primer*. Other than a Board Member of the Indian Nations Council of Government, Alden has consulted no

\* The applicant has earmarked \$2,100,000 of the loan for its Tulsa application with the remainder available for Alden's proposal for Channel 21, Las Vegas, Nevada (BPCT-5238) and for a wholly-owned subsidiary, Alden Communications of Texas, Inc.'s, proposal for Channel 48, Galveston, Texas (BPCT-780907KE).

leaders of organizations dedicated to the problems and needs of minorities, and absent such demographic data, it is not possible to evaluate Alden's ascertainment of minority problems and needs in Tulsa. In addition, it does not appear that Alden has selected for consultation those community leaders that reflect the composition of Tulsa as provided in the general description (Question and Answer 13(a) of the *Primer*). For example, Alden states that more than half of Tulsa's population is female and that almost nine percent is over 65 years of age, yet has not interviewed any leaders of organizations representing women or the elderly. Alden further states that petroleum refining and agriculture are the major economic forces in the area, yet the applicant has not interviewed any labor or agricultural leaders. Further, Alden has not ascertained the problems of major communities within its proposed Grade B contour, as required by Question and Answer 6 of the *Primer*. As a consequence of Alden's failure to submit compositional data and to interview a cross-section of community leaders, it cannot be determined whether the applicant's proposed programming reflects an effort to meet community needs. Accordingly, limited ascertainment issues will be specified against Alden.

6. Alden proposes to share space on a tower 2149 feet above mean sea level (AMSL) near Broken Arrow, Oklahoma, with Green County Television, Inc. (BPCT-780907KH), applicant for Channel 41 in Tulsa. On November 16, 1978, the Federal Aviation Administration rejected the proposal because of the tower's adverse effects upon aeronautical operations and minimum flight altitudes. Because of this determination, an issue as to whether Alden's proposed antenna would constitute a hazard to air navigation will be specified.

7. Except as indicated by the issues specified below, the Commission finds David Livingstone Missionary Foundation, Inc. and Alden Communications Corp. legally, financially, technically, and otherwise qualified to operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

8. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as

amended, the above-captioned applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to David Livingstone, whether its proposed program policy will provide broadcast time to others that do not share the same precepts as the applicant, and if not, to determine the effects thereof upon applicant's basic qualifications.

2. To determine with respect to Alden:

(a) The availability and terms of any deferred credit for equipment.

(b) The availability and terms of the loan from the Bank of America.

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

(d) Whether the applicant's proposal is in compliance with Questions and Answers 8, 9, and 13(a) of the *Ascertainment Primer*.

(e) Whether the applicant's programming proposal reflects an evaluation of its ascertained problems and needs.

(f) Whether, in light of the evidence adduced pursuant to (d) and (e) above, the applicant is qualified.

(g) Whether there is a reasonable possibility that the tower height and location as proposed would constitute a hazard to air navigation and, if so, whether the applicant is qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

9. IT IS FURTHER ORDERED, That the FEDERAL AVIATION ADMINISTRATION is MADE A PARTY RESPONDENT in respect to Issue 2(g), above.

10. IT IS FURTHER ORDERED, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 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 hearing and to present evidence on the issues specified in this Order.

11. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the

publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission,  
Richard J. Shiben,  
Chief, Broadcast Bureau.

[FR Doc. 80-3669 Filed 3-3-80; 8:45 am]  
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[BC 26749; BC Docket Nos. 80-82, 80-83; File Nos. BPH-11,029 and BPH-780-831AM]

**Hoosier Hills Broadcasting Corp. and Willtronic Broadcasting; Applications for Construction Permit; Hearing Designation Order**

In the matter of construction applications of Hoosier Hills Broadcasting Corporation, French Lick, Indiana Reg: 100.1 MHz, Channel 261 3 kW (H&V), 300 feet (BC Docket No. 80-82, File No. BPH-11,029) and Wm. Gerald Willis d/b/a Willtronic Broadcasting, French Lick, Indiana, Reg: 100.1 MHz, Channel 261 3 kW (H&V), 300 feet (BC Docket No. 80-83, File No. BPH-780831AM).

Adopted: February 21, 1980.

Released: February 28, 1980.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration, the above-captioned mutually exclusive applications.

2. *Hoosier Hills Broadcasting Corporation (Hoosier)*. Hoosier estimates that it will need \$11,783.34 to construct and operate its proposed station for three months, itemized as follows:

Equipment down payment.....	\$1,438.55
Equipment payments with interest.....	631.28
Miscellaneous.....	5,000.00
Three months operating costs.....	4,803.33
Total.....	\$11,873.34

<sup>1</sup>Hoosier's estimate does not include legal fees incident to a hearing. Hoosier's costs, therefore, are necessarily higher.

To finance construction and operation, each of Hoosier's three principals has subscribed to 350 shares of stock each, at \$10 a share, for a total commitment of \$10,500 (\$3,500 a subscriber). In addition, one of the principals, Charles Cutler, will lend Hoosier \$19,500. The balance sheets of two of the principals fail to show that they will be able to meet their commitments to the corporation. The balance sheet of Alan Rosedale is not a current one,<sup>2</sup> and the balance sheet of Charles Cutler does not show current assets exceeding current liabilities in an amount sufficient to meet this commitment of \$23,000. Therefore, only \$3,500 has been shown to be available to

<sup>2</sup>Mr. Rosedale's balance sheet does not reflect his financial position within 90 days of the date of the application.

Hoosier, and a financial issue will be specified.

3. French Lick is a town of approximately 2,000 persons, and is described by Hoosier as a resort town, "predominantly recreationally oriented." Major employers in the town are the Sheraton Hotel, which has a Hotel Employees Union, and the Kimball Piano and Organ Company which employs 425 persons. However, Hoosier failed to interview leaders of recreation or labor. In addition, Hoosier did not interview leaders of women's groups, the elderly, charity, or agriculture. It also appears that some of the interviews were conducted previous to six months before the filing of the application. It therefore cannot be said that Hoosier has substantially complied with the 1971 *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). An ascertainment issue will be specified.

4. *Willtronic Broadcasting (Willtronic)*. Willtronic did not interview leaders of public safety, health, and welfare, the elderly, or agriculture, and therefore it appears that substantial compliance with the *Primer* is lacking. An ascertainment issue will be specified.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Hoosier:

(a) the source and availability of additional funds over and above the \$3,500 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine with respect to the efforts of Hoosier to ascertain the needs of its proposed service area:

(a) Whether the applicant interviewed leaders of recreation, labor, women's groups, the elderly, charity, and agriculture.

(b) Whether the applicant has complied with Question 15 of the *Primer*, and held its consultations within six months of the filing of its application.

3. To determine whether Willtronic interviewed leaders of public safety,

health and welfare, the elderly, and agriculture.

4. To determine which of the proposals would, on a comparative basis, better serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

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 in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission,  
Richard J. Shibben,  
Chief, Broadcast Bureau.

[FR Doc. 80-6668 Filed 3-3-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-62, File No. BPH-11,142;  
BC Docket No. 80-63, File No. BPH-  
780830AC]

**Mendocino Coast Wireless Co. and  
Fort Bragg Broadcasting Co.;  
Construction Application; Hearing  
Designation Order**

In the matter of construction applications of John Detz, Jr., James McKeon, Lucinda Paulos, Cheryl McKeon and Milan Leggett d/b/a Mendocino Coast Wireless Company, Fort Bragg, California, Reg: 95.3 MHz, Channel 237, 0.8 kW (H&V), 603 feet [BC Docket No. 80-62; File No. BPH-11,142] and Charles W. and Josephine R. Stone, d/b/a Fort Bragg Broadcasting Co., Fort Bragg, California, Reg: 95.3 MHz, Channel 237, 3 kW (H&V), 167 feet [BC Docket No. 80-63, File No. BPH-780830AC].

Adopted: February 8, 1980.

Released: February 22, 1980.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications.

2. *Mendocino Coast Wireless Company (Mendocino)*. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. We have no evidence that Mendocino published the required notice. To remedy this deficiency, Mendocino will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

3. *Fort Bragg Broadcasting Company (Fort Bragg)*. Fort Bragg estimates that it will need \$36,915.55 to construct and operate its proposed station for three months, itemized as follows:

Equipment.....	\$26,915.55
Miscellaneous.....	7,500.00
3 months operating costs.....	2,500.00
Total.....	\$36,915.55

<sup>1</sup> Fort Bragg's estimate does not include legal fees incident to a hearing. Fort Bragg's costs, therefore, are necessarily higher.

To finance construction and operation, Fort Bragg intends to rely on a bank loan of \$25,000, \$9,500 cash on hand, \$14,000 to be contributed by one of the partners, Josephine R. Stone, and \$20,000 in profits from its existing operation in Fort Bragg, California, AM Station KDAC. None of these sources has been shown to be available. First, the commitment extended to Fort Bragg by the bank to lend to Fort Bragg \$25,000 has expired. A new bank letter will be necessary to assure the Commission that Fort Bragg has this line of credit available. Second, Fort Bragg states that it has \$9,500 on hand in a savings account in the name of KADC Radio. However, this amount is not reflected in KADC Radio's balance sheet, and therefore, cannot be credited to Fort Bragg's available funding. Third, the \$14,000 in cash which is to be contributed by Josephine R. Stone is reflected in her balance sheet; however, Ms. Stone's balance sheet does not segregate long-term liabilities from current liabilities. Under our procedures, if current liabilities are not clearly identified in the balance sheet, all liabilities are presumed to be current, and hence, Ms. Stone's current liabilities exceed her liquid and current assets, and the \$14,000 in cash has not been shown to be available. Finally, we cannot substantiate Fort Bragg's ability to rely on \$20,000 in profits from its existing AM Station KDAC, because Fort Bragg has not filed its 1978 annual financial report, FCC Form 324, for KDAC. Therefore, a general financial issue will be specified.

4. Fort Bragg is a town of 5,150 and its main industries are lumber and fishing. In its ascertainment survey, Fort Bragg did not interview any community leaders of industry, labor, or the elderly. It also failed to supply a demographic breakdown of Fort Bragg in its compositional study. There is therefore a question whether Fort Bragg's ascertainment survey is in substantial compliance with the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). An ascertainment issue will be specified.

5. Mendocino proposes independent programming while Fort Bragg proposes to duplicate some of the programming of its commonly-owned station, KDAC. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 2d 114 (1967).

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. 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 Fort Bragg is financially qualified to construct and operate the proposed station.

2. To determine with respect to the efforts of Fort Bragg to ascertain the needs of its proposed service area:

(a). Whether the applicant interviewed leaders of industry, labor, and the elderly.

(b). Whether the applicant's compositional study contains a demographic breakdown of Fort Bragg which would enable it to identify significant groups in Fort Bragg.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

9. 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.

10. It is further ordered, That the applicants herein shall, pursuant to § 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 in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 80-6687 Filed 3-3-80; 8:45 am]

BILLING CODE 6712-01-M.

[BC Dockets Nos. 80-64, 80-65, 80-66; Files Nos. BPCT-5147, BPCT-5110, and BPCT-5131]

### Pueblo Broadcasting Corp., etc.; Construction Application; Hearing Designation Order

In the matter of application of Pueblo Broadcasting Corporation, Rosenberg, Texas [BC Docket No. 80-64, File No. BPCT-5147], Trinity Broadcasting of Texas, Inc., Richmond, Texas [BC Docket No. 80-65, File No. BPCT-5110], and Texas 45 Broadcasting, Inc., Rosenberg, Texas [BC Docket No. 80-66, File No. BPCT-5131] for construction permit for a new television broadcast station.

Adopted: February 8, 1980.

Released: February 27, 1980.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by

Pueblo Broadcasting Corporation (Pueblo),<sup>1</sup> Trinity Broadcasting of Texas, Inc. (Trinity),<sup>2</sup> and Texas 45 Broadcasting, Inc. (Texas 45) for a new commercial television station on channel 45, allocated to Rosenberg, Texas. Also under consideration is a letter from Macario Meza Ramirez relating to the Pueblo application which will be considered as an informal objection.

2. Analysis of the financial data submitted by Trinity reveals that \$487,184 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment.....	\$320,847
Miscellaneous.....	87,000
Operating costs (3 months).....	79,337

Trinity relies upon a \$700,000 loan from Trinity Broadcasting Network, Inc. (TBN), to construct its facility. Since the TBN balance sheets are outdated (more than 90 days prior to Trinity's filing date), it cannot be determined whether Trinity will have the \$487,184 it requires, and a limited financial issue will be specified.

3. Macario Meza Ramirez has submitted a letter objecting to the means by which representatives of Spanish International Communication Corporation sought local input and investors from the Houston community. The objection alleges that a meeting was held in Houston, December 19, 1977, with local minority representatives, presumably to obtain continuing ascertainment information, while SICC was also discussing possible sale of Pueblo with another group of people. Mr. Ramirez was a member of the group ascertained but complains that that group was not apprised of the potential investor group's existence.

Once the Pueblo Corporation was sold to its present owners, they submitted separate ascertainment surveys and those surveys do not mention the December 19th meeting. From the list of participants furnished by Mr. Ramirez, there were no principals of the new owners of Pueblo present for the meeting in question, and it does not appear that this meeting is included in the new ascertainment in the application.

<sup>1</sup> At the time of filing, Pueblo was wholly owned by Spanish International Communications Corporation (SICC). Before the cut-off date, sixty percent of Pueblo was sold to a group of Houston residents. Later the remaining forty percent was sold. SICC has no remaining ownership in Pueblo.

<sup>2</sup> Trinity proposes Richmond, Texas as its community of license for channel 45. Richmond is located northeast and within 15 miles of Rosenberg, and thus Trinity's application complies with Section 73.607(b) of the Commission's Rules relating to availability of channels.

The failure of SICC to discuss its financial plans with the group at the December meeting is a matter which would seem to be wholly within the discretion of the applicant. Mere allegation of this situation presents no evidence of any wrongdoing on SICC's part. Accordingly, the informal objection will be denied.

4. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of television service, a contingent comparative issue will also be specified.

5. Except as indicated in the issues specified below, the Commission finds Pueblo Broadcasting Corporation, Trinity Broadcasting of Texas, Inc. and Texas 45 Broadcasting, Inc., legally, financially, technically and otherwise qualified to operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Trinity:

(a) whether Trinity has liquid assets in excess of current liabilities of at least \$487,184; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine the areas and populations which would receive primary television service (Grade B or better) from Pueblo, Trinity, and Texas 45; and other primary television service to such areas and populations.

3. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of television service.

4. To determine, in the event it is concluded that a choice between the applications should not be based on considerations relating to Section 307(b), which of the proposals would, on a

comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the informal objection filed by Macario Meza Ramirez is desired.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants 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 issuances specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 7.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 80-6670 Filed 3-3-80; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-3078-EM]

### California; Amendment to Notice of Emergency Declaration

AGENCY: Federal Emergency  
Management Agency.

ACTION: Notice.

**SUMMARY:** This Notice amends the Notice of emergency declaration for the State of California (FEMA-3078-EM), dated February 1, 1980, and related determinations.

**DATED:** February 23, 1980.

**FOR FURTHER INFORMATION CONTACT:** Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

**NOTICE:** The Notice of a emergency declaration for the State of California dated February 1, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of February 1, 1980.

Those reclamation districts in Contra Costa, San Joaquin, and Sacramento Counties in which the FEMA Regional Director approves emergency work to protect the fresh water intake system for Contra Costa County or the Clifton Court Forebay.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-6630 Filed 3-3-80; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-615-DR]

### California; Major Disaster and Related Determinations

AGENCY: Federal Emergency  
Management Agency.

ACTION: Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of California (FEMA-615-DR), dated February 21, 1980, and related determinations.

**DATED:** February 21, 1980.

**FOR FURTHER INFORMATION CONTACT:** Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7845.

**NOTICE:** Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of February 21, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of California resulting from severe storms, mudslides and flooding, beginning on or about January 8, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of California.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management

Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint William H. Mayer of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster.

The following Counties for Individual Assistance only:

Los Angeles	San Bernardino
Orange	San Diego
Riverside	Ventura

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Thomas R. Casey,

Acting Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-6640 Filed 3-3-80; 8:45 am]

BILLING CODE 6718-02-M

## FEDERAL RESERVE SYSTEM

### South Carolina National Corp.; Proposed Acquisition of Peoples Finance Corporation

South Carolina National Corporation, Columbia, South Carolina, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Peoples Finance Corporation, Richmond, Virginia.

Applicant states that the proposed subsidiary would engage in the activities of making or acquiring of loans and other extensions of credit for its own account such as would be made by a consumer finance company; servicing loans and other extensions of credit for its own account and the account of others; offering credit life and credit accident and health insurance directly related to the extension of credit. These activities would be performed from offices of Applicant's subsidiary in Ashland, Charlottesville, Chase City, Chesterfield, Hampton, Highland Springs, Lexington, Orange, Richmond, South Hills, Staunton, Waynesboro, and Elkton, Virginia, and the geographic areas to be served are central and southeastern Virginia. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 24, 1980.

Board of Governors of the Federal Reserve System, February 25, 1980.

William N. McDonough,

*Assistant Secretary of the Board.*

[FR Doc. 80-6442 Filed 3-3-80; 8:45 am]

BILLING CODE 6210-01-M

## GENERAL ACCOUNTING OFFICE

### Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 26, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before March 24, 1980, and should be addressed to Mr. John M.

Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

## Federal Communications Commission

The FCC requests clearance of Form 506/506-A, Application for Ship Radio Station License and Temporary Permit. Part 506-A of the Form is being revised to bring it into compliance with Commission rules regarding the formation of the temporary call sign. Additionally, a new data element, "Name of Vessel" is being added which will be used as identification under certain conditions in lieu of the call sign. The form is required under §§ 1.922, 2.303, and 83.28 of the Commission's Rules and Regulations, and section 308 of the Communications Act of 1934, as amended. The FCC estimates respondent burden will average 45 minutes per response and that approximately 100,000 applications will be filed annually.

Norman F. Heyl,

*Regulatory Reports Review Officer.*

[FR Doc. 80-6612 Filed 3-3-80; 8:45 am]

BILLING CODE 1610-01-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

#### Norden Laboratories; Phenylbutazone Tablets; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.  
ACTION: Notice.

**SUMMARY:** The agency withdraws approval of a new animal drug application (NADA) providing for use of phenylbutazone tablets containing 100 milligrams of phenylbutazone per tablet for dogs for treating anti-inflammatory conditions of the musculoskeletal system. The sponsor, Norden Laboratories, requested the withdrawal of approval.

**EFFECTIVE DATE:** March 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

**SUPPLEMENTARY INFORMATION:** Norden Laboratories, Inc., Lincoln, NE 68501, is the sponsor of NADA 91-939, which provides for use of phenylbutazone

tablets for treating dogs for inflammatory conditions associated with the musculoskeletal system. This application was originally approved September 27, 1973. In the submission of a report on September 10, 1979, the sponsor requested that approval of the NADA be withdrawn because the product is no longer manufactured nor marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115

*Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 91-939 and all supplements for Norden Laboratories phenylbutazone tablets is hereby withdrawn, effective March 14, 1980.

In a separate document published elsewhere in this issue of the Federal Register § 520.1720a is amended to delete that portion that reflects approval of this NADA.

Dated: February 26, 1980.

Lester M. Crawford,

*Director, Bureau of Veterinary Medicine.*

[FR Doc. 80-6014 Filed 3-3-80; 8:45 am]

BILLING CODE 4110-03-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Environmental Quality

[Docket No. NI-11]

#### Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Montclair Planned Community, Prince William County, Virginia; Copperfield Subdivision, Harris County, Texas; Barrington Place, Fort Bend County, Texas; Grogan Tract, Montgomery County, Texas; Monte Brisas V Housing Project, Fajardo, Puerto Rico; Supplements to EIS for Four Seasons, Fort Collins, Colorado; New Center for San Juan/Martin Pena Project, San Juan, Puerto Rico; Schumann Tract, Fort Bend County, Texas; Areawide for Charlotte, Mecklenburg County, North Carolina. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. February 26, 1980.

Richard H. Broun,

Director, Office of Environmental Quality.

#### Appendix

##### *EIS on Montclair Planned Community, Prince William County, Virginia*

The Washington, D.C. Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a Residential Planned Community known as Montclair located in Prince William County, Virginia. The purpose of this Notice is to solicit recommendations from all interested persons and local, State and Federal agencies regarding the issues to be addressed in depth in the environmental impact statement.

**Description.** The second Montclair corporation is developing a site of 1,600 acres located along Route 234 in Prince William County. The site is 4 miles northwest of the Town of Dumfries. The developer proposes a mix of 830 single family units and 450 townhouses on the 474 acre tract which is being reviewed by HUD. It is anticipated that full development of the total 1,600 acres will accommodate 17,600 persons and density 11 persons/acre.

**Need.** Due to the size and scope of this project, this office has determined that an environmental impact statement will be prepared pursuant to 24 CFR 50, Procedures for Protection and Enhancement of Environmental Quality.

**Alternatives Perceived.** The alternatives available to the Department of Housing and Urban Development which will be given consideration are: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

**Scoping.** This notice is part of the process used for scoping the EIS. Responses will be used to determine (1)

significant issues, (2) identify data that the EIS should address, and (3) identify cooperating agencies.

**Availability of the Draft EIS.** HUD plans to have a draft EIS ready for publication by March 28, 1980.

**Comments.** Comments should be sent within 21 days of publication of this Notice in the Federal Register to Millicent Walcott, Environmental Officer, Washington, D.C. Area Office, Department of Housing and Urban Development, 1875 Connecticut Avenue, NW., Universal North Building, Washington, D.C. 20009.

#### Appendix

##### *EIS on Copperfield Subdivision, Harris County, Texas*

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a proposed subdivision to be known as Copperfield, located in Harris County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons and local, State and Federal agencies regarding the issues to be addressed in depth in the environmental statement.

**Description.** The Friendswood Development Company proposes to develop approximately 1,800 acres of land which is located at the Intersection of Texas State Highway 6 and Farm to Market Road 529 which is also called Spencer Road, in the west-northwestern portion of Harris County, Texas. The developer proposes to subdivide the tract into 5,179 lots for detached single-family homes. When fully developed the subdivision will accommodate a population of approximately 21,524 persons. Although the proposed development is outside the City of Houston's city limits, it is within this city's extraterritorial jurisdiction.

**Need.** Since the project exceeds the threshold as established by the Department for the Houston Urbanizing Belt, the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to 24 CFR 50, Procedures for Protection and Enhancement of the Environment.

**Alternatives.** The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

**Scoping.** No formal scoping meeting is anticipated for this project. This Notice is part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determine significant

environmental issues and (2) identify data which the EIS should address.

**Comments.** Comments should be sent within 21 days following publication of this Notice in the Federal Register to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is 214-767-8347 and the FTS number is 729-8347.

#### Appendix

##### *EIS on Barrington Place, Fort Bend County, Texas*

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a proposed subdivision to be known as Barrington Place, located in Fort Bend County, Texas. The purpose of this Notice is to solicit comments and recommendations from interested persons and local, State and Federal agencies regarding the issues to be addressed in depth in the environmental impact statement.

**Description.** General Homes Consolidated Companies, Inc., doing business as the Eden Corporation proposes to develop a tract comprised of 402 acres of land which is located east of Eldridge Road, south of Belknap Road, west of Stiles Road and north of the city limits of the City of Sugar Land, Texas. The developer proposes a residential housing development which will consist of approximately 1,500 single family homes. When fully developed, it is anticipated the development will accommodate a population of approximately 4,800 persons.

**Need.** Inasmuch as the number of units exceeds the threshold as established by the Department for Fort Bend County, the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to 24 CFR 50, Procedures for Protection and Enhancement of the Environment.

**Alternatives.** The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

**Scoping.** No formal scoping meeting is anticipated for this project. This Notice is part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determine significant environmental issues and (2) identify data which the EIS should address.

**Comments.** Comments should be sent within 21 days following publication of this Notice in the Federal Register to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is 214-767-8347 and the FTS number is 729-8347.

#### Appendix

##### *EIS on Grogan Tract, Montgomery County, Texas*

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a proposed subdivision to be known as Grogan Tract, located in Montgomery County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons and local, State and Federal agencies regarding the issues to be addressed in depth in the environmental impact statement.

**Description.** The ROVI Texas Corporation proposes to develop a tract comprised of approximately 2,700 acres of land which is located south of the City of Conroe and east of Interstate Highway 45. The developer proposes a residential housing development which will consist of approximately 7,500 single family residences. When fully developed, it is anticipated the development will accommodate a population of approximately 22,500 persons.

**Need.** Inasmuch as the number of units exceeds the threshold as established by the Department for Montgomery County, Texas, the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to 24 CFR 50, Procedures for Protection and Enhancement of the Environment.

**Alternatives.** The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

**Scoping.** No formal scoping meeting is anticipated for this project. This Notice is part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determine significant environmental issues and (2) identify data which the EIS should address.

**Comments.** Comments should be sent within 21 days following publication of this Notice in the Federal Register to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001

Bryan Tower, Dallas Texas 75201. The commercial telephone number of this Office is 214-767-8347 and the FTS number is 729-8347.

#### Appendix

##### *EIS on Monte Brisas V Housing Project, Fajardo, Puerto Rico*

The Department of Housing and Urban Development, Region II, Caribbean Area Office intends to prepare an Environmental Impact State (EIS) on the project described below and solicits comments and information for consideration in the EIS.

**Description.** The housing project in Fajardo, Puerto Rico consists of 525 detached residential units and 175 attached residential units to be constructed on 83.18 acres. Approximately 6 acres are to be allocated to community facilities. The project may be assisted under the following Federal programs: 203(b), 235 and Section 8.

**Need.** An Environmental Impact Statement will be prepared due to the size of the development which will total 2,400 units at the termination of Monte Brisas V. Subdivisions in this development constructed prior to Monte Brisas V were cleared through an Environmental Impact Statement and other environmental assessments.

**Alternatives Perceived.** Alternatives to be considered include changes to size and design or no additional development.

**Scoping.** A scoping meeting with the participation of cooperating government agencies and the general public will be held in Room 415A, Degetau Federal Building, Hato Rey, Puerto Rico, after comments have been received.

**Comments.** All interested parties should address the environmental impacts of the proposed project and all comments will be considered when preparing the Draft and shall become part of the project's environmental file. Comments must be mailed or delivered within 21 days of publication of this Notice in the Federal Register to Jose E. Febres-Silva, Area Manager at U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Chardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

#### Appendix

##### *Supplements to EIS on Four Seasons, Fort Collins, Colorado*

The HUD Area Office in Denver, Colorado intends to prepare two EIS Supplements to the Four Seasons Draft EIS on two residential subdivisions described below and solicits

information and comments for consideration in the Supplements.

**Description.** These supplements will cover Wagon Wheel and The Woodlands subdivisions in Fort Collins, Colorado. When completed, the subdivisions will contain 375 and 400 residential units respectively.

**Need.** HUD has published a Draft EIS on the Four Seasons subdivision which covers the generic impacts of all 3 subdivisions; however, it only contains the site specific impacts of the Four Seasons subdivision. Due to a timing problem, HUD will cover the site specific impacts of the other two developments in EIS Supplements which will be published in March 1980. EIS Supplements are required of the latter two developments because they are near the Four Seasons development, and HUD must evaluate the cumulative impact of all three developments.

**Alternatives Perceived.** The three alternatives which exist for each development are: to approve the development for mortgage insurance as submitted, to approve the development for mortgage insurance with modifications to the plans, or to disapprove the development for mortgage insurance.

**Scoping.** HUD does not plan to hold a scoping meeting. The scoping process will include a request for information by virtue of this Notice, a notice in the local newspaper and letters sent to Federal, State, and local agencies and interested individuals.

**Comments.** Comments regarding the proposed Supplements should be forwarded within 21 days of publication of this Notice in the Federal Register to Carroll Goodwin, Environmental Officer, Denver Area Office, 1405 Curtiss Street, Denver, Colorado 80202, telephone: (303) 837-3102.

#### Appendix

##### *EIS on the New Center for San Juan/ Martin Pena Project, San Juan, Puerto Rico*

Pursuant to the requirements of HUD regulations 24 CFR 58 and Federal Executive Orders 11988 and 11990, this is to advise that the City of San Juan intends to prepare an Environmental Impact Statement in connection with activities in the development of the New Center for San Juan, the Martin Pena Canal and related areas which are to be assisted under the Urban Development Action Grant Program of the United States Department of Housing and Urban Development and other programs.

**Description.** The overall program embraces the New Center for San Juan, the Martin Pena Canal and lands

bordering the Canal, as part of an "urban core" development program for the creation of a true functional center for the city and more rational growth and transportation patterns for the metropolitan area as a whole. The program contemplates balanced development of housing, office, commercial, cultural, parkland and mass transportation facilities.

Some of the land is in floodplains or wetlands as reflected, respectively, in appropriate maps.

*Need.* Due to the size and scope of this project, the City has determined that an Environmental Impact Statement will be prepared pursuant to HUD regulations and to Public Law 91-190, the National Environmental Policy Act of 1969. The various Federal agencies which are involved or are expected to be involved in the provision of assistance to the Municipality or the Commonwealth for various key elements of the program include, but are not limited to the following:

1. HUD Urban Development Action Grant Program for Phase I infrastructure for New Center for San Juan Project, San Juan, Puerto Rico.

2. Title X Mortgage Insurance Program for obligations issued to finance land acquisition and development for New Center for San Juan.

3. Urban Park and Recreation Recovery Act grant for expansion and redevelopment of park facilities for City of San Juan Regional Park and adjacent New Center for San Juan park areas.

4. Urban Mass Transportation Administration (UMTA) grant for water mass transportation between Old San Juan and New Center for San Juan area through Martin Pena Canal and Ochoa Canal, San Juan, Puerto Rico and for demonstration mass transit mini system linking Plaza Las Americas, Hato Rey Financial Center, and other key points in the area.

5. Federal Aid Highway Program grant (FHWA) for Cesar Gonzalez Avenue and related highway linkages.

6. Corps of Engineers Project for dredging and improving Martin Pena Canal.

*Alternatives.* Alternatives which are under consideration for the Urban Development Action Grant are a higher density development plan for New Center, development of the area primarily as parkland, or no development.

*Comments.* All interested parties should address the environmental impacts of the proposed project and all such comments will be considered when preparing the Draft EIS and shall become part of the project's environmental file. Comments should be

mailed or delivered within 21 days following publication of this Notice in the Federal Register to Juan Olazagasti, New Center for San Juan Corporation, Banco de Ponce Building, Hato Rey, Puerto Rico 00938.

#### Appendix

##### *EIS on Schumann Tract Fort Bend County, Texas*

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a proposed subdivision to be known as Schumann tract, located in Fort Bend County, Texas. The purpose of this Notice is to solicit comments from interested persons and local, State and Federal agencies regarding the issues to be addressed in the environmental impact statement.

*Description.* Homecraft Land Development, Incorporated, proposes to develop a tract comprised of 542 acres of land which is located immediately west of Gaines Road and approximately one-half mile north of Boss Gaston Road in Fort Bend County. The developer proposes a residential housing development which will consist of approximately 2,031 single family homes. When completed, the entire development will accommodate a population of approximately 6,000 persons.

*Need.* Because the project exceeds the threshold as established by the Department, the Dallas Area Office has determined that an environmental impact statement will be prepared pursuant to 24 CFR 50, Protection and Enhancement of Environmental Quality.

*Alternatives.* The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

*Scoping.* No formal scoping meeting is anticipated for this project. This Notice is part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determine significant environmental issues and (2) identify data which the EIS should address.

*Contact.* Comments should be sent within 21 days following publication of this Notice in the Federal Register to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is 214-767-8347 and the FTS number is 729-8347.

#### Appendix

##### *Areawide EIS for Charlotte, Mecklenburg County, North Carolina*

The Greensboro Area Office of HUD intends to prepare an Areawide Environmental Impact Statement (AEIS) on the project area described below and solicits comments and information for consideration in the AEIS.

*Description.* The proposed action is the issuance of mortgage insurance on multifamily projects and single family subdivisions to be located in Mecklenburg County, North Carolina and will cover projected residential growth through the year 2000 estimated at 90,000 housing units. The area to be covered will encompass all of Mecklenburg County including the City of Charlotte or approximately 542 square miles of land area.

*Need.* The need for the AEIS relates to the aggregation requirements of HUD's environmental clearance procedures as described in 24 CFR 50, Procedures for Protection and Enhancement of Environmental Quality. The Charlotte-Mecklenburg County area is presently experiencing one of the most rapid growth rates in the State of North Carolina. This growth rate has been supported by HUD which provided mortgage insurance to 12,814 single family homes between 1969 and 1978 and anticipated processing over 1,600 more during 1979. These figures do not reflect other assisted housing programs which would increase this number considerably.

Greensboro HUD has become increasingly concerned that a disproportionate number of these units are being located in the southern sector of the metropolitan area. In order to examine the cumulative effects of this growth HUD has decided to expand a site specific EIS to include all of Mecklenburg County. This approach will allow the identification of potential environmental problems within the entire developing metropolitan area and suggest mitigation at the planning stage before actual development takes place. It will focus on planned and projected development and will cover major environmental issues associated with growth. It will not cover all site specific information that would be necessary for an individual project approval; however, the AEIS will point out areas where particular problems exist and which may require special attention. It will also delineate known areas where it is unlikely that HUD or other Federal standards can be met.

*Alternatives.* Alternatives include continuing case-by-case site specific environmental reviews (no action);

assessing local comprehensive plans for environmental impacts and approving specific projects which are consistent with the comprehensive plans without further environmental assessment or plan amendments; assessing local comprehensive plans for environmental impacts and notifying local governments that HUD will approve specific projects which are consistent with its comprehensive plan after specific amendments to the plan which address environmental concerns; assessing local plans, development trends and existing environmental conditions to define geographic areas of Mecklenburg County which are (1) presently environmentally satisfactory for housing development, (2) capable of becoming environmentally satisfactory for housing development with practicable specific mitigative measures, or (3) not capable of becoming environmentally satisfactory for housing development without extraordinary modification.

**Scoping.** This notice is a part of the process being used for scoping the AEIS. Responses will be used to help (1) determine significant environmental issues, (2) identify data which the AEIS should address, and (3) identify cooperating agencies. An additional scoping meeting will be held in the Greensboro Area Office.

**Comments.** Comments regarding this project should be sent to William J. Davenport, Area Office Environmental Officer, 415 North Edgeworth Street, Greensboro, North Carolina 27401, telephone, commercial (919) 378-5377 of FTS 699-5377. Comments should be received within 21 days of the publication date of this Federal Register Notice.

[FR Doc. 80-6683 Filed 3-3-80; 8:45 am]  
BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Indian Highway Safety Program Instructions; 25 BIAM Supplement 20

February 14, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Pursuant to the Memorandum of Agreement between the Departments of Transportation and Interior for implementing a Highway Safety Program on Indian reservations and authority delegated by the Secretary of the Interior and the Secretary of Transportation through the National Highway Traffic Safety Administration and the Federal Highway

Administration to the Commissioner of Indian Affairs, administration responsibility for the Commissioner has been assigned to the Division of Safety Management within the office of Administration.

Proposed instructions for Bureau Area Office and tribal coordinators will be issued as Supplement 20 to Part 25 of the Bureau of Indian Affairs Manual. The draft instructions are available for review and comments at the Bureau's Area Offices and the Division of Safety Management, 517 Gold Avenue, S.W., Room 1049, Albuquerque, New Mexico 87101.

Rick Lavis,  
Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-6680 Filed 3-3-80; 8:45 am]  
BILLING CODE 4310-02-M

### Bureau of Land Management

(CA 3367)

#### California; Order Providing for Opening of Lands

By virtue of the authority contained in Section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818 (1970), and in accordance with the authority delegated to me by the State Director, California State Office, Bureau of Land Management, dated January 21, 1977 (42 FR 3901), as amended, and pursuant to the determination of the Federal Power Commission in Federal Register publication (43 FR 26788, June 22, 1978), it is ordered as follows:

1. Pursuant to DA 1123, the Commission finds that the withdrawals for Power Project 424, dated June 25, 1923, and Power Project 2101, dated March 17, 1952, serve no useful purpose and has vacated these withdrawals insofar as they affect the following described lands:

Mount Diablo Meridian

#### Power Project 424

T. 13 N., R. 14 E.,  
Sec. 28, SE $\frac{1}{4}$ SW $\frac{1}{4}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 33, N $\frac{1}{2}$ NW $\frac{1}{4}$  and SW $\frac{1}{4}$ NW $\frac{1}{4}$ .

#### Power Project 2101

T. 13 N., R. 14 E.,  
Sec. 34, SW $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ NW $\frac{1}{4}$ .

The areas described aggregate approximately 320 acres within the Eldorado National Forest in El Dorado County, California.

At 10 a.m. on April 4, 1980, the national forest lands shall become available for consummation of a pending Forest Service exchange, application CA 3351.

The lands in Power Project 424 have been open to applications and offers under the mineral leasing laws, and to

location under the United States mining laws subject to provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

The lands in licensed Power Project 2101 will at 10 a.m. on April 4, 1980, be open to applications and offers under the mineral leasing laws and to the United States mining laws (30 U.S.C. Ch. 2).

Inquiries concerning the land should be addressed to the Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Joan B. Russell,  
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 80-6657 Filed 3-3-80; 8:45 am]  
BILLING CODE 4310-04-M

[INT DEIS 80-6]

#### Proposed Grazing Management for the Cowhead/Massacre Planning Unit, Surprise Resource Area, Susanville District, California; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning a proposed intensive grazing management program for the Cowhead/Massacre Planning Unit in Modoc County, California, and Washoe County, Nevada. Management proposals are presented and analyzed for each of ten management areas into which four subunits of the planning unit have been divided. Intensive management will occur on eight of the management areas, less intensive on one; no grazing will be allowed in one subunit and in one management area of another. The planning unit covers 1,094,000 acres, of which 70 percent is Federal land.

Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted within 60 days of this Notice to the State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825. The comments will be incorporated in the final environmental impact statement.

A limited number of copies of the draft environmental impact statement are available upon request at the following offices:

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, telephone: (916) 484-4541

Susanville District Office, Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, California 95130, telephone: (916) 257-5381

Copies of the draft environmental impact statement will be available for public reading and review at the following locations:

Office of Information, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240  
California State Office (911), Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, telephone: (916) 484-4541

Susanville District Office, Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, California 95130, telephone: (916) 257-5381

Dated: February 27, 1980.

Arnold E. Petty,

*Acting Associate Director.*

[FR Doc. 80-8644 Filed 3-3-80; 8:45 am]

BILLING CODE 4310-84-M

### Southern Appalachian Regional, Alabama Subregion, Coal Team; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the responsibilities outlined in 43 CFR 3400.4(b), the regional coal team for the Southern Appalachian Federal Coal Production Region, Alabama Subregion, will meet on April 3, 1980, to make a preliminary selection of tracts that have been identified. The team may also discuss scheduling the tracts for possible lease sale beginning in mid-1981. The tracts and schedules will be analyzed in a regional lease sale environmental impact statement that must be prepared before the Secretary makes a decision on leasing Federal tracts in Alabama. In the event the team does not complete the ranking of the potential Federal lease tracts at its March 20-21, 1980, meeting, the regional coal team will complete the ranking of the tracts before it makes a preliminary selection of tracts.

**DATES:** The regional coal team will meet at 9:00 a.m. on April 3, 1980.

**ADDRESSES:** The meeting will be held at the Chelsea Room, Holiday Inn-Capital, 924 Madison Avenue, Montgomery, Alabama, (202) 265-0741.

**FOR FURTHER INFORMATION CONTACT:** H. Robert Moore, Regional Coal Team Chairperson, (202) 343-4636.

Dated: February 28, 1980.

Arnold E. Petty,

*Acting Associate Director.*

[FR Doc. 80-8720 Filed 3-3-80; 8:45 am]

BILLING CODE 4310-84-M

### Uinta-Southwestern Utah Regional Coal Team, Colorado and Utah; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the responsibilities set forth at 43 CFR 3400.4(b), the regional coal team for the Uinta-Southwestern Utah Federal Coal Production Region will meet on April 3, 1980, to review the preliminary cumulative analysis for, and the preliminary tract ranking and selection of, the potential Federal coal lease tracts located in Utah. In addition, the team may also consider the scheduling of the tracts for possible sale. The tracts and the scheduling of those tracts for possible sale beginning in mid-1981 will be analyzed in a regional lease sale environmental impact statement before the Secretary makes a final decision with respect to Federal coal leasing in this region.

**DATES:** The regional coal team will meet on April 3, 1980, at 8:30 a.m.

**ADDRESS:** The regional coal team will meet in Room 1400 of the Bureau of Land Management's Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah.

**FOR FURTHER INFORMATION CONTACT:** Edward F. Spang, Regional Coal Team Chairperson, (702) 784-5451.

Dated: February 28, 1980.

Arnold E. Petty,

*Acting Associate Director.*

[FR Doc. 80-8719 Filed 3-3-80; 8:45 am]

BILLING CODE 4310-84-M

### Heritage Conservation and Recreation Service

#### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before February 22, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior,

Washington, DC 20243. Written comments should be submitted by March 19, 1980.

Sarah G. Oldham,

*Acting Chief, Registration Branch.*

### ARKANSAS

#### Washington County

Fayetteville, *Wilson-Pittman-Campbell-Gregory House*, 405 E. Dickson St.  
Fayetteville vicinity, *Kantz House*, E of Fayetteville at 2650 Mission St.

### COLORADO

#### LYONS THEMATIC RESOURCES.

Reference—see individual listings under Boulder County.

#### Boulder County

Lyons, *Chisholm House (Lyons Thematic Resources)* 425 Seward St.  
Lyons, *Dynamite Storage Building (Lyons Thematic Resources)* High St.  
Lyons, *General Store (Lyons Thematic Resources)* 415 Main St.  
Lyons, *House at 409 Seward Street (Lyons Thematic Resources)*.  
Lyons, *House at 413 Seward Street (Lyons Thematic Resources)*.  
Lyons, *Lyons General Store (Lyons Thematic Resources)* 426 High St.  
Lyons, *Lyons School (Lyons Thematic Resources)* High St.  
Lyons, *Lyons Train Depot (Lyons Thematic Resources)* (already on NR).  
Lyons, *McAllister Saloon (Lyons Thematic Resources)* Main St.  
Lyons, *Old Stone Church (Lyons Thematic Resources)* High St.  
Lyons, *Turner-Stevens Building (Lyons Thematic Resources)* 401 Main St.  
Lyons vicinity, *Evans Homestead (Lyons Thematic Resources)* NE of Lyons.  
Lyons vicinity, *Homestead Building (Lyons Thematic Resources)* S of Lyons.  
Lyons vicinity, *Milkhouse (Lyons Thematic Resources)* E of Lyons.  
Lyons vicinity, *Montgomery School (Lyons Thematic Resources)* E of Lyons.

### CONNECTICUT

#### New London County

Salem, *Salem Historic District*, CT 85.

### GEORGIA

#### Evans County

Claxton vicinity, *Green, Mitchell J., Plantation*, NE of Claxton off U.S. 301 and GA 169.

#### Fulton County

Atlanta, *Gilbert, Jeremiah S., House*, 2238 Perkerson Rd., SW.

#### Henry County

Stockbridge, *Walden-Turner House*, GA 42 and Ward St.

### MAINE

#### Hancock County

Bar Harbor, *Criterion Theatre*, 35 Cottage St.

**MARYLAND****Baltimore County**

Catonsville, *Hilton*, 800 S. Rolling Rd.  
Perry Hall vicinity, *Perry Hall*, N of Perry  
Hall on Perry Hall Rd.

**Harford County**

Darlington, *Deer Creek Friends  
Meetinghouse*, MD 161.

**Prince George County**

Oxon Hill, *Battersea*, 10511 Livingston Rd.

**MICHIGAN****Bay County**

Bay City, *Mercy Hospital and Elizabeth  
McDowell Bialy Memorial House*, 15th and  
Water Sts.

**Shiawassee County**

**OWOSSO MULTIPLE RESOURCE AREA**  
(Partial Inventory). This area includes:  
Owosso, *Mason Street Historic Residential  
District*, Roughly bounded by Laverock  
Alley, Dewey, Hickory and Exchange Sts.;  
*Michigan Avenue-Genesee Street Historic  
Residential District*, Roughly bounded by  
Michigan Ave., Shiawassee, Cass and  
Clinton Sts.; *Oliver Street Historic District*,  
Oliver St. between 3rd and Oak Sts.,  
Williams and Goodhue Sts.; *West Town  
Historic Commercial and Industrial  
District*, Main St.; *Ayres, Nathan, House*,  
604 N. Water St.; *Christian-Ellis House*, 600  
N. Water St.; *Christian, Leigh, House*, 622  
N. Ball St.; *Comstock, Elias, Cabin*,  
Curwood Castle Dr., and John St.; *Frieseke,  
Frederick, Birthplace and Boyhood Home*,  
654 N. Water St.; *Gould, Amos, House*, 115  
W. King St.; *Gould, Daniel, House*, 509 E.  
Main St.; *Gould, Ebenezer, House*, 603 W.  
Main St.; *House at 314 W. King St.*; *Jacobs,  
Eugene, House*, 220 W. King St.;  
*McCormick, Colin, House*, 222 E. Exchange  
St.; *Miner, Selden, House*, 418 W. King St.;  
*Old Miller Hospital*, 121 Michigan Ave.;  
*Opdyke, Sylvester, House*, 655 N. Pine St.;  
*Palmer, Albert, House*, 528-530 River St.;  
*Pardée, George, House*, 603 N. Ball St.;  
*Perrigo, George, House*, 213 N. Cedar St.;  
*Todd, Edwin, House*, 520 N. Adams St.;  
*Williams, Alfred, House*, 611 N. Ball St.;  
*Williams, Benjamin, House*, 628 N. Ball St.;  
*Woodward, Lee, and Sons Building*, 306 S.  
Elm St.; *Woodward, Lyman,  
Company Workers' Housing*, 601 Clinton  
St.; *Woodward, Lyman, Furniture and  
Casket Company Building*, 216-222 Elm St.

**MISSISSIPPI****Adams County**

Natchez, *Belvidere*, 70 Homochitto St.  
Natchez, *Cliffs Plantation*, S of Natchez.  
Natchez, *Murphy, Patrick, House*, 24 Irvine  
Lane.

**Lafayette County**

Oxford, *Isom Place*, 1003 Jefferson Ave.  
Oxford, *Oxford Courthouse Square Historic  
District*, S. Lamar Blvd., Jackson and Van  
Buren Aves.

**Leflore County**

Greenwood, *Provine House*, 319 Grand Blvd.

**Neshoba County**

Neshoba vicinity, *Neshoba County Fair  
Historic District*, NW of Neshoba on MS  
21.

**NEW HAMPSHIRE****Merrimack County**

Northfield, *Memorial Arch of Tilton*, Elm St.

**OREGON****Linn County**

Albany, *Parker, Moses, House*, 638 5th St.,  
SE.

Brownsville vicinity, *Carns, William, Barn*,  
SW of Brownsville on Priceboro Rd.

**Multnomah County**

Portland, *Stowell Block*, SW. Corbett and  
SW. Kelley Aves.

**Yamhill County**

Lafayette, *Fletcher, Alfred P., Farmhouse*,  
1007 3rd St.

**VERMONT****Addison County**

Starksboro vicinity, *Hoag Gristmill and  
Knight House Complex*, NW of Starksboro  
on State Prison Hollow Rd.

**WEST VIRGINIA****Cabell County**

Huntington, *Carnegie Public Library*, 900 5th  
St.

[FR Doc. 80-6338 Filed 3-3-80; 8:45 am]

BILLING CODE 4310-03-M

**Office of Surface Mining Reclamation and Enforcement****Receipt of Permanent Program Submission From the State of Kansas**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

**ACTION:** Notice of receipt of program submission from the State of Kansas and procedures for public participation in review for determination of completeness of submission.

**SUMMARY:** On February 26, 1980, the State of Kansas submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comments on the completeness of the State Program.

**DATES:** A public review meeting to discuss completeness of the submission will be held on April 10, 1980, from 1:30 p.m. to 4:30 p.m. and 7:00 p.m. to 8:00 p.m. or until all discussion has been completed. Written comments must be received on or before 8:00 p.m., April 10, 1980.

**ADDRESSES:** The public review meeting will be held at the Ramada Inn, 420 East 6th Street, Topeka, Kansas. Copies of

the full text of the proposed Kansas program are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand, Kansas City, Missouri 64106.

Mined Land Conservation and Reclamation Board, Legal Office, Mills Building, 109 West 9th Street, Suite 501, Topeka, Kansas 66612.

Mined Land Office, 107 West 11th Street, Pittsburg, Kansas 66762.

Written comments should be sent to: Raymond L. Lowrie, Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand, Kansas City, Missouri 64106.

Written comments will be available for public review at the OSM Region IV Office above, on Monday through Friday, 8 a.m.-4 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Richard Rieke, Assistant Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand, Kansas City, Missouri 64106, Telephone (816) 374-3920.

**SUPPLEMENTARY INFORMATION:**

On February 26, 1980, OSM received a proposed permanent regulatory program from the State of Kansas. The purpose of this submission is to demonstrate both the State's intent and its capability to assume responsibility for administering and enforcing the provisions of SMCRA and the permanent regulatory program (30 CFR Chapter VII), as published in the Federal Register on March 13, 1979 (44 FR 15311-15463).

This notice describes the nature of Kansas' proposed program and sets forth information concerning public participation in the Regional Director's determination of whether or not the submission is complete. The public participation requirements for the consideration of a permanent State program are found in 30 CFR 732.11 and 732.12 (44 FR 15326-15327). Additional information may be found under corresponding sections of the preamble to OSM's permanent program regulations (44 FR 14959-14960).

The receipt of the Kansas submission is the first step in a process which will result in the establishment of a comprehensive program for the regulation of surface coal mining and reclamation operations and coal exploration in Kansas.

If the submission is approved by the Secretary of the Interior, the State of Kansas will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-Federal lands in Kansas. If the

program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of those activities.

Before OSM and the Secretary formally begin consideration of the substance of the program, the Regional Director must determine that the submission is complete. If the Regional Director determines the submission to be complete, consideration of the adequacy of the program will begin and the public will be informed of the decision and have the right to submit comments on the adequacy of the submission. If the submission is determined to be incomplete, the State will be given the opportunity to submit additional material. If the State fails to provide the missing elements, or the submission is otherwise determined to be inadequate, the program will be initially disapproved. After initial disapproval the State may revise the program. If the resubmitted program is also found to be incomplete after opportunity for supplementing it has passed or is otherwise deficient, the State program will be given a final disapproval, and a Federal program will be implemented.

At this time, OSM is primarily concerned with whether the proposed program constitutes a complete submission. The decision on completeness will be made by Raymond L. Lowrie, Regional Director, OSM Region IV. To assist in obtaining information on the completeness of the Kansas submission, the Regional Director is requesting written comments from the public and will hold a public review meeting on the issue of completeness.

The public review meeting on completeness will be conducted by the Regional Director and will be informal. This will provide members of the public, State and OSM opportunity to openly exchange thoughts concerning program completeness outside the more rigid structure of formal public hearing proceedings. Specific format procedures will be at the discretion of the Regional Director.

Written comments may supplement or be submitted in lieu of oral presentation at the public review meeting. All written comments must be mailed or hand-carried to the Regional Director's Office above or may be hand-carried to the public review meeting at the address above and submitted as exhibits to the proceeding. The comment period will close at the conclusion of the public review meeting or at 8:00 p.m., April 10, 1980, whichever is later.

Comments received after that time will not be considered in the Regional

Director's completeness determination. Representatives of OSM Region IV will be available to meet between March 6, 1980, and April 10, 1980, at the request of the public to receive their advice and recommendations concerning the completeness of the proposed program.

Persons wishing to meet with representatives of OSM, Region IV during this period may place such a request with Kerry Cartier, Public Information Officer, Telephone (816) 374-3490, at the Regional Director's Office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, at the Regional Director's Office.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Kansas program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)), approval of State programs does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

The following constitutes a summary of the contents of the Kansas submission: The Mined Land Conservation and Reclamation Board, a part of the Kansas Corporation Commission, has been designated by the Legislature and the Governor of Kansas to implement and enforce the Kansas Mined-Land Conservation and Reclamation Act of 1979 in accordance with the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). The Mined Land Conservation and Reclamation Board has developed State regulations to carry out the State mandate.

Contents of the State Program Submission include:

- (a) State Laws and Regulations.
- (b) Other Related State Laws and Regulations.
- (c) Letter of Legal Authority: State/Federal Law and Regulation Comparison.
- (d) Regulatory Authority Designation.
- (e) Structural Organization—Staffing Functions.
- (f) Supporting Agreements Between Agencies.
- (g) Narrative Description for:
  - (1) Issuing Exploration and Mining Permits.
  - (2) Assessing Permit Fees.
  - (3) Bonding—Insurance.
  - (4) Inspecting and Monitoring.
  - (5) Enforcing the Administrative, Civil and Criminal Sanctions.
  - (6) Administering and Enforcing Permanent Program Standards.

(7) Assessing and Collecting Civil Penalties.

(8) Issuing Public Notices and Holding Public Hearings.

(9) Coordinating with Other Agencies.

(10) Consulting with Other Agencies.

(11) Designating Lands Unsuitable for Surface Mining.

(12) Restricting Financial Interests.

(13) Training, Examining and Certifying Blasters.

(14) Providing for Public Participation.

(15) Providing Administrative and Judicial Review.

(16) Providing a Small Operator Assistance Program (S.O.A.P.).

(h) Statistical Information.

(i) Summary of Staff with Titles, Functions, Job Experience and Training.

(j) Description of Staffing Adequacy.

(k) Projected Use of Other Professional and Technical Personnel.

(l) Budget Information.

(m) Physical Resources Information.

(n) Other Programs Administered by the Regulatory Authority.

Dated: February 27, 1980.

Allyn O. Lockner,

Acting Regional Director.

[FR Doc. 80-8728 Filed 3-3-80; 8:45 am]

BILLING CODE 4310-05-M

[Federal, Lease Nos. W-0313668, W-0311810, W-0312311]

Availability for Public Review of a Mining and Reclamation Plan for a Surface Coal Mine Proposed by Kerr-McGee Coal Corp. for the East Gillette Mine, Campbell County, Wyo.

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

ACTION: Availability for public review of mining and reclamation plan.

SUMMARY: The Office of Surface Mining (OSM) has received an application from the Kerr-McGee Coal Corporation to mine Federal land at the East Gillette Mine. The proposed mine would be located about 2.5 miles from Gillette (next to the Clovis Point Mine) and would disturb a total of 2,624 acres over a period of 24 years. Maximum annual production of the proposed mine would be about 12,798,000 tons to be mined from two pits by truck and shovel. The proposal includes, in addition to mining, locating surface facilities, a railroad loop, and crushing and loading facilities.

Location of Lands To Be Affected

Applicant: Kerr-McGee Coal Corporation  
Mine Name: East Gillette

State: Wyoming  
 County: Campbell  
 Township, Range, Section: T. 50N, R. 71W: 6,  
 7, 8, 9, 17, 20, 21, 22, 28, and 29  
 Office of Surface Mining Reference No.: WY-  
 0030

In 1975 a mine plan application was filed with the Geological Survey. The Geological Survey prepared a draft EIS (DES 77-13) on the East Gillette Mine which was issued on April 1, 1977. Public hearings were held on the draft EIS in 1977. Since that time, the Kerr-McGee Coal Corporation has submitted an updated mining and reclamation plan to OSM to comply with Surface Mining Control and Reclamation Act (SMCRA). This plan has been determined to contain the essential elements of a complete mining and reclamation plan and this notice is issued to inform the public of the availability of this plan for review (pursuant to § 211.5 of Title 30 and § 1500.2 of Title 40, Code of Federal Regulations).

The Office of Surface Mining and the Geological Survey (USGS) will prepare a final environmental impact statement (EIS) which will analyze the agency's alternatives and the impacts of those alternatives. Alternatives will include, but are not limited to, disapproval of the applicant's proposal, approval of the applicant's proposal with modifications, deferring action, and no action on the proposal.

In preparing the technical and environmental analyses, OSM will determine whether the proposed plan meets the requirements of SMCRA and will evaluate the impacts of actions the Department of Interior may take on the plan. During this analytical review, it is possible that OSM will request additional information from the company. Any further information obtained would also be available for public review.

When the technical analysis and final EIS are completed, a Notice of Pending Decision and Availability of the EIS will be published in the Federal Register and local newspaper.

The mining and reclamation plan submitted by the Kerr-McGee Coal Corporation is available for public review during normal working hours at the Office of Surface Mining, Region V, second floor, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 and at the State of Wyoming, Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002. Comments on the proposed plan may be submitted to the Regional Director, Office of Surface Mining, at the same address during the 45 day period after this notice.

**FOR FURTHER INFORMATION CONTACT:**  
 Floyd L. Johnson or John E. Hardaway,  
 Office of Surface Mining, Region V,  
 Brooks Towers, 1020 15th Street, Denver,  
 Colorado, 80202 (303) 837-5656.  
 Donald A. Crane,  
 Regional Director.

[FR Doc. 80-6818 Filed 3-3-80; 8:45 am]  
 BILLING CODE 4310-05-M

#### Office of the Secretary

#### Federal-state Coal Advisory Board; Establishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is establishing a Federal-state Coal Advisory Board to provide the services as specified in departmental rules, 43 CFR Part 3400, 44 FR 43584-43652 (July 19, 1979).

The General Services Administration has concurred in the establishment of the Board.

Further information regarding the Board may be obtained from Bob Moore, Assistant to the Director for Coal Management (141), Bureau of Land Management, U.S. Department of the Interior, 1800 C Street, NW., Washington, D.C. 20240, (202) 343-4636.

The certification of establishment is published below.

#### Certification

I hereby certify that the Federal-state Coal Advisory Board is in the public interest in connection with the performance of duties imposed on the Department of the Interior by those statutory authorities listed in 43 CFR 3400.0-3 (44 FR 42609 (July 19, 1979)).

Dated: December 21, 1979.

Cecil D. Andrus,  
 Secretary of the Interior.

[FR Doc. 80-6718 Filed 3-3-80; 8:45 am]  
 BILLING CODE 4310-84-M

#### INTERSTATE COMMERCE COMMISSION

#### Permanent Authority Publication

Permanent Authority Decisions Volumes which would have appeared today will appear instead on Wednesday, March 5, 1980.

Agatha L. Mergenovich,  
 Secretary.

[FR Doc. 80-6856 Filed 3-3-80; 8:45 am]  
 BILLING CODE 7035-01-M

#### DEPARTMENT OF JUSTICE

#### Bureau of Prisons

#### National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Sunday, March 30, 1980, starting at 1:00 p.m., at the Ramada Inn, 901 North Fairfax Street, Alexandria, Virginia.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Robert L. Smith,  
 Acting Director.

[FR Doc. 80-6815 Filed 3-3-80; 8:45 am]  
 BILLING CODE 4410-05-M

#### Office of Justice Assistance, Research, and Statistics

#### Competitive Research Solicitation Regarding Analysis of Issues Involving Electronic Fund Transfer Systems and Electronic Mail Systems

The Bureau of Justice Statistics announces a competitive research solicitation aimed at an analysis of issues involving Electronic Funds Transfer Systems and Electronic Mail Systems.

The solicitation asks for proposals to be submitted for review in accordance with the criteria set forth in the solicitation. In order to be considered, all proposals must be postmarked no later than April 1, 1980. A grant or cooperative agreement for a 18 month research project is planned, with funding support not to exceed \$200,000.

Copies of the solicitation may be obtained by sending a mailing label to: Carol G. Kaplan, Director, Privacy and Security Staff, Bureau of Justice Statistics, 633 Indiana Avenue, Washington, DC 20531.

For questions pertaining to this request for solicitations, contact the Privacy and Security Staff, Bureau of Justice Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531, (301) 492-9036.

Dated: February 20, 1980.

## Approved:

Benjamin Renshaw,  
Acting Director, Bureau of Justice Statistics  
[FR Doc. 80-6617 Filed 3-3-80; 8:45 am]  
BILLING CODE 4410-18-M

## DEPARTMENT OF LABOR

## Mine Safety and Health Administration

[Docket No. M-80-13-C]

**Consolidation Coal Co.; Petition for  
Modification of Application of  
Mandatory Safety Standard**

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.1700 (barriers around oil and gas wells) to its Dent Run mine located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The large majority of petroleum wells were drilled and abandoned prior to 1930 with oil and gas sands now nearly depleted.

2. As an alternative to establishing and maintaining barriers, petitioner proposes to:

(a) Plug six wells using a technique developed by the U.S. Bureau of Mines, U.S. Department of Energy, and the coal industry which involves the placing of plugs in the wellbore below the base of the Pittsburgh coalbed which will prevent any natural gas from entering the mine after the well is mined through.

(b) Perform various tests and surveys to determine location of mine and depth of coalbed.

(c) Plug the wells back to the base of the Pittsburgh coalbed using an expandable cement and fly-ash-gel water slurry. A fifty percent fly-ash-cement mix will be used to fill the wellbore from the base of the Pittsburgh coalbed to the surface.

(d) Mine through and remove that segment of the plug existing between the mine pavement and the roof.

(e) Instruct all personnel in the affected area to proceed with caution when mining into and through the well-support pillar, with diligent efforts made at all times to assure a gas-free atmosphere in the affected areas. In this respect, the petitioner will cooperate with MSHA in sampling for gas immediately before, during and immediately after mining through the well.

(f) Make methane examinations by qualified personnel using approved methane detection equipment at least

once during each shift during development and/or retreat mining and record results on a fireboss date board placed in the area.

3. Petitioner states that the proposed alternative method will guarantee the miners at all times no less than the same measure of protection afforded by the standard.

## Request for Comments

Persons interested in this petition may furnish written comments on or before April 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 25, 1980.

Frank A. White,  
Director, Office of Standards, Regulations  
and Variances.

[FR Doc. 80-6673 Filed 3-3-80; 8:45 am]  
BILLING CODE 4510-43-M

**Occupational Safety and Health  
Administration**

**Advisory Committee on Construction  
Safety and Health, Full Committee and  
Meeting of the Subgroup on Health  
Standards**

Notice is hereby given that the Subgroup on Health Standards of the Advisory Committee on Construction Safety and Health will meet on March 25, 1980, in Room N-5437, New Department of Labor Building, 3rd Street and Constitution Avenue, NW, Washington, D.C. The meeting is open to the public and will begin at 9:00 a.m.

The Subgroup will thoroughly review OSHA health standards as they relate to the construction industry and will subsequently submit a report to the Advisory Committee on Construction Safety and Health containing their findings and including their recommendations.

The meeting agenda includes a discussion of major issues for the Subgroup report.

The full Advisory Committee on Construction Safety and Health will meet on March 27-28, 1980, at the Capital Yacht Club, 1000 Water Street, SW, Washington, D.C. The meeting is open to the public and will begin at 9:00 a.m.

The meeting agenda includes: review and development of recommendations on proposed revisions to the tunnel standard; a status report on proposals for regulation of abrasive blasting; discussion of the Voluntary Self

Inspection Program; a status report on information related to construction erection plans; a status report from the Subgroup on Health Standards; and general discussion on construction safety and health standards.

The Advisory Committee on Construction Safety and Health was established under section 107(c)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman, depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Room N-3635—OSHA, 3rd Street and Constitution Avenue, NW, Washington, D.C. Telephone 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 27 day of February, 1980.

Eula Bingham,  
Assistant Secretary of Labor.

[FR Doc. 80-6672 Filed 3-3-80; 8:45 am]  
BILLING CODE 4510-25-M

**Office of Pension and Welfare Benefit  
Programs**

**Form Revisions Pertaining to Certain  
Information Required on Annual  
Reports**

AGENCY: Department of Labor.

ACTION: Notice of revision of forms.

**SUMMARY:** This document sets forth revisions of the Forms 5500, 5500-C, and 5500-K (annual return/report forms) filed under the Employee Retirement Income Security Act of 1974 (the Act) and of the Schedule A (Insurance Information) which is attached by certain employee benefit plans to the annual return/report. The revisions affect the reporting of certain information relating to the acquisition of

insurance coverage by employee benefit plans.

**FOR FURTHER INFORMATION CONTACT:**

Wayland Coe, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523-8474. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** On June 22, 1979, the Department of Labor (the Department) published in the Federal Register (44 FR 36518) a notice of proposed revision of forms pertaining to reporting and disclosure under section 103(e) of the Act. The proposed revisions affected Forms 5500, 5500-C, and 5500-K (annual return/report forms) and the Schedule A on which insurance information is reported annually to the Department by employee benefit plans, any of whose benefits are provided by an insurance company or similar organization, pursuant to section 103(e) of the Act.<sup>1</sup>

Section 103(e) of the Act requires, in part, that employee benefit plans for which any benefits under the plan are purchased from and guaranteed by an insurance company, insurance service or other similar organization, shall include in their annual report, among other things, "the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid each, and for what purpose." Section 109(a) of the Act provides, in part, that with certain exceptions not here applicable, the Secretary may require that any information required under Title I to be submitted to him must be submitted on such forms as he may prescribe. Under the authority of these sections, the Department is revising Item 3 of the Schedule A (5500 series) and adopting Item 15 of the Forms 5500, 5500-C, and 5500-K.

All interested persons were invited to submit comments concerning the proposal. Twenty-three comments were received. Many commentators generally supported the proposed form revisions, although some suggestions for specific changes were offered.

The proposed revision to Item 3 required the disclosure of sales commissions and fees paid to all agents and brokers, except payments to general agents and managers for managing an agency or performing other administrative functions. One commentator argued that all payments to general agents should be reported, including payments of override

commissions and reimbursement of office expenses. The Department has not accepted this comment because it does not believe that such information would be sufficiently useful to the Department in its administration of the Act to justify the additional expense which would be incurred by insurance companies in compiling and reporting this data.

The commentators supported the Department's proposal to eliminate the requirement that first year and renewal commissions be reported separately, and that, in lieu of that requirement, a question be added to the annual report inquiring whether any insurance policy or annuity contract has been replaced since the period covered by the previous report. In view of the commentators, the separate reporting of first year and renewal commissions would be very costly for plans without providing useful information to the Department.

The proposed form revision also contained a requirement that the dollar amount of commissions paid be disclosed. Several commentators urged the Department to require the reporting of insurance commissions on a percentage basis (i.e., commissions as a percentage of premiums paid). These commentators argued that the disclosure of percentages would be more informative than dollar amounts and would be easier for plans to compile. Two commentators endorsed the reporting of commissions paid on a dollar basis. One indicated that reporting on a percentage basis would require further changes to current recordkeeping systems, which would increase costs, but, in his view, would not significantly improve the quality of reporting.<sup>2</sup> The other argued that in order for plan participants to be informed of commissions paid, the reporting of such information should be on a dollar basis.

<sup>2</sup>This commentator urged, however, that with respect to reporting by small plans, the Department allow disclosure on a percentage basis similar to that required under Prohibited Transaction Exemption 77-9 (PTE 77-9) (42 FR 253, June 24, 1977). Two other commentators indicated that disclosure of commissions on a percentage basis should be required for all plans because it would be consistent with the disclosure of commissions conditions in PTE 77-9. As noted in the preamble to the proposed changes, however, the Department does not believe that PTE 77-9 is necessarily relevant for the purpose of determining the information which should be disclosed on the Schedule A. PTE 77-9 requires that certain information be disclosed to a plan fiduciary prior to the time the fiduciary makes a decision concerning the investment of plan assets. In that situation, the actual dollar amount of commissions to be paid may not be known because a policy had not yet been purchased. However, in the case of a plan required to file a Schedule A, an insurance contract has already been purchased. Therefore, the dollar amount of commissions and fees paid as a result of that particular transaction can be determined.

The Department has considered these comments and has decided that insurance commission and fee information is most useful to both the Department and to participants and beneficiaries when reported on a dollar basis. The Department believes that the continued reporting of commission and fee information on a dollar basis will facilitate its analysis of this information. The reporting of such information on a dollar basis also is consistent with other reporting requirements, and permits comparison of this information with data, such as payments for services, reporting elsewhere in the annual report.

In response to the Department's request for comments with respect to whether the instructions to Item 3 should require information to be reported on an "accrual" basis, and whether and to what extent the term "accrual" should be defined, the commentators uniformly opposed any requirement that commission information be reported on an accrual basis. The commentators stated that a change to accrual basis reporting would require costly modifications to existing systems since insurance companies currently account for commissions, fees and premiums on a "cash" basis. In addition, the commentators argued that it would be difficult to identify properly the period in which commissions would be "earned" on an accrual basis. The commentators also noted that because commissions reported on an accrual basis might not actually be paid, or might be returned as a result of a cancellation of a policy, reporting on an accrual basis might, in some cases, provide inaccurate information. In view of these comments, the Department has decided, at this time, not to require the reporting of commission and fee information on an accrual basis.

The form revisions, therefore, are being adopted without change from the proposed version.

**Form Revisions**

For the above reasons, and in accordance with the authority in sections 103(e), 109(a) and 505 of the Act, Pub. L. 93-406, 88 Stat. 841, 850, 894, (29 U.S.C. 1023, 1029, 1135), Item 3 of Schedule A (Form 5500) and Item 15 of Forms 5500, 5500-C, and 5500-K for plan years beginning in 1979 are amended to read as follows:

**Schedule A (Form 5500)**

**Item 3**

3. Insurance commissions and fees paid to agents and brokers: (a) Contract or identification number; (b) Names and addresses of the agents or brokers to whom commissions or fees were paid; (c) Amount of

<sup>1</sup>These form revisions have been deemed to be significant within the meaning of Department of Labor guidelines (44 FR 5570, January 26, 1979) implementing Executive Order 12044 (43 FR 12661, March 23, 1978).

commissions paid; (d) *Fees paid*: Amount and purpose.

3. All sales commissions are to be reported in column (c) regardless of the identity of the recipient. Override commissions, salaries, bonuses, etc., paid to a general agent or manager for managing an agency, or for performing other administrative functions, are not to be reported. Fees to be reported in column (d) represent payments by insurance carriers to agents and brokers for items other than commissions (e.g., service fees, consulting fees and finders fees). Fees paid by insurance carriers to persons other than agents and brokers should be reported in Parts II and III on Schedule A as acquisition costs, administrative charges, etc., as appropriate. Fees paid by employee benefit plans to agents, brokers and other persons are to be reported in Item 12 of the Form 5500, Item 19 of the Form 5500-C and Item 14 of the Form 5500-K.

Forms 5500, 5500-C, and 5500-K

*Item 15*

15.(a) Since the end of the plan year covered by the last report, has there been a termination in the appointment of any trustee, accountant, insurance carrier, enrolled actuary, administrator, investment manager or custodian? Yes — No —

If "Yes", explain, and include the name, position, address and telephone number of the person whose appointment has been terminated.

(b) Have any insurance policies or annuities been replaced during the plan year? Yes — No — If "Yes", explain the reason for the replacement.

(c) At any time during the plan year, was the plan funded with:

- (I) — Individual policies or annuities
- (II) — Group policies or annuities
- (III) — Both

Note.—Item 15(a) is unchanged, in substance, from current Item 15.

Signed at Washington, D.C., this 26th day of February, 1980.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 80-6549 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-29-M

**Office of the Secretary**

[TA-W-6732, 6733]

**Allied Chemical Corp., Semet Solvay Division, Shannon Branch Mine and Preparation Plant; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 9, 1980 in response to a worker petition received on December 31, 1979 which was filed on behalf of workers and former workers producing metallurgical coal at the Shannon Branch Mine and Preparation Plant of Allied Chemical Corporation's Semet-Solvay Division, Capels, West Virginia.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of both coke and metallurgical coal can be considered in determining import injury to workers producing metallurgical coal at Allied Chemical's Shannon Branch Mine and Preparation Plant.

U.S. imports of metallurgical coal decreased absolutely and relative to domestic production in 1978 compared to 1977 and in January-September 1979 compared to January-September 1978. U.S. imports of coke decreased absolutely and relative to domestic production in January-September 1979 compared to the same period of 1978.

Evidence developed during the course of the investigation revealed that the Shannon Branch facilities supply metallurgical coal to various outside customers and to an Allied Chemical coke plant. A survey revealed that none of the outside customers purchased imported metallurgical coal or coke.

A secondary survey of Allied Chemical's coke plant customers was conducted. None of Allied's customers increased their reliance on imported metallurgical coal or coke in 1979 compared to 1978.

**Conclusion**

After careful review, I determine that all workers of the Shannon Branch Mine and Preparation Plant of Allied Chemical Corporation's Semet-Solvay Division, Capels, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1980.

C. Michael Aho,  
*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6674 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-29-M

[TA-W-6633]

**Bela Manufacturing Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 18, 1979 in response to a worker petition received on September 26, 1979 which was filed on behalf of workers and former workers producing women's leather coats at Bela Manufacturing Corporation, New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of leather coats and jackets—men's, boys', women's, misses', juniors', and children's—increased absolutely and relative to domestic production in 1978 compared to 1977.

Bela Manufacturing performed contract work for one manufacturer. The manufacturer stopped contracting work with Bela Manufacturing in 1979. A secondary survey revealed that the primary customer of the manufacturer ceased purchases from domestic sources and relied exclusively on foreign sources in 1979. Bela Manufacturing closed in September 1979.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's leather coats produced at Bela Manufacturing Corporation, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bela Manufacturing Corporation, New York, New York who became totally or partially separated from employment on or after September 21, 1978 are eligible to apply for adjustment

assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of February 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-6075 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6655]

**Boss Manufacturing Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 26, 1979 in response to a worker petition received on December 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing work gloves at the Oneida, Tennessee plant of Boss Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of work gloves increased both absolutely and relative to domestic production in 1978 compared to 1977.

Boss Manufacturing Company increased imports relative to sales of leather work gloves in 1979 compared to 1978. The imported gloves are replacing gloves formerly produced domestically by the firm.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with leather work gloves produced in Oneida, Tennessee by Boss Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Oneida, Tennessee plant of Boss Manufacturing Company who became totally or partially separated from employment on or after July 15, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-6676 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6913]

**Boss Manufacturing Co.; Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 5, 1980, in response to a worker petition received on December 27, 1979, which filed on behalf of workers and former workers producing leather gloves at the Oneida, Tennessee plant of Boss Manufacturing Company.

The Notice of Investigation was published in the Federal Register (44 FR 9415). No public hearing was requested and none was held.

On December 3, 1979, a petition was filed on behalf of the same group of workers (TA-W-6655).

Notice of Investigation was published in the Federal Register on January 4, 1980, (45 FR 1179). No public hearing was requested and none was held.

Since the identical group of workers is the subject of ongoing investigation TA-W-6655; a new investigation would be serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 13th day of February 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-6677 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6760]

**Corcol Energy, Inc.; Preparation Plant 101; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on January 10, 1980 in response to a worker petition received on December 31, 1979 on behalf of workers and former

workers cleaning coal at Corcol Energy, Incorporated, Preparation Plant 101, Wharnclyffe, West Virginia. It is concluded that all of the requirements have been met.

U.S. Imports of metallurgical coal are negligible. However, in accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. U.S. imports of coke increased absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in the first three months of 1979 compared to the same period in 1978.

Preparation Plant 101 of Corcol Energy, Incorporated cleaned metallurgical coal for one customer, Energy Development Corporation, Wharnclyffe, West Virginia. This customer ceased operations in April, 1979. Sales, production, and employment at Corcol Energy ceased at approximately the same time. On July 19, 1979 workers employed at Energy Development Corporation (TA-W-5429) were certified eligible to apply for adjustment assistance benefits with an impact date of April 5, 1979. The decision was based on increased imports of coke by the parent company of Energy Development Corporation. The declines in sales, production and employment at Corcol Energy, Incorporated, Plant 101, Wharnclyffe, West Virginia are a direct result of the cessation of operations of Energy Development Corporation.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced at Corcol Energy, Incorporated, Preparation Plant 101, Wharnclyffe, West Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Corcol Energy, Incorporated, Preparation Plant 101, Wharnclyffe, West Virginia who became totally or partially separated from employment on or after April 5, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of February 1980.

James F. Taylor,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 80-8678 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6530]

**Essex Group, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 in response to a worker petition received on November 7, 1979 which was filed by the United Steel Workers of America, Local 8052 on behalf of workers and former workers producing automotive wire harnesses at the Clare, Michigan plant of Essex Group, Incorporated. It is concluded that all of the requirements have been met.

U.S. Imports of automotive wire harnesses increased in value from 1977 to 1978 and from 1978 to 1979. Company imports of automotive wire harnesses increased in value, both absolutely and as a percentage of company sales, from 1977 to 1978 and from 1978 to 1979.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with automotive wire harnesses produced at the Clare, Michigan plant of Essex Group, Incorporated, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Clare, Michigan plant of Essex Group, Incorporated who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of February 1980.

C. Michael Aho,  
Director, Office of Foreign Economic  
Research.

[FR Doc. 80-6679 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6750, TA-W-6750-A]

**Excelled Sheepskin and Leather Coat Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on January 10, 1980 in response to a worker petition received on December 20, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing leather apparel at Excelled Sheepskin and Leather Coat Corporation, South Edison, New Jersey (TA-W-6750). The investigation was expanded to include workers and former workers at the New York, New York showroom of Excelled Sheepskin and Leather Coat Corporation (TA-W-6750-A). It is concluded that all of the requirements have been met.

U.S. imports of leather coats and jackets increased absolutely and relative to domestic production during 1978 compared to 1977. U.S. imports of men's and boys' leather coats and jackets increased during the first nine months of 1979 compared to the first nine months of 1978.

Company imports of men's and boys' leather, suede and sheepskin outerwear increased during 1978 compared to 1977 and during 1979 compared to 1978. Company imports of cut leather and shells also increased during 1978 compared to 1977 and during 1979 compared to 1978.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' leather, suede and sheepskin outerwear produced at Excelled Sheepskin and Leather Coat Corporation contributed importantly to

the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Excelled Sheepskin and Leather Coat Corporation, South Edison, New Jersey (TA-W-6750) and New York, New York (TA-W-6750-A) who became totally or partially separated from employment on or after October 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of February 1980.

James F. Taylor,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 80-6680 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6670]

**Forrest City Machine Works, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 19, 1979 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing farm equipment at Forrest City Machine Works, Incorporated, Forrest City, Arkansas. It is concluded that all of the requirements have been met.

U.S. Imports of pull-type field cultivators increased both absolutely and relative to domestic shipments during 1979 compared to 1978 and during 1978 compared to 1977. U.S. imports of all cultivators increased absolutely during the first nine months of 1979 compared to the first nine months of 1978.

A survey of customers which purchase cultivators from Forrest City Machine Works, Inc. was conducted by the Department. Survey results reveal that customers, in the aggregate, increased purchases of imported cultivators. Additionally, several customers decreased purchases from

Forrest City Machine Works while increasing purchases of imported cultivators.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with farm equipment produced at Forrest City Machine Works, Incorporated, Forrest City, Arkansas contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Forrest City Machine Works, Incorporated, Forrest City, Arkansas who became totally or partially separated from employment on or after April 5, 1979 and before November 20, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6681 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-6691]

#### General Electric Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 4, 1980, in response to a worker petition received on December 12, 1979, which was filed on behalf of workers and former workers selling receiving tubes at the Clifton, New Jersey, sales office of General Electric Company. The investigation revealed that the sales office primarily sells electronic receiving tubes produced by the Owensboro, Kentucky, plant of General Electric. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

.That increases of imports of articles like or

directly competitive with articles produced by the firm or appropriate subdivision have contribute importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that declining sales of receiving tubes by the Clifton, New Jersey, sales office of General Electric Company are the result of a receding market for receiving tubes.

Imports of electronic receiving tubes declined absolutely from 1977 to 1978 and continued to decrease during the first three quarters of 1979 compared to the same period in 1978 the import category for electronic receiving tubes includes completed and unfinished tubes and tube mounts. Within this category, imports of completed tubes have declined over the past few years while imports of tube mounts increased dramatically. (Presently tube mounts represent about 75 percent of the import category.)

The Clifton, New Jersey, sales office of General Electric sells completed receiving tubes. The Owensboro, Kentucky facility imports tube mounts which require final assembly at the Owensboro production facility before they are sold by the Clifton sales office. Sales of completed receiving tubes by Clifton, New Jersey, therefore, are not affected either by increased imports of tube mounts by General Electric or by increased U.S. imports of tube mounts. Sales of receiving tubes declined mainly because solid state components are replacing tubes in new electronic equipment. Receiving tubes today are used principally in replacement or repair equipment (mainly in television receivers). For the most part, the industrial market for receiving tubes has been rendered obsolete by solid state advances.

#### Conclusion

After careful review, I determine that all workers of the Clifton, New Jersey, sales office of General Electric Company are denied Eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of February 1980

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6682 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-7077]

#### General Motors Corp., Assembly Division, Lakewood Plant; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 11, 1980, in response to a worker petition received on February 5, 1980, which was filed by the International Union, United Automobile, Aerospace and Agricultural Workers of America (U.A.W.) on behalf of workers and former workers producing cars and light duty trucks at the Lakewood plant of the Assembly Division of General Motors Corporation, Atlanta, Georgia.

On January 29, 1980, a petition was filed on behalf of the same group of workers (TA-W-6917).

Since the identical group of workers is the subject of the ongoing investigation TA-W-6917, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 21st day of February 1980.

Harold A. Bratt,

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 80-6683 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-6638]

#### Harsco Corp., Broderick Company Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 18, 1979, in response to a worker petition received on December 6, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon and alloy steel forgings at the Broderick Company Division of Harsco Corporation, Muncie, Indiana. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

.That increases of imports of articles like or directly competitive with articles produced

by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers that purchased steel forgings from the Broderick Company in 1978 and 1979. Customers responding to the survey that decreased purchases of steel forgings from the Broderick Company in 1979 compared to 1978 and increased purchases of imported steel forgings that period represented an insignificant proportion of the firm's sales.

#### Conclusion

After careful review, I determine that all workers of the Harsco Corporation, Broderick Company Division, Muncie, Indiana, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of February 1980.

James F. Taylor,

*Director, Office of Management Administration and Planning.*

[FR Doc. 80-6884 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5693]

#### Herbert Kenzer, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 4, 1980, in response to a worker petition received on December 21, 1979, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Herbert Kenzer, Incorporated, New York, New York. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Average employment at Herbert Kenzer, Incorporated, increased in 1978 compared to 1977 and remained essentially unchanged from 1978 to 1979. Average hours worked increased in 1979 compared to 1978. The average number of workers was relatively unchanged in each quarter of 1979 as compared to the corresponding quarter of 1978.

Employment declined in December, 1979 as compared to the previous month. However, in each year from 1977 through 1979, employment in the month of December was lower than the previous month, due to the seasonal nature of coat production.

#### Conclusion

After careful review, I determine that all workers of Herbert Kenzer, Incorporated, New York, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6885 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6262 and 6262A]

#### Humphreys Mining Co.; Negative Determination Regarding Application for Reconsideration

By an application dated February 4, 1980, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers mining titanium, zircon and monazite ores at Humphreys Mining Company's facilities in Folkston, Georgia, and Boulougne, Florida. The determination was published in the Federal Register on January 4, 1980, (45 FR 1169).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or
- (3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner with company support claims that the Department's

investigation did not consider the source of Humphreys Mining Company's sole customer's supply which led to the accumulation of inventory levels. The petitioner further claims that price cutting by Australia together with depressed freight rates has affected the industry.

The Department's review indicated that workers at Humphreys Mining Company's facilities at Folkston, Georgia, and Boulougne, Florida, did not meet the "contributed importantly" test of section 222 of the Trade Act of 1974. The contract for Humphreys' titanium dioxide and zircon with Humphreys' sole customer expired when the ore body was exhausted. A new contract was turned down by this customer with Humphreys when Humphreys Mining located a new ore body near the depleted one. The Department's survey revealed that this customer is oversupplied with titanium dioxide ore and currently has inventory levels which will last for over a year. The survey revealed that this customer decreased its purchases of imported titanium dioxide in the first ten months of 1979 compared to the same period in 1978. The sole customer does not purchase imported zircon.

With respect to price cutting by mines in Australia, the Department found that this customer does not buy on the spot market but purchases through long-term contracts with titanium mining companies for its supply of the ore. In making its contracts, a responsible company official of Humphreys' sole customer indicated that its forecasts for the demand of titanium dioxide were more optimistic than what the market could bear and that these purchases resulted in an accumulation of ore inventory in the face of a declining market for white pigments.

#### Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 19th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6886 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6661]

**Indiana Sports Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 26, 1979, in response to a worker petition received on December 18, 1979, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and boys' dress coats, sportcoats and outer jackets at Indiana Sports Company, Indiana, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased absolutely and relative to domestic production in 1978 compared to 1977. U.S. imports of men's and boys' outercoats and jackets increased in 1978 compared to the average annual level of imports in the 1974-1977 period.

Indiana Sports produced exclusively for its parent firm, that firm reduced orders with Indiana Sports and increased purchases of imported men's and boys' apparel in the first three quarters of 1979 compared to the same period in 1978.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' dress coats, sportcoats and outer jackets produced at Indiana Sports Company, Indiana, Pennsylvania, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Indiana Sports Company, Indiana, Pennsylvania, who became totally or partially separated from employment on or after December 12, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 26th day of February 1980.

C. Michael Aho,  
*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6687 Filed 3-3-80; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-6864]

**Ken Snyder, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on January 28, 1980, in response to a worker petition received on January 23, 1980, which was filed on behalf of workers and former workers of Ken Snyder, Incorporated, Detroit, Michigan, engaged in the sales of used cars.

Ken Snyder, Incorporated was engaged in providing the service of selling, repairing, and cleaning-up automobiles.

Thus, workers of Ken Snyder, Incorporated, did not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Ken Snyder, Incorporated, by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Ken Snyder, Incorporated and its customers had no controlling interest in one another. The subject firm was not corporately affiliated with any other company.

All workers engaged in selling, repairing, and cleaning-up automobiles at Ken Snyder, Incorporated, were employed by that firm. All personnel actions and payroll transactions were controlled by Ken Snyder, Incorporated. All employee benefits were provided and maintained by Ken Snyder, Incorporated. Workers were not, at any time, under employment or supervision

by customers of Ken Snyder, Incorporated. Thus, Ken Snyder, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

**Conclusion**

After careful review, I determine that all workers of Ken Snyder, Incorporated, Detroit, Michigan are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of February 1980.

James F. Taylor,  
*Director, Office of Management Administration and Planning.*

FR Doc. 80-6688 Filed 3-3-80; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-6659-6660]

**Keystone Consolidated Industries, North and South Plants; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 26, 1979, in response to a worker petition received on December 11, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel wire, farm fencing, utility fabrics and nails for Keystone, Consolidated Industries, North and South Plants, Greenville, Mississippi. The investigation revealed that the North plant also produces barbed wire. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that imports of carbon steel wire, wire nails and staples, wire fencing and netting (which includes utility fabrics) and

barbed wire declined absolutely and relative to domestic shipments in the first three quarters of 1979 compared with the same period of 1978.

The South plant of Keystone Consolidated industries shipped most of its 1979 wire production to the North plant for use in the manufacture of farm fencing, barbed wire, nails and utility fabric. Production and sales of wire at the South plant increased in 1978 compared to 1977 before declining in 1979 compared to 1978.

After the North plant began operating in April of 1978, sales and production of farm fencing, barbed wire, nails and utility fabric increased on a quarter-to-quarter basis from the second quarter of 1978 through the first quarter of 1979. The quantity of production remained stable in the second quarter of 1979 compared to the first, before declining in the third and fourth quarters of 1979.

#### Conclusion

After careful review, I determine that all workers of the North and South Plants of Keystone Consolidated Industries, Greenville, Mississippi are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6689 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6662]

#### Kimberly Knitwear; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 26, 1979, in response to a worker petition received on December 11, 1979, which was filed on behalf of workers and former workers producing ladies' dresses and suits at Kimberly Knitwear, New York, New York. It is concluded that all of the requirements have been met.

Evidence developed in the course of the investigation revealed that U.S.

imports of women's, misses', and children's dresses and suits increased absolutely and relative to domestic production in 1978 compared with 1977.

The Department conducted a survey of Kimberly Knitwear's customers. The survey revealed that some of the responding customers increased purchases of imported ladies' dresses and suits while decreasing purchases from the subject firm in 1979 compared with 1978. These firms represented a significant proportion of the subject firm's sales decline. The survey also revealed that as a percentage of total demand for dresses and suits by the responding customers, imports increased in 1979 compared to 1978.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' dresses and suits produced at Kimberly Knitwear, New York, New York, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Kimberly Knitwear, New York, New York who became totally or partially separated from employment on or after December 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 25th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6690 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6565]

#### Litton Industries, Inc., Decotone Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979, in response to a worker petition received on December 3, 1979, which was filed by the United

Paperworkers' International Union on behalf of workers and former workers producing print heat transfer paper at Litton Industries, Incorporated, Decotone Division, Westminister, Massachusetts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petitioning workers at Litton Industries, Inc., Decotone Division, Westminister, Massachusetts are seeking adjustment assistance benefits in connection with separations beginning in September 1977. The date of petition is November 26, 1979. In accordance with Section 223(b) of the Act, no certification may apply to any worker whose last total or partial separation from the subject firm occurred before November 26, 1978, one year prior to the date of the petition.

The Decotone Division's sales, production and average employment increased in 1978 compared to 1977. Although sales by the Decotone Division declined in 1979 compared to 1978, U.S. imports of transfer print paper declined both absolutely and relative to domestic production in the period January-September 1979 compared to the like period in 1978. Domestic production of transfer print paper increased during this period.

A survey of Decotone Division's major customers in 1978 was conducted. The survey revealed that these customers did not increase their reliance on imported transfer print paper in 1979.

#### Conclusion

After careful review, I determine that all workers of the Westminister, Massachusetts plant of Litton Industries, Incorporated, Decotone Division, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6691 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6566]

**Maremont Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on November 28, 1979 which was filed on behalf of workers and former workers producing automotive exhaust systems at the Ripley, Tennessee plant of Maremont Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey of Maremont's customers revealed that most customers surveyed did not import exhaust systems. A major customer who reduced purchases from Maremont did not import exhaust systems in the 1978-1979 period.

**Conclusion**

After careful review, I determine that all workers of the Ripley, Tennessee plant of Maremont Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of February 1980.

C. Michael Aho,  
*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6692 Filed 3-3-80; 8:45 am]  
BILLING CODE 4510-28-M

Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 13, 1979 in response to a worker petition received on December 10, 1979 which was filed by the Independent Rubber Workers Union No. 1 on behalf of workers and former workers producing conveyor belts, rubber expansion joints and rubber hoses at the Mercer Rubber Company, Incorporated, Trenton, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department of Labor survey revealed that customers which decreased purchases of conveyor belting from the Mercer Rubber Company and increased imports also increased purchases of domestically produced conveyor belting.

A survey of the rubber expansion joint customers of Mercer Rubber disclosed that customers which decreased purchases from the firm and increased purchases of imported expansion joints accounted for an insignificant portion of the firm's decline in sales of that product.

The company's sales and production of rubber hose increased in 1978 compared to 1977 and again in 1979 compared to 1978.

**Conclusion**

After careful review, I determine that all workers of the Mercer Rubber Company, Incorporated, Trenton, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of February 1980.

C. Michael Aho,  
*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6693 Filed 3-3-80; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-6208 and 6236]

**Palm Beach Co.; Negative Determination Regarding Application for Reconsideration**

By an application dated February 4, 1980, the union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers producing men's vests and pants at the Rockwood, Tennessee, plant of the Palm Beach Company. The determination was published in the Federal Register on January 4, 1980 (45 FR 1173).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union transmitted new information which challenges the adequacy of the Department's survey for workers of the Palm Beach Company in Rockwood, Tennessee. The union further claims that the Department, in its denial notice, used an inadequate indicator in determining whether the increased import criterion of Section 222 of the Trade Act of 1974 was met, namely, that Palm Beach's customers' reliance on imports was substantially below the industry level whereas the important comparison should have been relative to domestic production.

The Department's review indicated that the workers producing men's vests and pants at the Rockwood, Tennessee, plant did not meet the "contributed importantly" test of the Trade Act. The Department's random survey of Palm Beach's customers indicated that their reliance on imports was substantially below the industry-wide level in 1978 and 1979. Further, the survey respondents who increased imports of men's suits and decreased purchases from Palm Beach were not significant in terms of the firm's total suit business.

The Department sees little validity in the union's claim that the Department used an incomplete indicator in determining whether the Rockwood, Tennessee, worker group of Palm Beach met either relatively or absolutely the increased import criterion contained in Section 222 of the Trade Act. In order

for a worker group to become certified eligible for trade adjustment assistance, they must meet the three criteria enumerated in Section 222 of the Trade Act in addition to meeting the "contributed importantly" test of section 222. The Rockwood, Tennessee, worker group of Palm Beach did not meet the "contributed importantly" test based on the customer survey. Among other things, the survey showed that the customers' reliance on imports was substantially below the industry-wide level of 1978 and 1979. Of the customers mentioned by the union in its application, some were already included in the survey and the others either did not import men's suits or reduced their import purchases. U.S. imports of men's and boys' tailored dress coats and sportcoats decreased absolutely in the first nine months of 1979 compared to the same period of 1978.

#### Conclusion

After review of the application and the investigative file, I conclude that there has been no error on misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 25th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6666 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-6610]

#### Republic Steel Corp., Buffalo District; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 12, 1979 in response to a worker petition received on December 4, 1979 which was filed on behalf of workers and former workers producing carbon and alloy steel bars at the Buffalo, New York steel plant of the Buffalo District of Republic Steel Corporation. In the following

determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of hot rolled carbon steel bars decreased absolutely and relative to domestic shipments from 1977 to 1978, and decreased absolutely and relatively during the first three quarters of 1979 compared with the same period in 1978.

U.S. imports of hot rolled alloy steel bars decreased absolutely and relative to domestic shipments during the first three quarters of 1979 compared with the same period in 1978.

Buffalo District shipments of hot rolled alloy steel bar products increased from 1977 to 1978, and increased in every quarter compared with the same quarter in the preceding year in 1978 and in the first half of 1979.

#### Conclusion

After careful review, I determine that all workers of the Buffalo District, Buffalo, New York, of Republic Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6664 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-6697]

#### Rovin Dress Manufacturing Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on January 4, 1980 in response to a worker petition received on December 26, 1979 which was filed by the International Ladies' Garment Workers' Union on

behalf of workers and former workers producing ladies dresses at Rovin Dress Manufacturing Company, Incorporated, Jersey City, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses decreased absolutely in the first 9 months of 1979 compared with the same period of 1978.

Rovin Dress Manufacturing Company, Incorporated produces ladies' dresses for manufacturers. A survey of the manufacturers revealed that they did not utilize foreign contractors or purchase imported ladies' dresses from 1978 to 1979. Total sales of the manufacturers increased in 1979 compared to 1978.

#### Conclusion

After careful review, I determine that all workers of Rovin Dress Manufacturing Company, Incorporated, Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of February 1980.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 80-6665 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-6665]

#### Sunny Isle, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 19, 1979 which was filed on behalf of workers and former workers producing junior sportswear at the Mart, Texas

plant of Sunny Isle, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' dresses increased both absolutely and relative to domestic production in 1978 compared to 1977.

The Mart, Texas plant was part of Sunny Isle, Incorporated from September 1978 until June 1979, producing primarily ladies' dresses for Sunny Isle. During the time the Mart plant was producing dresses, Sunny Isle began to import substantial quantities of Ladies' dresses.

Company imports of dresses increased in 1979 compared to 1978. Beginning with the first quarter of 1979 through the third quarter of 1979, company imports of dresses increased in each successive quarter compared to the previous quarter.

The Mart, Texas plant closed in June 1979.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' dresses produced at the Mart, Texas plant of Sunny Isle, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Mart, Texas plant of Sunny Isle, Incorporated who became totally

or partially separated from employment on or after March 2, 1979 and before February 1, 1980 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1980.

**C. Michael Aho,**  
Director, Office of Foreign Economic Research.

[FR Doc. 80-6898 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

#### Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of

a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 25th day of February 1980.

**Harold A. Bratt,**  
Acting Director, Office of Trade Adjustment Assistance.

#### Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Peter Freund Knitting Mills (Company)	North Bergen, N.J.	2/6/80	1/28/80	TA-W-7,171	Men's and ladies' sweaters, also men's and boy's knit shirts.
Selby, Battersby & Company (IUMSWA)	Philadelphia, Pa.	1/15/80	1/2/80	TA-W-7,172	Deck coverings and hull outfitting equipment for ships and tankers.
Plakie, Inc. (URW)	Yountstown, Ohio	2/8/80	2/5/80	TA-W-7,173	Infant accessories including rattles (toys).
Enterprise Plastics, Inc. (workers)	Caryville, Tenn.	2/13/80	2/8/80	TA-W-7,174	Parts made by injection and compression molding.
Sound Design Corp. (Warehouse and Production Employees Union)	Jersey City, N.J.	2/6/80	1/25/80	TA-W-7,175	Audio equipment.
Muskie Tool & Die Corporation (Company)	Warren, Mich.	2/15/80	2/11/80	TA-W-7,176	Perishable die details and tooling aids for automobiles.
Hudson Shoe Machinery Corp. (workers)	Haverhill, Mass.	2/12/80	2/8/80	TA-W-7,177	Machinery used in producing shoes, producer leader goods, boots and shoes, rebuild old machines and buy new machines and repair.
Suo-Fran, Inc. (workers)	Irvona, Pa.	2/11/80	2/6/80	TA-W-7,178	Contract sewing of Ladies' dresses, skirts and blouses.
Sue-Fran, Inc. (workers)	Coalport, Pa.	2/11/80	2/6/80	TA-W-7,179	Contract sewing of ladies' dresses, skirts and blouses.
Engle-Lewis Counter Co., Inc. (workers)	Merrimac, Mass.	2/4/80	1/22/80	TA-W-7,180	Shoe counters.
Howmet Turbine Components Corp., Crucible Steel Casting Div. (workers)	Milwaukee, Wis.	2/6/80	1/29/80	TA-W-7,181	Mac truck axles housing.
Merritt Brothers Cedar Products (workers)	Bay City, Ore.	2/5/80	1/31/80	TA-W-7,182	Red cedar shakes and shingles.
Anchor Motor Freight (Teamsters)	Linden, N.J.	2/12/80	2/7/80	TA-W-7,183	Transportation service to General Motors.
Auto Convey Co. (Teamsters)	Shreveport, La.	2/13/80	2/7/80	TA-W-7,184	Transportation of new autos and trucks.
Complete Auto Transit (Teamsters)	Flint, Mich.	2/13/80	2/6/80	TA-W-7,185	Transportation of cars and trucks.
Chrysler Corp., Dayton Plant I (IEU)	Dayton, Ohio	2/8/80	2/6/80	TA-W-7,186	Air conditioners and heaters for cars and trucks.
Marysville Parts Depot (workers)	Marysville, Mich.	2/13/80	2/8/80	TA-W-7,187	Distribution and warehousing of parts for Chrysler cars and trucks.
Chrysler Corp., Michigan City Colded. Products Div. (company)	Michigan City, Ind.	2/8/80	2/4/80	TA-W-7,188	Trim panels, fuel tanks, instrument panels, ducts and bezels.
East Providence Chrysler Plymouth, Inc. (workers)	E. Providence, R.I.	2/14/80	2/5/80	TA-W-7,189	Sales and service of Chrysler cars and trucks.
Gordon Page Chevrolet, Inc. (workers)	Milwaukee, Wis.	2/8/80	2/1/80	TA-W-7,190	Selling and maintaining cars and trucks.
Gorgas & Associates, Inc. (company)	Claymont, Del.	2/12/80	2/8/80	TA-W-7,191	Sales and field representative for Schick, Inc.

## Appendix—Continued

Petitioner: Union/workers or former workers of:—	Location	Date received	Date of petition	Petition No.	Articles produced
Pary Footwear, Inc. (workers)	Cambridge, Mass.	2/5/80	1/30/80	TA-W-7,192	Men's and boy's bedroom slippers.
D & K Service (workers)	Center Line, Mich.	2/12/80	2/4/80	TA-W-7,193	Commercial zone carrier for Chrysler.
D & K Switching, Inc. (workers)	Center Line, Mich.	2/12/80	2/4/80	TA-W-7,194	Switching agent for Chrysler.
International Screw (company)	Mt. Clemens, Mich.	2/19/80	2/15/80	TA-W-7,195	Industrial fasteners—screws and bolts.
Styles By Heidi, Inc. (workers)	New York, N.Y.	1/30/80	1/28/80	TA-W-7,196	Ladies' coats and suits (leather and wool).
Bethlehem Steel Corp., So. San Francisco Reinforcing Bar Engr'g Plant Dept. (workers).	S. San Francisco, Calif.	1/29/80	1/22/80	TA-W-7,197	Provides sales, design fabrication and placement of reinforcing steel bars.
Riverside Manufacturing Industries, Inc., St. Stan- dish Products Div. (UAW).	Stanford, Mich.	2/13/80	2/7/80	TA-W-7,198	Electrical automotive wire harnesses.
Rose Cloak & Suit (ILGWU)	Plainview, N.Y.	1/17/80	1/9/80	TA-W-7,199	Ladies' outerwear.
Soft Knit Undies, Inc. (ILGWU)	Rio Piedras, P.R.	1/29/80	1/25/80	TA-W-7,200	Underwear, panties.
Palm Undies, Inc. (ILGWU)	Rio Piedras, P.R.	1/29/80	1/25/80	TA-W-7,201	Underwear, panties.
Hanna Mining Co. (USWA)	Hibbing, Minn.	2/1/80	1/29/80	TA-W-7,202	Mine iron ore (pit) and plant.
International Harvester Company (workers)	St. Louis, Mo.	1/17/80	1/11/80	TA-W-7,203	Sell and service motor trucks.
Al Weiss Lincoln-Mercury DEB Joe Jordan Lincoln-Mercury (IAMAW).	St. Louis, Mo.	2/7/80	2/1/80	TA-W-7,204	Sales of Lincoln-Mercury including sales of parts, repairs and auto body work.
Trimfoot Shoe Co. (Boot & Shoe Workers Union).	Farmington, Mo.	2/14/80	2/7/80	TA-W-7,205	Infant shoes.
Printex Corp. (ACTWU)	Ossining, N.Y.	2/13/80	1/25/80	TA-W-7,206	Printed fabrics department.
Life Savers, Inc. (workers)	Canajoharie, N.Y.	2/11/80	2/8/80	TA-W-7,207	Confection products (life savers) and gum.
LL.B. Sportswear, Inc. (ILGWU)	Chester, N.Y.	2/11/80	2/5/80	TA-W-7,208	Sew blouses, pants, skirts and sportswear children's.
Windemere Corp. (ILGWU)	New York, N.Y.	1/17/80	1/9/80	TA-W-7,209	Ladies' coats.
Auto Convoy Company (Teamsters)	Tulsa, Okla.	1/30/80	1/23/80	TA-W-7,210	Truck-away operation which delivers new Ford-Mercury automobiles, pickups and large trucks.
Bium Coal Co. (company)	South Carrolton, Ohio	2/8/80	1/31/80	TA-W-7,211	Hiring of high and low sulphur coal.
Detroit Gasket (Sheet Metal Workers Union)	Newport, Tenn.	2/8/80	2/5/80	TA-W-7,212	Automobile gaskets.
Sunrise Fashions, Inc. (ACTWU)	No. Bergen, N.J.	1/18/80	1/10/80	TA-W-7,213	Ladies' Raincoats and outerwear.
Formed Tubes, Inc. (company)	Sturgis, Mich.	2/13/80	1/28/80	TA-W-7,214	Automotive exhaust and tail pipes.
Formed Tubes, Inc. (company)	Hayleyville, Ala.	2/13/80	1/28/80	TA-W-7,215	Automotive exhaust and tail pipes.
Mr. Herbert, Ltd (ILGWU)	New York, N.Y.	1/17/80	1/8/80	TA-W-7,216	Ladies' coats.
Libbey-Owens-Ford (Stone, Glass & Clay Co-ordinating Committee).	East Toledo, Ohio	2/12/80	2/5/80	TA-W-7,217	Float glass primarily for automotive industry.
Libbey-Owens-Ford (Stone, Glass & Clay Co-ordinating Committee).	Ottawa, Ill.	2/12/80	2/5/80	TA-W-7,218	Float glass primarily for automotive industry.
Libbey-Owens-Ford (Stone, Glass & Clay Co-ordinating Committee).	Lathrop, Calif.	2/12/80	2/5/80	TA-W-7,219	Float glass primarily for automotive industry.
Millington Plastics Company (Allied Industrial Workers Union).	Upper Sandusky, Ohio	2/14/80	2/8/80	TA-W-7,220	Automotive trim, also, miscellaneous plastic items.
Samesta Manufacturing Company (workers)	Fall River, Mass.	2/13/80	2/11/80	TA-W-7,221	Ladies' dresses.
Goodyear Tire & Rubber Company (URW)	Lincoln, Nebr.	2/13/80	2/7/80	TA-W-7,222	Radiator hose transmission products, snowmobile belt- ing.
State Beef Co. (company)	Boston, Mass.	2/13/80	2/10/80	TA-W-7,223	Boneless beef.
B & V Coal Co. (workers)	Tazewell, Va.	1/17/80	1/9/80	TA-W-7,224	Metallurgical coal.
Ogden American Food Service, Inc. (U.C.R.B. & H. W.).	Farmdale, Mich.	2/19/80	2/14/80	TA-W-7,225	Manual food service.
Fraser Company, Inc. (workers)	Pine Hill, N.Y.	2/5/80	1/30/80	TA-W-7,226	Component parts for eye glass frames.
Vista Optical Corp. (workers)	Pine Hill, N.Y.	2/5/80	1/30/80	TA-W-7,227	Eye glass frames.
Motor Wheel Corp., Lansing Plant (Allied Industrial Workers of America).	Lansing, Mich.	12/27/79	12/20/79	TA-W-7,228	Wheels for automobiles and trucks.
Dick Green Chrysler-Plymouth, Inc., West (workers).	Farmington, Mich.	2/8/80	2/4/80	TA-W-7,229	Sales and service of Chrysler Corp. cars replacement part sales.

[FR Doc. 80-8897 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-28-M

**FOUNDATION ON THE ARTS AND THE HUMANITIES****Humanities Panel Meeting; Change**

February 27, 1980.

This is to announce a change in the Humanities Panel meeting to be held March 13 and 14, 1980 at the National Endowment for the Humanities, 806 15th Street, N.W., Washington, D.C. 20506, notice of which was published in the Federal Register on February 22, 1980. The purpose of the meeting is to review applications for the development of humanities Special Program formats submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980. The Panel will convene as follows:

March 24 and 25, 1980, from 9:00 a.m. to 5:30 p.m. in room 1025.

The dates have been changed from the original dates of March 13 and 14,

1980. These Panel meetings are closed to the public.

Stephen J. McCleary,  
*Advisory Committee, Management Officer.*

[FR Doc. 80-8643 Filed 3-3-80; 8:45 am]

BILLING CODE 7537-01-M

**Expansion Arts Panel (Instruction & Training); Meeting**

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Panel (Instruction & Training) to the National Council on the Arts will be held March 5, 1980, from 9:30 a.m.—5:30 p.m.; March 6, 1980, 9:30 a.m.—5:30 p.m.; and March 7, 1980, 9:30 a.m.—5:30 p.m., Room 1422, Columbia Plaza Office Complex, 2401 E St, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,  
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-6658 Filed 3-3-80; 8:45 am]  
BILLING CODE 7537-01-M

**Visual Arts Panel (Photography Exhibitions); Meeting**

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Photography Exhibitions) to the National Council on the Arts will be held March 3, 1980, from 9:00 am-5:30 pm; March 4, 1980, 9:00 am-5:30 pm; and March 5, 1980, 9:00 am-5:30 pm, Room 1426, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,  
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-6659 Filed 3-3-80; 8:45 am]  
BILLING CODE 7537-01-M

**NUCLEAR REGULATORY COMMISSION**

**Abnormal Occurrence Report; Eighteenth Report Submitted to the Congress**

Notice is hereby given that pursuant

to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the eighteenth periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 2, No. 3). The release date is February 28, 1980.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the Federal Register (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The eighteenth report to Congress is for the third quarter of 1979. The report identifies the occurrences or events that the Commission determined were significant and the remedial action that was undertaken. The report indicates that the following incidents or events were determined by the Commission to be significant and reportable:

(a) There was one abnormal occurrence at the nuclear power plants with operating licenses. The event involved a major degradation of primary containment boundary.

(b) There were two abnormal occurrences at the fuel cycle facilities (other than nuclear power plants). One involved a mill tailings impoundment dam failure and the second involved an unresolved nuclear material inventory difference. The latter item was determined reportable during report preparation and therefore has not previously been noticed in the Federal Register. Using the abnormal occurrence criteria published in the Federal Register on February 24, 1977 (42 FR 10950), the item satisfies example I.C.3 of Appendix A: Any substantiated loss of special nuclear material or any substantiated inventory discrepancy which is judged to be significant relative to normally expected performance and which is judged to be caused by theft or diversion

or by substantial breakdown of the accountability system.

(c) There were no abnormal occurrences at other licensee facilities.

(d) There were two abnormal occurrences reported by the Agreement States. Both incidents involved overexposure of radiography personnel.

The eighteenth report to the Congress also contains updating information on some abnormal occurrences reported in previous reports, including the nuclear accident at Three Mile Island.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C. or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG-0090, Vol. 2, No. 3, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, or from the GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or about March 13, 1980.

Dated at Washington, D.C., this 27th day of February, 1980.

For the Nuclear Regulatory Commission,  
Samuel J. Chilk,  
Secretary of the Commission.

[FR Doc. 80-6651 Filed 3-3-80; 8:45 am]  
BILLING CODE 7590-01-M

**Applications for Licenses to Export Nuclear Facilities or Materials**

Pursuant to 10 CFR 110.41 "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses for the period January 30 through February 6, 1980. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

Dated this day February 26, 1980, At Bethesda, Maryland.

For the Nuclear Regulatory Commission,  
James R. Shea,  
Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material Type	Material in Kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., 01/30/80, 01/30/80; XSNM01649.	3.35% Enriched uranium	5,428	181,834	Reload fuel for Borssele	Netherlands.
Marubeni America, 02/01/80, 02/06/80, XSNM01649.	3.35% Enriched uranium	29,155	800	Reload fuel for Fukushima I, Unit 4	Japan.
Marubeni America, 02/01/80, 02/06/80; XSNM01650.	3.35% Enriched uranium	5,458	148	Reload fuel for Fukushima I, Unit 4	Japan.

[FR Doc. 80-6652 Filed 3-3-80; 8:45 am]  
BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50,260

**Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR-33 and Amendment No. 54 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1 and 2, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to: (1) Incorporate the limiting conditions for operation of Brown's Ferry Unit No. 1 in the fourth fuel cycle following the current refueling outage, (2) reflect the changes to the low pressure coolant injection (LPCI) system power supply and elimination of the LPCI loop selection logic as requested in our letter of May 11, 1979 authorizing these modifications and (3) clarify the surveillance requirements in § 4.5.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated October 4, 1979, as supplemented by submittals dated January 15, 1980 and January 29, 1980, (2) Amendment No. 59 to License No. DPR-33 and Amendment No. 54 to License No. DPR-52 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's

Public Document Room 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of February 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,  
Chief, Operating Reactors Branch #3,  
Division of Operating Reactors.

[FR Doc. 80-0653 Filed 3-3-80; 2:45 am]

BILLING CODE 7590-01-M

**OFFICE OF PERSONNEL MANAGEMENT****Positions Which Were Career Reserved During 1979**

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** As required by the Civil Service Reform Act of 1978 this gives notice of all positions in the Senior Executive Service (SES) that were career reserved during 1979 in addition to those published in the notice of January 18, 1980.

**FOR FURTHER INFORMATION CONTACT:** Anne A. Andrews, Executive Development, (202) 632-6820.

**SUPPLEMENTARY INFORMATION:** Below is a list of titles of SES positions that were designated career reserved any time in 1979, whether or not they were still career reserved on December 31, 1979. This list is a supplement to the list published January 18, 1980, giving positions that were designated career reserved on July 13, 1979, the inauguration of SES. 5 U.S.C. 3132(b)(4) requires that the head of each agency publish the list by March 1 of the following year; OPM is publishing the list for all agencies.

Office of Personnel Management.  
Beverly M. Jones,  
Issuance System Manager.

**Agency Key**

Abbreviation	Agency name
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AGRIC	Department of Agriculture.
COMM	Department of Commerce.

**Agency Key—Continued**

Abbreviation	Agency name
CFTC	Commodity Futures Trading Commission.
OSD	Department of Defense.
AF	Department of Air Force.
ARMY	Department of Army.
NAVY	Department of Navy.
DOE	Department of Energy.
EPA	Environmental Protection Agency.
FEMA	Federal Emergency Management Agency.
FLRA	Federal Labor Relations Authority.
GSA	General Services Administration.
HEW	Department of Health, Education, and Welfare.
HUD	Department of Housing and Urban Development.
INT	Department of Interior.
JUST	Department of Justice.
LABOR	Department of Labor.
MSPB	Merit Systems Protection Board.
NASA	National Aeronautics and Space Administration.
NCPC	National Capital Planning Commission.
NLRB	National Labor Relations Board.
NTSB	National Transportation Safety Board.
NRC	Nuclear Regulatory Commission.
OMB	Office of Management and Budget.
SSS	Selective Service System.
DOT	Department of Transportation.
TREAS	Department of Treasury.
USACO	U.S. Arms Control and Disarmament Agency.
VA	Veterans Administration.

**Position List**

Agency and organization	Career reserved positions
AGRIC:	
Agricultural Marketing Service.	Dir Warehouse Division.
Animal and Plant Health Inspection Service.	Asst Dep Adm for Natl Programs, PPO.
Food Safety and Quality Service.	Deputy Administrator, Science.
Economic Statistics and Cooperative Service.	Assoc Adm.
COMM:	
Ofc of the Inspector General.	Asst Inspector Gen for Audits. Asst Inspector General for Investigations.
Ofc of Personnel	Dep for Personnel Administration. Dep Dir for Personnel Development.
Office of Asst Administrator for Maritime Aide.	Dep Asst Adm for Maritime Aids (Finance).
Regional Offices	Director Central Region.
Ofc of Assoc Dir for Programs—Budget and Finance.	Director, Planning Office.
Center for Thermodynamics and Molecular Science.	Scientific Asst to Dir Gen for Thermo & M/S.
National Engineering Lab.	Asst Chf for Fluid Dynamics/Chf Aerodynamics.
Ofc of Federal Statistical Policy and Standards.	Dir, Ofc of Federal Statistical Policy and Stds. Dep Dir, Social Statistics. Deputy Director, Economic Statistics.
Demographic Fields..	Asst Dir for Demographic Censuses.
Electronic Data Processing.	Asst Dir for Computer Services.
Administration and Field Operations.	Chief, Computer Operations Division. Associate Director for Administration. Assoc Dir for Field Operations. Chief, Data Preparation Division. Dep Dir, Div of Trading and Markets.
OFTC: Division of Trading and Markets.	
OSD:	
Ofc of Deputy Asst Secy (Strategic Programs).	Dir Strat Def and Theater Nuclear Forces Div.

Position List—Continued	
Agency and organization	Career reserved positions
Ofc Dep Asst Secy of Defense (Audit).	Dep Asst Secy (Audit)—Dir Def Audit Svc.
Ofc—Dir-Electronics and Physical Sciences.	Dir Electronics and Physical Sciences.
OSD:	
Ofc of Dir Intelligence Systems.	Staff Specialist (Intelligence Programs).
WWMCCS System Engr Organ.	Dep WWMCCS System Engineer—Europe.
AF:	
OAS Research Development and Logistics.	Principal Depy Asst Secy (Research Dev Logist).
ARMY:	
Ofc of Asst Chief of Staff, Automation and Communications.	Technical Advisor.
Chf Scientist and Director of Army Research.	Advisor for RDA Analysis.
Dir of Combat Support Systems.	Physical Scientist. Sci Adv to the Dir for Combat Spt Sys.
Dir of Weapons Systems.	Scientific Adv to Dir for Weapons Sys.
Office, Deputy Chief of Staff for Logistics.	Spec Asst to DCSLOG and Chf Av Log Off.
Finance and Accounting Center.	Dep Dir U.S. Army Finance and Acctg Ctr.
Army Audit Agency....	Auditor General. Deputy Auditor General. Director, Commands Installation Audits. Dir Multilocation Audits. Scientific Advisor.
U.S. Army Nuclear Agency.	Scientific Advisor.
Army Medical Unit, Ft Detrick, Md.	Scientific Advisor.
Combat Developments Experimentation Command.	Scientific Advisor.
Tradoc Combined Arms Test Facility.	Chief, Office of Personnel.
U.S. Army Corps of Engineers.	Chf, Operations and Maintenance Div.
Director of Military Programs.	Civil Engineer.
Planning Divisions, COE.	Chf, Construction—Operations Div, S Atlantic.
Construction Divs—COE.	
Construction Divs—COE.	Director, Development and Qualifications. Deputy for Procurement and Production.
Aviation Research and Devel Command (Auradcom).	Director, Communications Systems Center.
Communications Res and Dev Command (Coradcom).	Dir, Systems Engineering and Integration Ctr.
Night Vision and Electro-Optics Lab. (Eradcom).	Dep Dir, Night Vision & Electro-Optics Lab.
Ofc of Commander—(Micom).	Director for Procurement and Production. Chf, Guidance and Control Analysis. Deputy for Technical Operations.
Depot Systems Command (Descom).	Chf, Armament Div.
Fire Control and Small Caliber Weapon Sys Lab Arradcom.	Technical Director.
Test and Evaluation Command, (Tecom).	Director, Technical Staff.
DOD Wage Fixing Authority.	
NAVY:	
Ofc of Auditor General.	Dir Naval Audit Service Capital Region.
Asst Dep Chf of Naval Operations (Civilian Personnel).	Dep Dir, Civilian Personnel Div. Director, Total Force Info Systems Div.

Position List—Continued	
Agency and organization	Career reserved positions
Director of Resources Management.	Dep Dir of Resources Mgmt.
Antisubmarine Warfare Systems Project Office.	Asst Dep Manager.
Naval Ocean Sys Center, San Diego.	Dir Command Control and Communications. Director Ocean Surveillance. Director Weapon Systems. Director Engineering and Computer Sciences. Deputy Technical Director. Exec Dir for Acquisition Management.
Asst Comdr for Material Acquisition.	Head, Improved Reactor Design Branch.
Nuclear Power, Navsea.	
DOE:	
Ofc of the Secy .....	Director, Ofc of Program Plan and Intergration.
Chicago Operations Ofc.	Asst Manager for Administration. Asst Manager for Acquisition and Assistance. Dir Contracts Mgmt Ofc. Area Manager Batavia Area Office.
Asst Admr for Systems Support.	Asst Admr for Energy Data. Director, Ofc of Energy Data Development.
Asst Admr for Applied Analysis.	Dep Asst Admr for Appl Analy Energy Info Adm.
AA for Energy Data Operations.	Dep Asst Admr for Energy Data Operations.
Executive Director .....	Dir Policy Ping and Eval Div.
Ofc of Uranium Resources and Enrichment.	Chf, Facilities Construction Branch.
Fossil Fuel Extraction Division.	Dep Dir Fossil Fuel Extraction Div.
Naval Reactors Div ...	Asst to the Dir for Special Projects. Senior Naval Reactors Rep (Pearl Harbor).
Field Offices .....	Medical Director, Oper and Environ Safety Div. Chf, Environmental Protection and Pub Safe Br. Chf, Occupational Safety Branch. Chf Physics Research Branch.
Office of Environmental Compliance and Overview.	
Office of High Energy and Nuclear Physics.	Dir Program and Project Mgmt Division.
Office of Program and Project Assessment and Control.	
Office of Financial Policy.	Dir, Financial Analysis Div. Dir, Financial Policy Div.
Directorate of Procurement and Contracts Management.	Dir Tech and Resource Applications Support Div.
EPA:	
Ofc of Public Awareness.	Director, Ofc of Press Service.
Region VIII, Denver...	Director Enforcement Division Region VIII.
Office of the Asst Adm for Planning and Management.	Director, Personnel Management Div.
Ofc of Dep Asst Adm for Water Enforcement.	Assoc Dep Asst Adm for Water Enforcement.
Ofc of the Dep Asst Adm'r for Mobile Source and Noise Enf.	Dir Manufacturers Operations Division.
Ofc of DAA for Solid Waste.	Dir, Hazardous and Industrial Waste Div. Director, Land Disposal Division. Dir, State Prog and Resource Recovery Div.
Ofc of DAA for Prog Integration and Information.	Dir International Chemical Affairs Staff.
Ofc of the Principal Science Advisor.	Senior Scientific Advisor.
Ofc of DAA for Air, Land, and Water Use.	Dir Media Quality Management Div.
FEMA:	
Office of the Director	Asst Dir for Information Services.

Position List—Continued	
Agency and organization	Career reserved positions
Office of the Inspector General.	Inspector General.
Ofc of Finance and Administration.	Dir of Finance and Administration.
Office of Program Analysis and Evaluation.	Chf SC Adv.
Office of Operations Support.	Asst Dir OPS Support. Director, West Va Operations Office. Supervisory Mathematician. Asst Dir for Research. Chf, Hazard Evaluation and Vulnerability Rod DI. Chf, Emergency Operations Systems Division.
Assoc Dir for mitigation and research.	Supervisory Economist. Chf, General War Preparedness.
Assoc Dir for Plans and Preparedness.	
FLRA:	
Ofc of the Executive Director.	Executive Director. Ch Rep and Unfair Labor Practice Div.
Ofc of the General Counsel.	Director, Division of Appeals. Associate Gen. Counsel (Field Management). Solicitor.
GSA:	
Office of the Administrator.	Special Council to the Admr for Ethics.
Office of Acquisition Policy.	Dep Gen Counsel for Law
Office of Inspector General.	Asst IG for Inspections.
Office of Human Resources and Organizations.	Dir, Ofc of Organization and Management. Dir, Ofc of Employee Dev and Tng.
Regional Directors....	Deputy Regional Adm R-5 (Chicago).
Federal Supply Service.	Asst to the Dir of Programs and Requirements. Director of Supply
Transportation and Public Utilities Service.	Asst Comm for Transportation Audits. Asst Comm for Motor Equip. Asst Comm for Public Utilities.
HEW:	
Natl Institute of Neurological and Comm Disorders and Stroke.	Director, Communicative Disorders Program.
Div of Cancer Cause and Prevention.	Chief, Lab of Viral Carcinogenesis.
National Institute for Dental Health.	Chief, Caries Prevention and Resch Br.
HUD	
Ofc of the Inspector General.	Deputy Inspector General.
OAS for Neighborhoods Voluntary Assoc and Cons Prot.	Asst I G for Fraud Control and Mgmt Operations. O and P Interstate Land Sales Adm.
INT:	
Ofc of the Inspector General.	Asst Inspect Gen for Pol and Resource Manage.
Ofc of the Solicitor ....	Deputy Assoc Solicitor, General Law. Deputy Assoc Solicitor, Indian Affairs.
U.S. Fish and Wildlife Service.	Deputy Assoc Dir—Natl Wildlife Refuge System.
U.S. Geological Survey.	Chf of Publication Div.
Topographic Division...	Chief Topographic Div. Associate Chief Topographic Div
Geologic Div.....	Chief Office of Environmental Geology.
Bureau of Reclamation.	Chief, Div of Construction.
Bureau of Land Management.	Chief Div of Design. Ass't Dir, Renewable Resources. Ass't Dir, Lands and Rights of Way. Ass't Dir, Energy and Mineral Resources.
JUST:	
Bureau of Prisons.....	Warden, Terre Haute, Ind.
Atlanta Region.....	Warden, Butner, N.C.
Burlington Region.....	Regional Director.
Ofc of Management and Finance.	Dep Asst Attorney General. Director Personnel and Training Staff. Dir Systems Operations Staff.

Position List—Continued

Agency and organization	Career reserved positions
	Dir Finance Staff. Deputy Assistant Attorney General, Special Asst to the Asst Attorney Gen for Adm. Deputy Assistant Attorney General. Dir Library Staff.
LABOR:	
Ofc of the Inspector General.	Dir Ofc of Loss Prevention and Analysis.
OAS for Administration and Management.	Dir Ofc of Information Technology. Deputy Comptroller.
Planning Evaluations and Systems.	Director, Office of Management and Systems.
Data Analysis.....	Assoc Comr for Prices and Living Conditions.
MSPB:	
Ofc of Managing Director.	Deputy Managing Director.
Ofc of Appeals Operations.	Dir Ofc of Appeals.
Ofc of Special Counsel.	Assoc Spec Counsel (Investigations). Assoc Special Counsel (Prosecution and Legal).
NASA:	
Space Systems Div.....	Manager, Transportations Systems Office.
Aeronautical Systems Div.	Manager for Propulsion.
Life Sciences Div.....	Assoc to the Dir, Life Sciences Div.
Space Shuttle Orbiter Program Ofc.	Asst Manager Space Shuttle Orbiter Project.
Spacelab Payload Project Ofc.	Manager, 25 kw Power Module Project.
Assoc Dir for Engineering.	Assoc Dir for Engineering.
NPCB: National Capital Planning Commission.	Assoc Exec Dir Regional Affairs. Assoc Exec Dir D.C. Affairs.
NLRB: Div of Administration.	Deputy Director of Administration.
NTSB:	
Bureau of Accident Investigation.	Deputy Director for Operations.
Bureau of Technology.	Dep Dir for Management. Deputy Director for Operations. Dep Dir for administration/Special Programs.
NRC:	
Fuel Cycle Safety and Licensing.	Chf Uranium Fuel Licensing Br. Chf Advanced Fuel and Spent Fuel Licensing Br.
Waste Management..	Chief Low-Level Waste License Br.
OMB:	
Natl Security Div.....	Dep Div Chf for Programming.
Energy and Science Division.	Chief, Science and Space programs.
Management Improvement and Evaluation Div.	SR Mgmt Assoc. Senior Management Associate.
Intergovernmental Relations and Tech Assistance Div.	Chf, Fed Assistance Information Branch.
Ofc of Federal Procurement Policy.	Dir Federal Acquisition Institute.
SSS: Selective Service System	Assoc Director, Planning.
DOT:	
U.S. Coast Guard.....	Technical Director.
Ofc of Assoc-Admr for Aviation Standards.	Deputy Assoc Admr for Aviation Standards.
Ofc of Aviation Safety.	Chf, Safety Regulations Staff.
Civil Aviation Security Service.	Director, Office of Civil Aviation Security.
Flight Standards Service.	Dir Ofc of Flight Operations. Chf Aircraft Programs Division. Chf, Flight Standards Natl Field Ofc. Chief General Aviation and Commercial Div. Director Office of Airworthiness. Chief, Aircraft Engineering Division. Chief, Aircraft Maintenance Division. Chief Flight Standards Division.
New England Region—FAA.	

Position List—Continued

Agency and organization	Career reserved positions
Northwest Region—FAA.	Chief Flight Standards Division.
Central Region—Kansas City.	Chief, Flight Standards Div.
TREAS:	
Comptroller of the Currency.	Regional Administrator of National Banks. Asst Chf Natl Bank Exam (Multinatl Banking). Dir for Spec Projects. Deputy Fiscal Asst Secy. Assoc Comr, Bur of Gov Financial Operations. Comnt of Government Financial Operations. Dep Comr Bur of Gov Financial Operations. Regional Director for Investigations.
Ofc of the Fiscal Asst Sec.	Assoc Comr, Bur of Gov Financial Operations.
Bureau of Governments Financial Operations.	Comnt of Government Financial Operations. Dep Comr Bur of Gov Financial Operations.
Bur of Alcohol, Tobacco, Firearms.	Regional Director for Investigations.
Bur of Alcohol, Tobacco, Firearms.	Regional Director for Investigations.
U.S. Customs Service.	Special Asst to the Dir, Assistant Director (Internal Affairs). Assistant Commissioner (Investigations). Director, Ofc of Inspection. Director, Technical Services Div. Director, Classification and Value Division. Dir Ofc of Regulations and Rulings. Director, Planning and Budget Division. Dir, Ofc of Financial Management & Prog Eval. Dep Asst Comr (Border Operations). Dir Ofc of Trade Operations.
U.S. Secret Service.....	Asst to the Dir, Training. Asst to the Dir, Pub Affs. Asst Dir, Collection Div.
Asst Comr, Technical.	
Asst Comr, Tax Payer Serv and Returns Processing.	Assoc District Director. Director, Collection Division. Dir, Returns Processing and Accounting Div. Dir Systems Development Office.
Ofc of the Asst Comr (Data Services).	
Ofc of Asst Comr, Inspection.	District Dir, Baltimore.
Central Region.....	Service Center Director, Fresno.
Mid-Atlantic Region.....	Asst District Dir, Newark.
Midwest Region.....	Regional Comr, Midwest Region. District Dir, Chicago.
North Atlantic Region	Regional Dir of Appeals North Atlantic Region.
Western Region.....	Service Center Dir, Ogden. Dir Employee Plans Division.
Employee Plans and Exempt Organizations.	
USACD:	
Non-Proliferation Bureau.	Chief, Nuclear Exports Div.
Weapons Evaluation Control Bureau.	Chf, Arms Transfer Div.
VA: Department of Medicine and Surgery.	Dep to Asst Chf Med Dir for Academic Affairs. Dep Dir, Facility Mgmt Ofc.

[FR Doc. 80-6790 Filed 3-3-80; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21455; 70-6427]

Central and South West Corp. et al.; Proposed Capital Contribution by Holding Company to Subsidiaries

February 28, 1980.

In the matter of Central and South West Corporation, 2700 One Main Place, Dallas, Texas 75250; Central Power and Light Company, 102 North Chaparral Street, Corpus Christi, Texas 78401; Public Service Company of Oklahoma, 212 East 6th Street, Tulsa, Oklahoma 74119; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; (70-6427).

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company, and three of its subsidiaries, Central Power and Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), and Southwestern Electric Power Company ("SWEPCO"), have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7, 9, 10 and 12(f) of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

CSW proposes to make capital contributions during 1980 of \$30,000,000 to CPL, \$40,000,000 to PSO and \$45,000,000 to SWEPCO. The capital contributions will, in each case be added to the respective operating companies' common equity and will be used to repay short-term debt to be incurred in connection with 1980 construction expenditures which are shown in the table below. It is anticipated that equity contributions would be made in the time periods and in the amounts shown below:

Company	Month	Amount	Anticipated short-term debt outstanding at time of contribution	Anticipated 1980 construction program
PSO.....	March.....	Up to \$40,000,000.....	\$80,000,000	\$197,000,000
CPL.....	August.....	\$30,000,000.....	75,000,000	196,000,000
PSO.....	August.....	Amount, if any, not contributed in March.	80,000,000	197,000,000
SWEPCO.....	June.....	\$45,000,000.....	75,000,000	172,000,000

By an order dated October 25, 1979 (HCAR No. 21269), this Commission authorized CPL, PSO and SWEPCO to incur short-term borrowings not to exceed \$100,000,000, \$90,000,000 and \$75,000,000 respectively, through December 31, 1980.

CSW presently anticipates a sale of 5,000,000 shares of its common equity in August or September of 1980 which ultimately would finance the proposed equity contribution together with proceeds from the sale of new issue common stock under dividend reinvestment, employee share ownership and thrift plans, all of which were previously approved by this Commission (HCAR Nos. 19850, 19710, 20675 and 20742). CSW proposes to finance any of the capital contributions that are made prior to its issuance of common stock to the public from the sale of its commercial paper or other short-term borrowings authorized in HCAR No. 21150 or as may be further authorized in the future.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated at \$2,550, including legal fees of \$500.

Notice is further given that any interested person may, not later than March 24, 1980, 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 fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will

receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 80-6833 Filed 3-3-80; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21454; 70-6412]

**Southern Co.; Proposal To Increase Number of Authorized Common Shares; Solicitation of Proxies**

February 26, 1980.

Notice is hereby given that The Southern Company ("Southern"), 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Southern proposes to amend its Certificate of Incorporation so as to increase the total number of shares of common stock, par value \$5.00 per share, which Southern shall have authority to issue, from 185,000,000 to 225,000,000. Of the 185,000,000 shares which Southern presently is authorized to issue, 148,744,837 shares were outstanding as of December 31, 1979. During the three-year period 1977 through 1979, Southern issued and sold 25,938,204 shares of common stock in order to provide its operating subsidiaries the additional common equity portion of the capital needed to finance their construction programs. In light of the current construction program estimates of Southern's subsidiary companies, it is expected that their requirements for receipts of common stock capital from Southern will continue in future years and that in the period 1980 through 1982 Southern will be required for such purposes to sell additional shares of its common stock approaching, if not exceeding, the number of its presently authorized but unissued shares.

Accordingly, the proposed amendment is considered necessary to provide a reasonable amount of

authorized but unissued shares of common stock to be used for financing additional common equity capital requirements of Southern's subsidiaries and for other purposes, such as The Employee Stock Ownership Plan of The Southern Company System and investments by stockholders under Southern's Dividend Reinvestment and Stock Purchase Plan and by employees under the Employee Savings Plan. The proposed amendment to the Certificate of Incorporation has been proposed and declared advisable by the Board of Directors of Southern and its adoption requires the favorable vote of the holders of a majority of the outstanding shares of common stock of Southern. Accordingly, Southern proposes to submit the amendment for consideration and action by its stockholders at the annual meeting of such stockholders to be held on May 28, 1980 and, in connection therewith, to solicit proxies from its stockholders.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 20, 1980, 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 fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in

this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
*Secretary.*

[FR Doc. 80-6634 Filed 3-3-80; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 34-16605; File No. S7-611]

**Lost and Stolen Securities Program;  
Announcement of Inquiry,  
Participation Status Open Season**

The Commission today announced that all institutions subject to Rule 17f-1 (17 CFR 240.17f-1) and currently registered in the Lost and Stolen Securities Program ("registrants") may change their inquiry participation status to that of direct or indirect inquirer, as the case may be, by filing, during the two-week period of March 1 through March 15, 1980, a completed March 1980 Inquiry Participation Status Open Season Form with Securities Information Center, Inc. ("SIC"), the Commission's designee to maintain and operate the data base for the Lost and Stolen Securities Program. The effective date of changes in inquiry participation status will be March 1, 1980. SIC will forward a March 1980 Inquiry Participation Status Open Season Form to each registrant by March 1, 1980. If you do not receive a form shortly thereafter, please notify SIC at P.O. Box 421, Wellesley Hills, Massachusetts 02181.

By the Commission.  
George A. Fitzsimmons,  
*Secretary.*

February 22, 1980.  
[FR Doc. 80-6858 Filed 3-3-80; 8:45 am]  
BILLING CODE 8010-01-M

**SMALL BUSINESS ADMINISTRATION**

[License No. 04/04-0168]

**Gulf Coast Capital Corp.; Issuance of License**

On July 24, 1979, a notice was published in the Federal Register (44 FR 43381) stating that an application had been filed by Gulf Coast Capital Corporation, 70 North Baylen Street, Pensacola, Florida 32501, with the Small Business Administration (SBA), pursuant to Section 107.102 of the SBA Regulations governing small business investment companies (SBIC).

Interested parties were given until the close of business August 8, 1979, to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to Section 301(C) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 04/04-0168 to Gulf Coast Capital Corporation to operate as an SBIC on February 19, 1980. (Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: February 22, 1980.

Peter F. McNeish,  
*Deputy Associate Administrator for Finance and Investment.*

[FR Doc. 80-6637 Filed 3-3-80; 8:45 am]  
BILLING CODE 8025-01-M

**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

**Establishment of Advisory  
Committees for Services and Steel  
Policy**

The U.S. Trade Representative has taken steps to establish a Services Policy Advisory Committee and an International Steel Policy Advisory Committee. These committees will be chartered pursuant to Section 135(c)(2) of the Trade Act of 1974 (P.L. 93-618, 88 Stat. 1996), as amended by Section 1103 of the Trade Agreements Act of 1979 (P.L. 96-39, (93 Stat. 308); the Federal Advisory Committee Act (5 USC App. 1) (Sup. II, 1972); and Section 4(d) of Executive Order No. 11846, March 27, 1975. The charters of these committees will be filed 15 days from the date of this notice.

The Services Committee will advise, consult with, and make recommendations to the U.S. Trade Representative and the Secretary of Commerce, Secretary of Agriculture, and the Secretary of Labor on policy issues related to trade in services.

The International Steel Policy Advisory Committee will advise, consult with and make recommendations to the U.S. Trade Representative, the Secretary of Commerce, and the Secretary of Labor on steel trade policy issues including issues related to the operation of, and discussed in the OECD Steel Committee.

The Committees will meet at irregular intervals at the call of the U.S. Trade Representative. The frequency of committee meetings will be approximately three or four times per

year, depending upon the needs of the U.S. Trade Representative.

Representatives from the private sector wishing further information or to be considered for appointment to serve on the committees should contact:

Services Policy Advisory Committee:  
Ms. Phyllis O. Bonanno, 1800 G St., N.W., Room 725, Washington, D.C. 20506, (202) 395-6120.

International Steel Policy Advisory Committee: Ms. Karen Alleman, 1800 G St., N.W., Room 725, Washington, D.C. 20506, (202) 395-3320,  
Robert C. Cassidy, Jr.,  
*General Counsel.*

[FR Doc. 80-6664 Filed 3-3-80; 8:45 am]  
BILLING CODE 3190-01-M

# Sunshine Act Meetings

Federal Register

Vol. 45, No. 44

Tuesday, March 4, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS

Federal Election Commission

### FEDERAL ELECTION COMMISSION.

**DATE AND TIME:** Tuesday, March 4, 1980  
at 10 a.m.

**PLACE:** 1325 K Street NW., Washington,  
D.C.

**STATUS:** Portions of the meeting be closed to the public and portions will be open to the public. (The open portion will follow the conclusion of the closed session.)

#### MATTERS TO BE CONSIDERED:

Closed session—Compliance and personnel.

Open meeting—Public Law 96-187, proposed draft forms.

**DATE AND TIME:** Thursday, March 6, 1980  
at 10 a.m.

**STATUS:** This meeting will be open to the public.

#### MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.

Correction and approval of minutes.

Certifications.

Advisory opinions:

Draft AO 1979-45—Robert Moore, Executive Director, National Republican Senatorial Committee.

Draft AO 1980-5—Jesse H. Bankston, Chairman, Democratic State Central Committee of Louisiana.

Draft AO 1980-8—Donald A. Detmer, Treasurer, Beloit Corporation PAC.

Draft AO 1980-10—Janet M. Hogan, Director, Public Affairs (United TeleCom, PAC/UniPAC).

Draft AO 1980-11—Rufus C. Phillips, III.

1980 election and related matters

Non-filer procedures (continued from February 7).

Appropriations and budget

Pending legislation

Classification actions

Routine administrative matters

#### PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, public information officer, telephone: 202-523-4065.

Marjorie W. Emmons,

*Secretary to the Commission.*

[S-428-80 Filed 2-29-80; 9:29 am]

BILLING CODE 6715-01-M

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Tuesday  
March 4, 1980

**FRIDAY**  
**FRIDAY**

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**Part II**

**Department of Labor**

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Employment and Training Administration  
Employment Standards Administration

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Housing for Agricultural Workers

**DEPARTMENT OF LABOR****Employment and Training Administration**

**20 CFR Parts 620, 651, 653, 654, and 655**

**Housing for Agricultural Workers**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** This document renumbers and transfers the Employment and Training Administration (ETA) housing standards from 20 CFR Part 620 to Subpart E of Part 654. In addition, the Department of Labor is amending its rules to allow for the continued application of the ETA standards with respect to housing which was built in reliance on these standards. Such housing will continue to be accepted by ETA, and will also be accepted by the Occupational Safety and Health Administration (OSHA) as in compliance with their temporary labor camp standards. Thus, any discrepancies which exist between the ETA and OSHA standards will be considered de minimis under § 9(a) of the OSH Act. Both ETA and OSHA will require employers who undertake housing construction on or after April 3, 1980 to follow the OSHA standards.

**EFFECTIVE DATE:** April 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. David O. Williams, Administrator, U.S. Employment Service, 601 D Street, N.W., Room 8000, Washington, D.C. 20213, Telephone (202) 376-6289.

**SUPPLEMENTARY INFORMATION:** On September 1, 1978, the Department of Labor published in the Federal Register proposed amendments to the Employment and Training Administration (ETA) housing standards in 20 CFR Part 620. (See, 43 FR 39124). The proposed modifications would provide for the continued application of the ETA standards to housing built prior to January 1, 1979 in reliance on the ETA standards. Comments on the proposed modifications were invited until October 31, 1978. Following is a discussion of the background of the proposed rulemaking and the most significant issues raised by the commenters.

**Background**

Since 1971, the Department of Labor has had in effect two sets of housing regulations which apply to housing for agricultural workers: the Employment and Training Administration (ETA) regulations in 20 CFR Part 620 and the

Occupational Safety and Health Administration (OSHA) regulations in 29 CFR 1910.142. The overlap in these regulations resulted in confusion and duplication with respect to their applicability and enforcement. In view of these problems, the Department held hearings and developed several proposals to arrive at a single set of housing standards. See, e.g., 37 FR 743 (January 18, 1972), 37 FR 2684 (February 4, 1972), 39 FR 34057 (September 23, 1974) and 41 FR 18430 (May 4, 1976).

On December 9, 1977, the Department rescinded the ETA housing regulations in 20 CFR Part 620 (42 FR 62133). The rescission was effective immediately. Employers whose housing met the ETA standards on the date of their rescission, however, were given until January 1, 1979 to bring their housing into compliance with the OSHA housing regulations in 29 CFR 1910.142. For the convenience of employers who could still elect to follow the ETA standards, ETA subsequently republished its standards in 20 CFR 620.3-620.17 (43 FR 36058, August 15, 1978).

The Department received numerous complaints objecting to the rescission of the ETA housing regulations. Employers who had constructed housing to conform to the ETA standards complained that the shift from ETA to OSHA standards would require costly modifications to housing which the Department had previously approved as safe and healthful. Worker groups and representatives, unaware of the controlling enforcement provisions in 20 CFR 653.108, objected to the deletion of 20 CFR 620.1 which had stated ETA's policy of denying its interstate recruitment services to employers until the State agency had ascertained that the housing met applicable standards.

In response to these comments, the Department proposed on September 1, 1978 to revise the December 9, 1977 rescission action. The proposal restated ETA's policy of denying its interstate recruitment services until the State agency ascertains that the housing meets applicable standards, and set forth a transitional provision for housing built in reliance on the ETA regulations. Pending the conclusion of this rulemaking procedure, the Department also extended indefinitely the deadline for employers following the ETA standards to bring their housing into compliance with the OSHA regulations. See 44 FR 4666 (January 23, 1979). Following careful consideration of the comments received, the Department is adopting the proposed modifications substantially without change.

**Transitional Provision**

Commenters remarking on the application of the ETA standards were unanimous in their support of the proposed transitional provision. They agreed with the Department that the continued application of the ETA standards to housing constructed in reliance on these standards would be fair to affected employers and would not impair the overall safety and health protection of affected workers. The final regulation therefore establishes a transitional provision.

In view of the delay in publishing these final regulations, the Department has extended the proposed cutoff dates for the application of the transitional provision to coincide with the effective date of these regulations (April 3, 1980). Employers whose housing was completed or under construction prior to the effective date of these regulations, or who entered a contract for the construction of specific housing prior to the date of publication, may continue to follow the ETA standards in 20 CFR 654.404-654.417. Both ETA and OSHA will require employers who undertake housing construction on or after April 3, 1980 to follow the OSHA standards in 29 CFR 1910.142. However, the ETA guidelines for mobile range housing will continue to apply to this type of agricultural housing.

**Structural Variances From the ETA Standards**

In the past, it was ETA's practice, under certain circumstances, to accept applications for and grant structural variances from specific requirements of the ETA standards on a seasonal basis only. In contrast, the final regulations adopt the proposed one-time request for a permanent structural variance from specified ETA standards. Such a permanent, structural variance will operate in the nature of a contract for the life of the housing.

Under the final regulations, written applications for a structural variance from specific ETA standards must be submitted on or before June 2, 1980. After that date, ETA will no longer accept applications for variances from its standards. Thereafter, any employer whose housing varies structurally from the ETA standards and who has not timely applied for a structural variance from the ETA standards will be subject to the full set of OSHA standards in 29 CFR 1910.142.

**Conditional Access to the Intrastate or Interstate Clearance System**

Under previous regulations in 20 CFR 620.3, ETA permitted limited,

conditional access to the interstate clearance system for employers whose housing had fallen temporarily out of compliance during a period of nonuse. Such conditional access was limited to situations in which the housing had been in compliance with the ETA standards during a period of use in the previous year, and where the employer had not had an opportunity to bring the housing back into compliance. This provision was inadvertently omitted when the ETA regulations were republished on August 15, 1978. A number of commenters responding to the instant rulemaking pointed out this omission and suggested that ETA continue to provide conditional access to its interstate clearance system.

The Department agrees that there is a need for a conditional access provision to effectively service employers requesting recruitment of workers from outside the area of intended employment. For example, frequently it is necessary to begin recruiting workers during winter months, when climate precludes making repairs, for employment the following spring. The need for such conditional access may arise irrespective of whether the employer is following ETA or OSHA standards. The final regulations therefore provide for limited, conditional access to the intrastate and interstate recruitment system for an employer who has not had a reasonable opportunity to bring its housing back into compliance with the applicable standards.

**Policy on Enforcement of Housing Standards**

Some commenters urged the Department to require by regulation that State agencies conduct preoccupancy housing inspections before providing employers with intrastate and interstate recruitment services. Others recommended that employers be required to certify in writing that the housing offered meets applicable standards. The Department has taken the position in the final regulations that State agencies must ascertain compliance with the applicable regulations through a combination of employer assurances and preoccupancy inspections.

Under 20 CFR 653.108, employers who wish to utilize the intrastate and interstate clearance system under the Wagner-Peyser Act must sign an assurance, a preoccupancy inspection must be conducted and the ES staff must ascertain that the housing meets the applicable standards. In addition, pursuant to 20 CFR 653.110, the State agencies conduct random, unannounced post-occupancy field checks to

determine and document whether housing conditions are as specified in job orders.

OSHA will also continue to inspect and otherwise exercise its jurisdiction over temporary labor camps. Where the ETA standards apply, OSHA citations will issue under OSHA standards for conditions which are violative of the ETA standards at 20 CFR 654.404-654.417 to the extent that such conditions are also violative of the OSH Act and regulations. In addition, OSHA citations will issue under OSHA standards for conditions other than housing which are violative of the OSH Act but which are not covered by the ETA standards at 20 CFR 654.404-654.417. Where the OSHA standards apply, citations will issue under OSHA standards for all conditions which are violative of the OSH Act.

**Renumbering of ETA Housing Standards**

In order to further consolidate the various regulations governing the employment service system, this document renumbers and transfers the ETA housing standards from 20 CFR Part 620 to Subpart E of Part 654.

**Regulatory Analysis**

Although the proposed regulations were developed prior to the issuance of the Department's Guidelines on Improving Government Regulations, these regulations have been duly considered and approved as meeting the Department's criteria for significant regulations. Since the financial and other impact is less than specified in the Department's criteria for identifying major regulations, however, the preparation of a regulatory analysis is not required. (See, 44 FR 5576-5577, January 26, 1979).

Accordingly, Title 20, Chapter V of the Code of Federal Regulations is amended as follows:

**PART 620—HOUSING FOR AGRICULTURAL WORKERS**

§ 620.3 [Revoked]

1. § 620.3, *Variations.*, is revoked.

§§ 620.4-620.17 [Redesignated]

2. In 20 CFR Chapter V, the Housing Standards set forth at §§ 620.4-620.17 of Part 620 are consecutively redesignated as §§ 654.404-654.417 of Part 654.

**PART 651—GENERAL PROVISIONS GOVERNING THE EMPLOYMENT SERVICE SYSTEM**

§ 651.6 [Amended]

3. § 651.6, *Consolidated table of contents for Parts 651-658.*, is amended by vacating and reserving a table of

contents for Subpart C of Part 654, reserving a table of contents for Subpart D of Part 654, and inserting a table of contents for Subpart E of Part 654 as follows:

§ 651.6 Consolidated table of contents for Parts 651-658.

\* \* \* \* \*

**PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM**

\* \* \* \* \*

Subpart C—[Reserved]

Subpart D—[Reserved]

**Subpart E—Housing for Agricultural Workers Purpose and Applicability**

- Sec.
- 654.400 Scope and purpose.
- 654.401 Applicability; transitional provisions.
- 654.402 Variances.
- 654.403 Conditional access to the intrastate or interstate clearance system.

**Housing Standards**

- 654.404 Housing site.
- 654.405 Water supply.
- 654.406 Excreta and liquid waste disposal.
- 654.407 Housing.
- 654.408 Screening.
- 654.409 Heating.
- 654.410 Electricity and lighting.
- 654.411 Toilets.
- 654.412 Bathing, laundry, and handwashing.
- 654.413 Cooking and eating facilities.
- 654.414 Garbage and other refuse.
- 654.415 Insect and rodent control.
- 654.416 Sleeping facilities.
- 654.417 Fire, safety, and first aid.

\* \* \* \* \*

**PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM**

4. Paragraph (c)(6) of § 653.108, *Requirements for intrastate and interstate job orders seeking agricultural workers.*, is revised to read as follows:

§ 653.108 [Amended]

\* \* \* \* \*

(c) \* \* \*

(6) If the workers are to be housed, the employer has signed an assurance, a preoccupancy inspection has been conducted and the ES staff has ascertained that the employer's housing meets either the full set of standards set forth at 29 CFR 1910.142 or the full set of standards set forth at Part 654, Subpart E of this Chapter, whichever is applicable under the criteria of 20 CFR 654.401; except that, for mobile range housing for shepherders, the housing shall meet existing Departmental guidelines.

5. Paragraph (d)(2) of § 653.108 is revised to read as follows:

\* \* \* \* \*

(d) \* \* \*

(2) The employer has signed an assurance, a preoccupancy inspection has been conducted and the ES staff has ascertained that the employer will provide housing for the workers which meets either the full set of standards set forth at 29 CFR 1910.142 or the full set of standards set forth at Part 654, Subpart E of this Chapter, whichever is applicable under the criteria of 20 CFR 654.401; except that, for mobile range housing for shepherders, the housing shall meet existing Departmental guidelines.

#### **PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM**

6. The table of contents for Part 654 is amended by vacating and reserving a table of contents for Subpart C of Part 654, reserving a table of contents for Subpart D of Part 654, and inserting a table of contents for Subpart E of Part 654 as follows:

\* \* \* \* \*

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—Housing for Agricultural Workers

Purpose and Applicability

Sec.

654.400 Scope and purpose.

654.401 Applicability; transitional provisions.

654.402 Variances.

654.403 Conditional access to the intrastate or interstate clearance system.

Housing Standards

654.404 Housing site.

654.405 Water supply.

654.406 Excreta and liquid waste disposal.

654.407 Housing.

654.408 Screening.

654.409 Heating.

654.410 Electricity and lighting.

654.411 Toilets.

654.412 Bathing, laundry, and handwashing.

654.413 Cooking and eating facilities.

654.414 Garbage and other refuse.

654.415 Insect and rodent control.

654.416 Sleeping facilities.

654.417 Fire, safety, and first aid.

Authority: Section 12 of the Wagner-Peyser Act, (29 U.S.C. 49k); 41 Op. A.G. 408 (1959).

7. In Part 654, Subpart C—Transition Provisions is vacated and reserved and a Subpart D is reserved as follows:

Subpart C [Reserved]

Subpart D [Reserved]

8. A new Subpart E of Part 654, consisting of new Purpose and Applicability provisions in §§ 654.400–654.403 and redesignated Housing Standards in §§ 654.404–654.417, is added to read as follows:

Subpart E—Housing for Agricultural Workers

Purpose and Applicability

§ 654.400 Scope and purpose.

(a) This subpart sets forth the Employment and Training Administration standards for agricultural housing. Local Job Service offices, as part of the State employment service agencies and in cooperation with the United States Employment Service, assist employers in recruiting agricultural workers from places outside the area of intended employment. The experiences of the employment service indicate that employees so referred have on many occasions been provided with inadequate, unsafe, and unsanitary housing conditions. To discourage this practice, it is the policy of the Federal-State employment service system, as set forth in § 653.108 of this Chapter, to deny its intrastate and interstate recruitment services to employers until the State employment service agency has ascertained that the employer's housing meets certain standards.

(b) To implement this policy, § 653.108 of this Chapter provides that recruitment services shall be denied unless the employer has signed an assurance, a preoccupancy inspection has been conducted and the ES staff has ascertained that, with respect to intrastate clearance, if the workers are to be housed, the employer's housing meets or, with respect to interstate clearance, that the employer will provide housing for the workers which meets either the full set of standards set forth at 29 CFR 1910.142 or the full set of standards set forth in this Subpart, whichever is applicable under the criteria set forth in § 654.401; except that for mobile range housing for shepherders, the housing shall meet existing Departmental guidelines.

§ 654.401 Applicability; transitional provisions.

(a) Employers whose housing was constructed in accordance with the ETA housing standards may continue to follow the full set of ETA standards set forth in this Subpart only where prior to April 3, 1980 the housing was completed or under construction, or where prior to

March 4, 1980 a contract for the construction of the specific housing was signed.

(b) To effectuate these transitional provisions, agricultural housing to which this Subpart applies and which complies with the full set of standards set forth in this Subpart shall be considered to be in compliance with the Occupational Safety and Health Administration temporary labor camp standards at 29 CFR 1910.142.

§ 654.402 Variances.

(a) An employer may apply for a permanent, structural variance from a specific standard(s) in this Subpart by filing a written application for such a variance with the local Job Service office serving the area in which the housing is located. This application must be filed by June 2, 1980 and must:

(1) Clearly specify the standard(s) from which the variance is desired;

(2) Provide adequate justification that the variance is necessary to obtain a beneficial use of an existing facility, and to prevent a practical difficulty or unnecessary hardship; and

(3) Clearly set forth the specific alternative measures which the employer has taken to protect the health and safety of workers and adequately show that such alternative measures have achieved the same result as the standard(s) from which the employer desires the variance.

(b) Upon receipt of a written request for a variance under paragraph (a) of this section, the local Job Service office shall send the request to the State office which, in turn, shall forward it to the Regional Administrator, Employment and Training Administration (RA). The RA shall review the matter and, after consultation with OSHA, shall either grant or deny the request for a variance.

(c) The variance granted by the RA shall be in writing, shall state the particular standard(s) involved, and shall state as conditions of the variance the specific alternative measures which have been taken to protect the health and safety of the workers. The RA shall send the approved variance to the employer and shall send copies to the Regional Administrator of the Occupational Safety and Health Administration, the Regional Administrator of the Employment Standards Administration, and the appropriate State agency and the local Job Service office. The employer shall submit and the local Job Service office shall attach copies of the approved variance to each of the employer's job orders which is placed into intrastate or interstate clearance.

(d) If the RA denies the request for a variance, the RA shall provide written notice stating the reasons for the denial to the employer, the appropriate State agency and the local Job Service office. The notice shall also offer the employer an opportunity to request a hearing before a DOL Hearing Officer, provided the employer requests such a hearing from the RA within 30 calendar days of the date of the notice. The request for a hearing shall be handled in accordance with the employment service complaint procedures set forth at §§ 658.421 (i) and (j), 658.422 and 658.423 of this Chapter.

(e) The procedures of paragraphs (a) through (d) of this section shall only apply to an employer who has chosen, as evidenced by its written request for a variance, to comply with the ETA housing standards at §§ 654.404—654.417 of this Subpart.

**§ 654.403 Conditional access to the intrastate or interstate clearance system.**

(a) An employer whose housing during a period of nonuse has fallen out of compliance and who has not had a reasonable opportunity to bring its housing into compliance with the applicable standards may file, but only with the local Job Service office serving the area in which its housing is located, a written request that its job orders be conditionally allowed into the intrastate or interstate clearance system, provided:

(1) The employer's request includes a written statement, verified by the local Job Service office serving the area in which the housing is located, that the employer's housing was in compliance with the applicable housing standards during the period of its use in the previous year, and that, if the employer was granted such a request in the previous year, the employer complied with the conditions of that authorization; and

(2) The employer's request assures that its housing will be in full compliance with the requirements of the applicable housing standards at least 45 days (giving the specific date) before the housing is to be occupied.

(b) Upon receipt of a written request for conditional access to the intrastate or interstate clearance system under paragraph (a) of this section, the local Job Service office shall send the request to the State office which, in turn, shall forward it to the Regional Administrator, Employment and Training Administration (RA). The RA shall review the matter and, as appropriate, shall either grant or deny the request.

(c) The authorization for conditional access to the intrastate or interstate clearance system shall be in writing,

and shall state that although the housing does not comply with the applicable standards, the employer's job orders may be placed into intrastate or interstate clearance until a specified date. The RA shall send the authorization to the employer and shall send copies to the appropriate State agency and local Job Service office. The employer shall submit and the local Job Service office shall attach copies of the authorization to each of the employer's job orders which is placed into intrastate or interstate clearance.

(d) If the RA denies the request for conditional access to the intrastate or interstate clearance system, the RA shall provide written notice stating the reasons for the denial to the employer, the appropriate State agency and the local Job Service office.

(e) The local Job Service office serving the area containing the housing of any employer granted conditional access to the intrastate or interstate clearance system shall assure that the housing is inspected prior to three working days after the date by which the employer has promised to have its housing in compliance with the requirements of this Subpart. An employer, however, may request an earlier preliminary inspection. If upon inspection, or if on the date set forth in the authorization, whichever is later, the housing does not meet the standards set forth in this Subpart, the local Job Service office shall immediately remove the employer's job orders from intrastate or interstate clearance, and, if workers have been recruited against these orders, shall, in cooperation with the employment service agencies in other States, make every reasonable attempt to locate and notify the appropriate crew leaders or workers, and to find alternative and comparable employment for the workers.

**Housing Standards**

**§ 654.404 Housing site.**

(a) Housing sites shall be well drained and free from depressions in which water may stagnate. They shall be located where the disposal of sewage is provided in a manner which neither creates nor is likely to create a nuisance, or a hazard to health.

(b) Housing shall not be subject to, or in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or any similar hazards.

(c) Grounds within the housing site shall be free from debris, noxious plants (poison ivy, etc.) and uncontrolled weeds or brush.

(d) The housing site shall provide a space for recreation reasonably related

to the size of the facility and the type of occupancy.

**§ 654.405 Water supply.**

(a) An adequate and convenient supply of water that meets the standards of the State health authority shall be provided.

(b) A cold water tap shall be available within 100 feet of each individual living unit when water is not provided in the unit. Adequate drainage facilities shall be provided for overflow and spillage.

(c) Common drinking cups shall not be permitted.

**§ 654.406 Excreta and liquid waste disposal.**

(a) Facilities shall be provided and maintained for effective disposal of excreta and liquid waste. Raw or treated liquid waste shall not be discharged or allowed to accumulate on the ground surface.

(b) Where public sewer systems are available, all facilities for disposal of excreta and liquid wastes shall be connected thereto.

(c) Where public sewers are not available, a subsurface septic tank-seepage system or other type of liquid waste treatment and disposal system, privies or portable toilets shall be provided. Any requirements of the State health authority shall be complied with.

**§ 654.407 Housing.**

(a) Housing shall be structurally sound, in good repair, in a sanitary condition and shall provide protection to the occupants against the elements.

(b) Housing shall have flooring constructed of rigid materials, smooth finished, readily cleanable, and so located as to prevent the entrance of ground and surface water.

(c) The following space requirements shall be provided:

(1) For sleeping purposes only in family units and in dormitory accommodations using single beds, not less than 50 square feet of floor space per occupant:

(2) For sleeping purposes in dormitory accommodations using double bunk beds only, not less than 40 square feet per occupant:

(3) For combined cooking, eating, and sleeping purposes not less than 60 square feet of floor space per occupant.

(d) Housing used for families with one or more children over 6 years of age shall have a room or partitioned sleeping area for the husband and wife. The partition shall be of rigid materials and installed so as to provide reasonable privacy.

(e) Separate sleeping accommodations shall be provided for each sex or each family.

(f) Adequate and separate arrangements for hanging clothing and storing personal effects for each person or family shall be provided.

(g) At least one-half of the floor area in each living unit shall have a minimum ceiling height of 7 feet. No floor space shall be counted toward minimum requirements where the ceiling height is less than 5 feet.

(h) Each habitable room (not including partitioned areas) shall have at least one window or skylight opening directly to the out-of-doors. The minimum total window or skylight area, including windows in doors, shall equal at least 10 percent of the usable floor area. The total openable area shall equal at least 45 percent of the minimum window or skylight area required, except where comparably adequate ventilation is supplied by mechanical or some other method.

#### § 654.408 Screening.

(a) All outside openings shall be protected with screening of not less than 16 mesh.

(b) All screen doors shall be tight fitting, in good repair, and equipped with self-closing devices.

#### § 654.409 Heating.

(a) All living quarters and service rooms shall be provided with properly installed, operable heating equipment capable of maintaining a temperature of at least 68° F. if during the period of normal occupancy the temperature in such quarters falls below 68°.

(b) Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. No portable heaters other than those operated by electricity shall be provided. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, insulated metal sheet, or other fireproof material on the floor under each stove, extending at least 18 inches beyond the perimeter of the base of the stove.

(c) Any wall or ceiling within 19 inches of a solid or liquid fuel stove or a stovepipe shall be of fireproof material. A vented metal collar shall be installed around a stovepipe, or vent passing through a wall, ceiling, floor or roof.

(d) When a heating system has automatic controls, the controls shall be of the type which cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded.

#### § 654.410 Electricity and lighting.

(a) All housing sites shall be provided with electric service.

(b) Each habitable room and all common use rooms, and areas such as: Laundry rooms, toilets, privies, hallways, stairways, etc., shall contain adequate ceiling or wall-type light fixtures. At least one wall-type electrical convenience outlet shall be provided in each individual living room.

(c) Adequate lighting shall be provided for the yard area, and pathways to common use facilities.

(d) All wiring and lighting fixtures shall be installed and maintained in a safe condition.

#### § 654.411 Toilets.

(a) Toilets shall be constructed, located and maintained so as to prevent any nuisance or public health hazard.

(b) Water closets or privy seats for each sex shall be in the ratio of not less than one such unit for each 15 occupants, with a minimum of one unit for each sex in common use facilities.

(c) Urinals, constructed of nonabsorbent materials, may be substituted for men's toilet seats on the basis of one urinal or 24 inches of trough-type urinal for one toilet seat up to a maximum of one-third of the required toilet seats.

(d) Except in individual family units, separate toilet accommodations for men and women shall be provided. If toilet facilities for men and women are in the same building, they shall be separated by a solid wall from floor to roof or ceiling. Toilets shall be distinctly marked "men" and "women" in English and in the native language of the persons expected to occupy the housing.

(e) Where common use toilet facilities are provided, an adequate and accessible supply of toilet tissue, with holders, shall be furnished.

(f) Common use toilets and privies shall be well lighted and ventilated and shall be clean and sanitary.

(g) Toilet facilities shall be located within 200 feet of each living unit.

(h) Privies shall not be located closer than 50 feet from any living unit or any facility where food is prepared or served.

(i) Privy structures and pits shall be fly tight. Privy pits shall have adequate capacity for the required seats.

#### § 654.412 Bathing, laundry, and handwashing.

(a) Bathing and handwashing facilities, supplied with hot and cold water under pressure, shall be provided for the use of all occupants. These facilities shall be clean and sanitary and

located within 200 feet of each living unit.

(b) There shall be a minimum of 1 showerhead per 15 persons. Showerheads shall be spaced at least 3 feet apart, with a minimum of 9 square feet of floor space per unit. Adequate, dry dressing space shall be provided in common use facilities. Shower floors shall be constructed of nonabsorbent nonskid materials and sloped to properly constructed floor drains. Except in individual family units, separate shower facilities shall be provided each sex. When common use shower facilities for both sexes are in the same building they shall be separated by a solid nonabsorbent wall extending from the floor to ceiling, or roof, and shall be plainly designated "men" or "women" in English and in the native language of the persons expected to occupy the housing.

(c) Lavatories or equivalent units shall be provided in a ratio of 1 per 15 persons.

(d) Laundry facilities, supplied with hot and cold water under pressure, shall be provided for the use of all occupants. Laundry trays or tubs shall be provided in the ratio of 1 per 25 persons. Mechanical washers may be provided in the ratio of 1 per 50 persons in lieu of laundry trays, although a minimum of 1 laundry tray per 100 persons shall be provided in addition to the mechanical washers.

#### § 654.413 Cooking and eating facilities.

(a) When workers or their families are permitted or required to cook in their individual unit, a space shall be provided and equipped for cooking and eating. Such space shall be provided with: (1) A cookstove or hot plate with a minimum of two burners; and (2) adequate food storage shelves and a counter for food preparation; and (3) provisions for mechanical refrigeration of food at a temperature of not more than 45° F.; and (4) a table and chairs or equivalent seating and eating arrangements, all commensurate with the capacity of the unit; and (5) adequate lighting and ventilation.

(b) When workers or their families are permitted or required to cook and eat in a common facility, a room or building separate from the sleeping facilities shall be provided for cooking and eating. Such room or building shall be provided with: (1) Stoves or hot plates, with a minimum equivalent of two burners, in a ratio of 1 stove or hot plate to 10 persons, or 1 stove or hot plate to 2 families; and (2) adequate food storage shelves and a counter for food preparation; and (3) mechanical refrigeration for food at a temperature of

not more than 45° F.; and (4) tables and chairs or equivalent seating adequate for the intended use of the facility; and (5) adequate sinks with hot and cold water under pressure; and (6) adequate lighting and ventilation; and (7) floors shall be of nonabsorbent, easily cleaned materials.

(c) When central mess facilities are provided, the kitchen and mess hall shall be in proper proportion to the capacity of the housing and shall be separate from the sleeping quarters. The physical facilities, equipment and operation shall be in accordance with provisions of applicable State codes.

(d) Wall surface adjacent to all food preparation and cooking areas shall be of nonabsorbent, easily cleaned material. In addition, the wall surface adjacent to cooking areas shall be of fire-resistant material.

#### § 654.414 Garbage and other refuse.

(a) Durable, fly-tight, clean containers in good condition of a minimum capacity of 20 gallons, shall be provided adjacent to each housing unit for the storage of garbage and other refuse. Such containers shall be provided in a minimum ratio of 1 per 15 persons.

(b) Provisions shall be made for collection of refuse at least twice a week, or more often if necessary. The disposal of refuse, which includes garbage, shall be in accordance with State and local law.

#### § 654.415 Insect and rodent control.

Housing and facilities shall be free of insects, rodents, and other vermin.

#### § 654.416 Sleeping facilities.

(a) Sleeping facilities shall be provided for each person. Such facilities shall consist of comfortable beds, cots, or bunks, provided with clean mattresses.

(b) Any bedding provided by the housing operator shall be clean and sanitary.

(c) Triple deck bunks shall not be provided.

(d) The clear space above the top of the lower mattress of a double deck bunk and the bottom of the upper bunk shall be a minimum of 27 inches. The distance from the top of the upper mattress to the ceiling shall be a minimum of 36 inches.

(e) Beds used for double occupancy may be provided only in family accommodations.

#### § 654.417 Fire, safety, and first aid.

(a) All buildings in which people sleep or eat shall be constructed and maintained in accordance with applicable State or local fire and safety laws.

(b) In family housing and housing units for less than 10 persons, of one story construction, two means of escape shall be provided. One of the two required means of escape may be a readily accessible window with an openable space of not less than 24 x 24 inches.

(c) All sleeping quarters intended for use by 10 or more persons, central dining facilities, and common assembly rooms shall have at least two doors remotely separated so as to provide alternate means of escape to the outside or to an interior hall.

(d) Sleeping quarters and common assembly rooms on the second story shall have a stairway, and a permanent, affixed exterior ladder or a second stairway.

(e) Sleeping and common assembly rooms located above the second story shall comply with the State and local fire and building codes relative to multiple story dwellings.

(f) Fire extinguishing equipment shall be provided in a readily accessible place located not more than 100 feet from each housing unit. Such equipment shall provide protection equal to a 2½ gallon stored pressure or 5-gallon pump-type water extinguisher.

(g) First aid facilities shall be provided and readily accessible for use at all time. Such facilities shall be equivalent to the 16 unit first aid kit recommended by the American Red Cross, and provided in a ratio of 1 per 50 persons.

(h) No flammable or volatile liquids or materials shall be stored in or adjacent to rooms used for living purposes, except for those needed for current household use.

(i) Agricultural pesticides and toxic chemicals shall not be stored in the housing area.

### PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

#### § 655.202 [Amended]

9. Paragraph (b)(1) of § 655.202, *Contents of job offers* is revised to read as follows:

(1) The employer will provide the worker with housing without charge to the worker. The housing will meet the full set of standards set forth at 29 CFR 1910.142 or the full set of standards set forth at Part 654, Subpart E of this chapter, whichever is applicable under the criteria of 20 CFR 654.401; except that, for mobile range housing for shepherders, the housing shall meet existing Departmental guidelines. When it is the prevailing practice in the area of

intended employment to provide family housing, the employer will provide such housing to such workers.

Signed at Washington, D.C. this 28th day of February, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-4779 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-30-M

### Employment Standards Administration

#### 29 CFR Part 40

#### Farm Labor Contractor Registration, Housing for Agricultural Workers; Cross-Reference Updated

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

**SUMMARY:** This document updates the cross-reference in the Farm Labor Contractor Registration regulations to the Employment and Training Administration (ETA) housing standards. This change is necessary to reflect the amendment and renumbering of the ETA standards published on this date.

**EFFECTIVE DATE:** April 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** Paul E. Myerson, Counsel for Employment Standards, Division of General Legal Services, Office of the Solicitor of Labor, 200 Constitution Avenue NW., Room N-2458, Washington, D.C. 20210, Telephone: (202) 523-8244.

**SUPPLEMENTARY INFORMATION:** The Employment and Training Administration (ETA) of the Department of Labor published in today's issue of the Federal Register a document to amend and transfer the ETA housing regulations from 20 CFR Part 620 to Subpart E of Part 654. The Department hereby amends the cross-reference to the ETA regulations contained in the Farm Labor Contractor Registration regulations to reflect the renumbering of the ETA regulations.

Since this technical revision to the Department's regulations is purely procedural and involves no change in the substance of the rule, the Department finds that notice and public procedure under the Administrative Procedure Act are unnecessary. This finding also constitutes a waiver of the Department's regulation at 29 CFR 2.7.

Accordingly, Title 29, Subtitle A of the Code of Federal Regulations is amended as follows:

**PART 40—FARM LABOR  
CONTRACTOR REGISTRATION****§ 40.20 [Amended]**

§ 40.20, *Authorization to house migrant workers*, is amended in paragraph (a)(2) by changing the citation "620.4", to "654.404 *et seq.*"

Signed at Washington, D.C. this 28th day of February 1980.

Ray Marshall,  
*Secretary of Labor.*

[FR Doc. 80-6797 Filed 3-3-80; 8:45 am]

BILLING CODE 4510-27-M

**NOTICE**

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Tuesday  
March 4, 1980

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**Part III**

**Department of  
Energy**

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**Office of Conservation and Solar Energy**

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**Proposed Rulemaking and Public Hearing  
Regarding Provisions for the Waiver of  
Consumer Product Test Procedures**

**DEPARTMENT OF ENERGY****Office of Conservation and Solar Energy****10 CFR Part 430**

[CAS-RM-80-116]

**Energy Conservation Program for Consumer Products; Proposed Rulemaking and Public Hearing Regarding Provisions for the Waiver of Consumer Product Test Procedures****AGENCY:** Department of Energy.**ACTION:** Proposed rule.

**SUMMARY:** The Department of Energy proposes to amend its consumer product test procedures established as part of the energy conservation program for consumer products. This program was established pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act. Among other program elements, the legislation requires that standard methods of testing be prescribed for covered products. Today's proposed amendment would establish provisions allowing the Department temporarily to waive test procedure requirements for particular covered products containing unique design characteristics which either prevent testing according to the prescribed test procedures or which the prescribed test procedures evaluate in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data.

**DATES:** Written comments in response to this notice by May 5, 1980; requests to speak at the public hearing by March 12, 1980; written statements by March 12, 1980; public hearing to be held on April 30, 1980. Speakers to be notified by 4:30 p.m., March 14, 1980.

**ADDRESSES:** Send comments, requests to speak at the public hearing, and written statements to: U.S. Department of Energy, Office of Conservation and Solar Energy, Consumer Product Test Procedure Waiver, Docket No. CAS-RM-80-116, Mail Station 2221C, 20 Massachusetts Avenue NW., Washington, D.C. 20585.

The public hearing will be held at: Department of Energy, Room 3000A, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20585, at 9:00 a.m.

**FOR FURTHER INFORMATION CONTACT:**

James A. Smith, Consumer Products Efficiency Branch, Office of Conservation and Solar Energy, U.S. Department of

Energy, Room 2248, 20 Massachusetts Avenue NW., Washington, D.C. 20585 (202) 376-4814.

Carol A. Snipes (Hearing Procedures), Office of Conservation and Solar Energy, U.S. Department of Energy, Mail Stop 2221C, 20 Massachusetts Avenue NW., Washington, D.C. 20585 (202) 376-1651.

Eugene Margolis, Office of General Counsel, U.S. Department of Energy, Room 2109, 20 Massachusetts Avenue NW., Washington, D.C. 20585 (202) 376-4618.

**SUPPLEMENTARY INFORMATION:****A. Background**

Section 323 (42 USC 6293) 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), requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption characteristics of certain specified consumer products. These test procedures form one element of the energy conservation program for consumer products established by Title III, Part B of the Act.<sup>1</sup> The test procedures are intended for use in other program elements such as product labeling (administered by the Federal Trade Commission pursuant to section 324 of the Act) and minimum energy efficiency standards (currently under development by DOE pursuant to section 325).

DOE has prescribed test procedures for all the types of covered products enumerated in section 322(a)(1)-(13) of the Act, including 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, dehumidifiers, central air conditioners, and furnaces. These test procedures appear at 10 CFR Part 430, Subpart B. Today's proposed rule would amend the test procedures to allow DOE to temporarily waive test procedure requirements for particular covered products incorporating unique design characteristics which either prevent testing according to the prescribed test procedures or which the prescribed test procedures evaluate in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data.

<sup>1</sup>References in this notice to "the Act" or to sections of the Act refer to EPCA as amended by NECPA.

**B. Discussion**

DOE has previously recognized that as new product designs are developed by manufacturers some of the present test procedures are occasionally likely to require amendment. Manufacturers may be expected to petition DOE to prescribe amendments to the test procedures in order that the test results will more accurately reflect the energy consumption of innovative product designs. The test procedure regulations presently contain no provisions regarding the treatment of particular covered products whose designs may be determined by DOE to call for test procedure amendments, during the interim period prior to the actual prescription of amendments according to the procedures required by the Act.

Proposed § 430.27 would allow DOE, upon request, to waive the applicability of test procedures to particular basic models of covered products, under narrowly specified circumstances. A petition for waiver would be required to show that the basic model for which a waiver is requested contains a unique design characteristic which either prevents testing according to the prescribed procedures or which the prescribed test procedures evaluate in a manner so unrepresentative of the basic model's true energy consumption characteristics as to provide materially inaccurate comparative data. If DOE should determine that these qualifying conditions have been established, DOE's Assistant Secretary for Conservation and Solar Energy would be empowered to grant a waiver.

Under the proposed rule, each petitioner would be required to send a copy of the petition to all competitors and other ascertainable interested persons, who would then have an opportunity to submit a response to DOE regarding the petition, for a period of 10 working days following receipt. The petitioner would be provided an opportunity to rebut any responses. On the basis of the petition, responses and rebuttals, consultation with the Federal Trade Commission, and DOE's own assessment of the facts, DOE would then decide whether to grant a waiver. Waivers could either be granted unconditionally, or could be conditioned upon adherence to alternate test procedures specified by DOE. This provision is designed to insure that consumer products which require only minor adjustments in the test procedures may continue to be rated for purposes of representations, labeling, and compliance with applicable efficiency standards, until the necessary amendments can be formally prescribed.

Waivers are intended to be temporary solutions to problems identified in the test procedure regulations. The proposal requires that DOE, within one year of granting any waiver, will publish a notice of proposed rulemaking to correct the situation which occasioned the waiver. As soon thereafter as practicable, DOE would publish a final rule, and the waiver would terminate on the effective date of the final rule.

### C. Comment Procedure

#### 1. Written Comment

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed amendment set forth in this notice.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Consumer Product Test Procedures Waiver, Docket No. CAS-RM-80-116." Fifteen copies should be submitted if possible. All comments received on or before the date specified at the beginning of this notice, and all other relevant information, will be considered by DOE before final action is taken on the proposed regulation.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempted from public disclosure.

#### 2. Public Hearing

a. *Request procedure.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on the following day. DOE invites any person who has an interest in today's proposed amendments, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received on or before the date specified at the beginning of this notice. Such a request may be hand delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document

"Consumer Product Test Procedure Waiver, Docket No. CAS-RM-80-116."

The person making the request should briefly describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has such an interest, and give a concise summary of the proposed oral presentation and a telephone number where he or she may be contacted.

DOE will notify each person selected to appear at the hearing. Each person selected to be heard should submit 15 copies of his or her statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 15 copy requirement, alternative arrangements can be made with DOE in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling (202) 376-1651.

b. *Conduct of Hearing.* DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing. DOE will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office in the Forrestal Building, Independence Avenue and

L'Enfant Plaza, SW., Washington, D.C. 20585 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. In addition, any person may purchase a copy of this transcript from the reporter.

### E. Regulatory and Environmental Review

Pursuant to Section 7(c)(2) of the Federal Energy Administration Act of 1974, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) DOE has previously evaluated the proposed establishment of test procedures for consumer products to determine if an environmental assessment or an environmental impact statement was required. These test procedures will be used only to standardize the measurement of energy usage. The action of prescribing these test procedures, by itself, will not result in any environmental impact. Since it is clear that this proposed amendment is not a major Federal action significantly affecting the quality of the human environment, DOE has determined that neither an environmental assessment nor an environmental impact statement is required.

The proposed rule has been reviewed in accordance with Executive Order 12044 and DOE Order 2030, and it has been determined that the proposal is significant in nature but does not have major impacts to manufacturers and consumers (i.e., would not impose annual economic costs of \$100 million or more).

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 95-619; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 43 FR 46227)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., February 28, 1980.

Maxine Savitz,  
Deputy Assistant Secretary, Conservation  
and Solar Energy.

1. Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended by establishing a new § 430.27, to read as follows:

#### § 430.27 Petitions for waiver.

(a) Notwithstanding any other provisions of this subpart, any interested person may submit a petition

to waive for a particular basic model any requirements of § 430.22, or of any appendix to this subpart, upon the grounds that the basic model contains one or more unique design characteristics which either prevent testing of the basic model according to the prescribed test procedures, or which the prescribed test procedures evaluate in a manner so unrepresentative of the true energy consumption characteristics of the basic model as to provide materially inaccurate comparative data.

(b) Each petition shall be denominated "Petition for Waiver" and shall be submitted, in triplicate, to the Assistant Secretary for Conservation and Solar Energy, United States Department of Energy. Each petition shall identify the particular basic model for which a waiver is requested, the unique design characteristic(s) constituting the grounds for the petition, and the specific requirements sought to be waived and shall discuss in detail the need for the requested waiver. Each petition shall identify all other basic models marketed in the United States and known to the petitioner, manufactured by any manufacturer, incorporating the unique design characteristic(s). Each petition shall be signed by the petitioner or by an authorized representative. If an authorized representative signs the petition, a statement shall be included certifying that such person is an authorized representative of the petitioner. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in a petition for waiver or in supporting documentation must be accompanied by a copy of the petition or supporting documentation from which the information claimed to be confidential has been deleted. Each petition shall include a statement certifying that the petitioner has complied with the requirements of paragraph (c) of this section, and shall include the names and addresses of each person to whom a copy of the petition has been sent.

(c) Each petitioner shall send a copy of the petition for waiver and any subsequent amendments or other documents relating to the petition, or a copy from which confidential information has been deleted in accordance with 10 CFR 1004.11, to all known manufacturers of domestically marketed units of the same product type (as listed in section 322(a) of the Act), and to each person who is reasonably ascertainable by the petitioner as a person who may be aggrieved by the DOE action sought. Each copy of the

petition sent pursuant to this paragraph shall be accompanied by a statement that the recipient may, within ten working days of receipt of such copy, submit a response to the Assistant Secretary for Conservation and Solar Energy, in triplicate, with a copy to the petitioner.

(d) A petitioner may, within ten working days of receipt of a copy of any response submitted in accordance with paragraph (c) of this section, submit a rebuttal statement to the Assistant Secretary for Conservation and Solar Energy. A petitioner may rebut more than one response in a single rebuttal statement.

(e) Petitioner shall be notified in writing as soon as practicable of the disposition of each petition for waiver. Within 30 days of receipt of a petition for waiver, a timely response, or a timely rebuttal statement, whichever occurs last, the Assistant Secretary for Conservation and Solar Energy shall notify the petitioner in writing that either (1) a waiver has been granted; (2) a waiver has been denied, stating the reasons for denial; (3) further information is required to be submitted; or (4) review of the petition is continuing.

(f) The filing of a petition for waiver shall not constitute grounds for noncompliance with any requirements of this subpart, until a waiver has been granted.

(g) Waivers will be granted by the Assistant Secretary for Conservation and Solar Energy, if he or she determines that the basic model for which the waiver was requested contains a unique design characteristic which either prevents testing of the basic model according to the prescribed test procedures, or which the prescribed test procedures evaluate in a manner so unrepresentative of the true energy consumption characteristics of the basic model as to provide materially inaccurate comparative data. Waivers may be granted subject to conditions, which may include adherence to alternate test procedures specified by the Assistant Secretary for Conservation and Solar Energy. The Assistant Secretary for Conservation and Solar Energy shall consult with the Federal Trade Commission prior to granting any waiver, and shall promptly publish in the Federal Register notice of each waiver granted, and any limiting conditions of each waiver.

(h) Within one year of the granting of any waiver, the Department of Energy will publish in the Federal Register a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such

waiver. As soon thereafter as practicable, the Department of Energy will publish a final rule. Such waiver will terminate on the effective date of such final rule.

(i) Any person who is aggrieved by an action or failure to act on the part of the Department of Energy under this section may file an appeal with the Department of Energy's Office of Hearings and Appeals as provided in 10 CFR Part 205, Subpart H. Any person who believes that he has suffered serious hardship or gross inequity as a result of any requirements of this subpart may file an application for exception with the Office of Hearings and Appeals as provided in 10 CFR Part 205, Subpart D. Any person who desires an interpretation of any provision of this subpart may file a formal request for interpretation as provided in 10 CFR Part 205, Subpart F.

[FR Doc. 80-8799 Filed 3-3-80; 8:45 am]

BILLING CODE 6450-01-M

**FRIDAY  
MARCH 8, 1980**

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Tuesday  
March 4, 1980

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**Part IV**

**Department of the  
Interior**

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**Fish and Wildlife Service**

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**Emergency Interim Rules for Twelve  
Newly Created National Wildlife Refuges  
in Alaska**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 26

## Emergency Interim Rules for Twelve Newly Created National Wildlife Refuges in Alaska

**AGENCY:** U.S. Fish and Wildlife Service, Department of the Interior.

**ACTION:** Final Interim Rule.

**SUMMARY:** On February 11, 1980 Secretary of the Interior Cecil Andrus withdrew and reserved twelve areas in Alaska as National Wildlife Refuges pursuant to section 204(c) of the Federal Land Policy and Management Act of 1976 (FLPMA); 43 U.S.C. 1714(c). See 45 FR 9562 *et seq.* for notice of this action. These areas are: Alaska Marine Resources, Arctic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta, and Yukon Flats. The Secretary's action resulted in the automatic application of the general National Wildlife Refuge System regulations to each of these 12 new Alaska refuges. Because of the immediate change in the status of these lands and the need to tailor several sections of the general refuge regulations to unique Alaska needs, it is necessary to promulgate emergency interim rules pending the consideration and development of comprehensive permanent regulations for these refuges. As a result, the National Wildlife Refuge regulations (Title 50, Chapter I, Subchapter C) apply except as modified by these rules.

These interim rules preserve the opportunity for local rural residents to continue their traditional subsistence activities in these areas and permit certain other on-going uses such as sport hunting, commercial trapping and sport and commercial fishing to continue, consistent with the protection of the new Refuges. The interim rules also deal with use of motorized vehicles, firearms, cabin sites and unattended property. The Director has determined that these existing uses are compatible, on an interim basis, with the purposes for which the refuges were established. The regulatory approach adopted establishes a transition period for the formulation of permanent management regulations. This transition period is consistent with the process used in the development of permanent regulations for the Yukon Flats and Becharof National Wildlife Monuments.

The Fish and Wildlife Service has determined that public notice and comment on these final emergency

interim rules is impractical and contrary to the public interest. The need to provide immediate relief and appropriate guidance to persons carrying out activities within the 12 new Alaska refuges requires immediate action and demonstrates good cause for making these interim rules effective immediately. The Fish and Wildlife Service intends to publish in the Federal Register in the near future a "Notice of Intent to Propose Rules" regarding the permanent management of these 12 new Alaskan refuges. Ultimately, final regulations developed through the public review process will replace these interim rules.

**EFFECTIVE DATE:** March 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** James W. Pulliam, Jr., Deputy Associate Director, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Room 3252, U.S. Department of the Interior, Washington, D.C. 20240, (202-343-5333); or Keith Schreiner, Alaska Area director, U.S. Fish and Wildlife Service, Department of the Interior, 1011 E. Tudor Road, Anchorage, Alaska 99507, (907-276-3800).

## Supplementary Information

Background: Section 204(c) of the Federal Land Policy and Management Act, 43 U.S.C. 1714(c), authorizes the Secretary of the Interior to make land withdrawals involving five thousand acres or more of federal lands. On February 11, 1980, the Secretary exercised this authority and withdrew lands for twelve new National Wildlife Refuges in Alaska. These new National Wildlife Refuges offer protection for a variety of significant resource values. The affected lands have previously been managed by the Department's Bureau of Land Management; the Secretary's action requires that they now be administered by the United States Fish and Wildlife Service as National Wildlife Refuges. As a result, the existing National Wildlife Refuge regulations found in Title 50, Chapter I, Subchapter C, automatically apply. These general refuge rules, however, are in need of adjustment in particular instances to reflect unique Alaskan needs.

In addition to the Department's authority under a number of statutes, the general refuge rules cited above authorize the Service to promulgate refuge management regulations tailored to the needs of specific areas. 50 CFR 26.33 provides that "(s)pecial regulations shall be issued for public use, access, and recreation within certain individual national-wildlife refuges where there is a need to amend, modify, relax or make

more stringent the regulations contained in this Subchapter C." The immediate change in land status and management responsibilities created by the withdrawals dictate that a sound transitional regulatory program govern on-going public activities on the refuges as soon as possible and suggest the need to adopt on an interim basis special rules for these areas. The need for special rules also arises from the fact that on-going activities on the 12 new Alaska refuges are compatible, on an interim basis, with the purposes for which they were established but are not expressly permitted under existing regulations. Both factors indicate that these rules must be promulgated on an emergency basis and become effective immediately.

In promulgating these rules, the Director of the Fish and Wildlife Service has considered, among other things: (1) The 28 volume 1974 Alaska Lands Environmental Impact Statement; (2) the 1978 Final Environmental Supplement, Alternative Administrative Actions on Alaska National Interest Lands, U.S. Department of the Interior; (3) the Section 204(e) Report for Alaska Land Withdrawals; (4) the Section 204(c) Report for Alaska Land Withdrawals; and (5) other materials and analysis that have been generated on the management of Alaska National Interest Lands as a result of Congressional action on the so-called "d-2" legislation. Four separate Committee reports have been published in the House of Representatives and two Committee reports have been published in the Senate on the issue of the establishment and management of new Conservation System units in Alaska.

## Regulatory Approach

As indicated above, it is essential that an interim regulatory program be established for the National Wildlife Refuges during the administrative transition period immediately following their establishment. While causing the least disruption possible to on-going activities consistent with the protection of the new Refuges, this interim management period will afford both the public and the Fish and Wildlife Service an opportunity to determine which recreational and other special uses should be authorized on these areas. Established uses within the Refuges such as the subsistence use of fish, wildlife or plant resources by local rural residents, the use of snowmobiles, motorboats and aircraft under certain circumstances, and the sport taking of fish and wildlife in accordance with applicable State and Federal law will be allowed to continue under the interim

regulations. Certain mining activities are also subject to these rules. By adopting this regulatory posture during the transition period, the Fish and Wildlife Service can minimize hardships on those members of the public who are currently engaged in activities on the newly created National Wildlife Refuges. The Service also notes that this approach further obviates the need for an opportunity for public comment on the emergency interim regulations.

These emergency interim rules are but the first step in the development of comprehensive special regulations for the management and use of the twelve new Alaska National Wildlife Refuges. The Fish and Wildlife Service will publish in the near future a "Notice of Intent To Propose Rules" that will deal with activities including, but not limited to, subsistence uses, sport hunting, fishing, access, mining, and public use and recreation. After full notice and the opportunity for public comment, the Service will promulgate final rules. As a result of this extensive process, the final rules may differ in significant aspects from these emergency interim regulations.

#### Highlights of these rules:

§ 26.37 *Interim Emergency Regulations for the following National Wildlife Refugees in Alaska: Alaska Marine Resources, Arctic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta, and Yukon Flats.*

- (a) Scope.
- (b) Definitions.
- (c) Subsistence Uses.
- (d) Use of snowmobiles, motorboats, aircraft and other motorized vehicles.
- (e) Recreational Activities.
- (f) Taking of Fish and Wildlife.
- (g) Cabin sites.
- (h) Unattended property.
- (i) Firearms.
- (j) Sled dogs and household pets.
- (k) Permits.
- (l) Mining.

Authority:—The National Wildlife Refuge Administration Act, 16 U.S.C. § 668dd *et seq.*; Fish and Wildlife Act of 1958, 16 U.S.C. § 742 *et seq.*; Federal Land Policy and Management Act, § 204(j), 43 U.S.C. § 1714(j).

Subsection (a) briefly describes the purpose and scope of these interim regulations. The general refuge rules of Title 50, Chapter I, subchapter C, apply except as specifically modified by these interim regulations.

Subsection (b) defines a number of important terms used in these emergency interim rules. The definition of "subsistence uses" is consistent with the one used in the emergency interim rules for the Becharof and Yukon Flats National Wildlife Monuments and

similar to that approved by both the House of Representatives and the Senate Committee on Energy and Natural Resources during the first session of the 96th Congress. Consistency with the existing interim monument regulations on this important matter will avoid unnecessary confusion. The Service recognizes that a slightly modified definition of "subsistence uses" has been proposed for the National Wildlife Monument permanent regulations. This proposed definition is currently under review in light of the public comments received on the proposed rulemaking. Since the review is not yet completed and final wildlife monument regulations have not yet been published, the Service deemed it inadvisable at this time to deviate from the existing definition of "subsistence uses" currently in force under the emergency interim wildlife monument regulations. The Service fully intends, however, to propose as a permanent wildlife regulation that definition of "subsistence uses" which is ultimately adopted in the final wildlife monument regulations.

Subsection (c) authorizes the subsistence use of wild renewable resources by local rural residents within the 12 Alaska refuges subject to these rules. This approach would allow residents of rural areas located within, or adjacent to, such a National Wildlife Refuge to continue their subsistence activities in accordance with applicable State and Federal law. Furthermore, subsistence use of these natural resources would be accorded the highest priority over other consumptive uses such as sport hunting. This prioritization of subsistence uses is a management principle for Alaska public lands which was uniformly recognized and adopted by the various Committees of the 95th and 96th Congresses which considered H.R. 39. During the transition period, subsistence uses would be restricted only in emergency situations involving public safety or the natural stability or continued viability of a particular population of fish, wildlife or plants. The closure authority has been voluntarily limited during the transition period to emergency situations, in recognition of the importance of subsistence uses to many local rural Alaskans. The Fish and Wildlife Service believes that any regulatory program capable of imposing restrictions on subsistence activities other than in emergency situations should not be established without providing subsistence users, as well as the general public, with an opportunity to comment on the program. Therefore, the Fish and Wildlife Service will await

full public comment before it begins to develop the full range of its closure authority over subsistence activities within the Alaskan Wildlife Refuges.

Subsection (d) authorizes the use of snowmobiles, motorboats, and fixed wing aircraft within and across Alaskan refuges subject to these rules where such use is traditional and established or reasonable and appropriate in exercise of a valid project right. Such use may be restricted or prohibited upon appropriate finding by the Area Director. Use of offroad vehicles other than snowmobiles is prohibited except where expressly permitted on routes of travel which may be designated by the Area Director. Use of these vehicles may also continue where reasonable and appropriate in the exercise of a valid property right. All vehicles subject to this subsection must be operated in compliance with applicable State and Federal law and in such manner as to prevent waste or damage to fish, wildlife, plants, or terrain, or any other part or value of the refuge.

Subsection (e) allows for the continuation of on-going recreational uses within Alaska National Wildlife Refuges subject to these rules, provided that those activities are conducted in a manner compatible with the purposes for which the areas were established. The list of potential activities enumerated in this subsection is not intended to be all inclusive.

Subsection (f) deals with the taking of fish and wildlife for sport and commercial purposes. As a general rule, such activities must comply with applicable Alaska State law. The Fish and Wildlife Service, however, has the authority to impose additional restrictions when deemed advisable for management purposes. Nothing in these interim emergency regulations regarding the taking of fish and wildlife should be interpreted as waiving the requirements of other fish and wildlife conservation statutes such as the Airborne Hunting Act or those provisions of Subchapter C of Title 50, Code of Federal Regulations regarding the taking of depredating wildlife. Animal control programs shall only be conducted in accordance with a special use permit issued by the Area Director.

Subsection (g) authorizes the traditional and customary use of existing cabins to the extent that they are compatible with the established purposes of the refuge on which they are located.

Subsection (h) prevents any person from leaving a vehicle or other personal property unattended on any of the 12 Alaska Refuges for longer than 12 months without prior permission from

the Area Director. The prohibition does not apply to personal property left unattended in a cache or cabin when used in conjunction with an authorized activity.

Subsection (j) authorizes the possession, use, and transporting of firearms for hunting and personal protection in accordance with State and Federal law unless prohibited or otherwise restricted by the Area Director.

Subsection (j) provides that the general trespass sections of the National Wildlife Refuge System regulations do not apply to household pets or sled or pack dogs under control of their owners or handlers.

Under present National Wildlife Refuge System regulations, persons are required to obtain a permit from the Refuge Manager or Area Director before they may engage in various activities.

Subsection (k) provides that all requests for such permits should be made to the Area Director for activities involving Alaskan refuges subjects to this rule.

Subsection (l) establishes access rules for mining. The emergency interim regulations prohibit a person without a mining access permit from crossing by methods of surface transportation, or from landing aircraft upon, lands, waters, or interests therein owned or controlled by the Federal Government within a Refuge for the purposes of conducting mining operations on an unpatented claim within its boundaries. Subsection (l) also requires a person to obtain an access permit before crossing Federal property within a Refuge by means of surface transportation to conduct mining operations either outside of the Refuge or on patented claims or private or state property within the Refuge. An access permit would not be required for landing aircraft on patented claims or private or State property within a Refuge, nor would it be required to authorize flights over a Refuge for purposes of conducting mining operations outside of the Refuge.

Mining access permit applications shall be sent to the Alaska Area Director of the United States Fish and Wildlife Service. In order to expedite the review of access permit requests for the upcoming field season, the Fish and Wildlife Service is requiring the submission of a minimal amount of mining information and data with the permit application. It is the position of the Service that this procedure will facilitate the exercise of valid existing rights by those claimants who hold them.

Subject to valid existing rights, the public lands within the Refuge have

been withdrawn from further location and appropriation under the Mining Law of 1872. As regards unpatented claims within a Refuge, a person must have both located and discovered a valuable mineral deposit prior to the date of the withdrawal in order to have established a valid existing right. *See Cameron v. United States*, 252 U.S. 540 (1920).

Claimants who have failed to satisfy both tests are now precluded from conducting further mining operations on unpatented claims, including prospecting and exploration.

Based upon the information contained in the mining access permit application, the Area Director will make a preliminary determination as to whether it is likely that the holder of an unpatented mining claim has established rights against the Federal Government which were preserved under the terms of the withdrawal. Mining access permits will only be issued for mining operations on unpatented claims if it is determined to be likely that the applicant made a valuable discovery prior to the date of withdrawal. The approach adopted avoids the adverse impacts of unregulated access for mining but recognizes plausible, valid existing rights through the expedited process of making preliminary determinations of validity.

Since the claimant is in the best position to provide the necessary mining information, it is obvious that he has a significant role to play in the preliminary determination of the validity of his rights against the Federal Government. It is thus in the claimant's best interest to provide as much of the requested information as possible with the initial permit application. Recognizing the potential commercial value of some of the requested mineral information, the Fish and Wildlife Service intends to maintain the confidentiality of such data pursuant to applicable law. *See, e.g.,* Department's regulations implementing the Freedom of Information Act at 43 CFR Part 2.

Finally, it should be noted that the issuance of a mining access permit does not preclude the Secretary from examining, and where appropriate, contesting the validity of an unpatented claim at some later date. The mere issuance of an access permit cannot render valid any right in a claim which is not otherwise valid under applicable law. All permits are to be issued subject to this proviso.

#### Other Information

These emergency interim rules apply to all persons using or entering Federally owned or controlled lands

within the boundaries of the 12 Alaskan refuges subject to these rules. State, Native (including lands conveyed under the Native Allotment Act of May 17, 1906) and private inholdings will remain largely unaffected by the terms of these regulations. This is consistent with the terms of the withdrawals making the establishment of the National Wildlife Refuges "subject to valid existing rights".

Because of the immediate change in the status of these lands and the need to tailor several sections of the general refuge regulations to unique Alaska needs, the Department has determined that compliance with the procedures for developing rules under Executive Order 12044 and 43 CFR Part 14 is impractical and contrary to the public interest. This determination was made pursuant to Section 6 of Executive Order 12044 and 43 CFR 14.3(f).

The primary authors of these regulations are Lou Swenson, U.S. Fish and Wildlife Service, Alaska Area Office, and Deborah Williams, Attorney-Advisor, Office of the Solicitor, Anchorage, Alaska.

Dated: February 29, 1980.

Robert L. Herbst,  
Assistant Secretary, Fish and Wildlife and Parks.

Effective immediately, 50 CFR is amended by adding the new § 26.37 to Chapter I, subchapter C, as follows:

§ 26.37 Interim Emergency Regulations for the following National Wildlife Refuges in Alaska: Alaska Marine Resources, Arctic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta, and Yukon Flats.

(a) *Scope:* (1) Pursuant to section 204(c) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Section 1714(c), the Secretary of the Interior has withdrawn and reserved twelve areas in Alaska as National Wildlife Refuges for the purpose of preserving and enhancing their outstanding resource values. These areas are: Alaska Marine resources, Arctic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta, and Yukon Flats. Each of these areas is subject to these interim emergency regulations. (2) The National Wildlife Refuge System regulations of Title 50, Code of Federal Regulations, Chapter I, Subchapter C, apply to these refuges except as specifically modified by these interim emergency regulations. (3) These rules will remain in effect until the publication of final regulations establishing permanent special rules governing the administration of these areas.

(b) *Definitions*: The definitions in this section apply only to these interim rules:

(1) "Alaska National Wildlife Refuges subject to these rules" means those refuges withdrawn by Secretarial Orders on February 11, 1980, and administered by the United States Fish and Wildlife Service. These areas are: Alaska Marine Resources, Arctic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta and Yukon Flats.

(2) "Area Director" means any official of the United States Fish and Wildlife Service who has been delegated authority for management of Alaska National Wildlife Refuges subject to these rules, including the Alaska Area Director or his authorized representatives.

(3) "Subsistence Uses" means the customary and traditional uses in Alaska of wild, renewable resources for (i) direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, (ii) the making or selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption, and (iii) customary trade, barter, or sharing for personal or family consumption.

(4) "Off-Road Vehicles" means any motorized vehicle designed for, or capable of, cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain.

(5) "Claim" means any valid patented or unpatented mining claim, mill or tunnel site, or other site of mining operations, whether on Federal, State or Private lands.

(6) "Mining operations" means all functions, work and activities in connection with mining on claims, including: prospecting, exploration, surveying, development and extraction; dumping mine waste and stockpiling ore; transport or processing of mineral commodities; reclamation of the surface disturbed by such activities; and all activities and uses reasonably incident thereto regardless of whether such activities and uses take place on Federal, State or private land.

(7) "Person" means any individual, partnership, corporation, association or other entity.

(c) *Subsistence uses*: (1) The nonwasteful subsistence uses of fish, wildlife or plant resources within Alaska National Wildlife Refuges subject to these rules shall be allowed to continue by local rural residents who comply with applicable provisions of State and Federal law. The nonwasteful subsistence use of fish, wildlife or plant resources shall be the first priority

consumptive use of such resources over other consumptive uses such as sport hunting, commercial trapping or sport or commercial fishing.

(2) Notwithstanding any other provision of this section, the Area Director shall close all or any portion of an Alaska National Wildlife Refuge subject to these rules to the subsistence uses of a particular fish, wildlife or plant population, or take such other measures as may be necessary, if he determines that an emergency situation exists and that measures must be taken to provide for public safety or to assure the natural stability and continued viability of the particular population of fish, wildlife or plants. In the case of closure, the Area Director shall post a notice of the reasons justifying the closure in communities known to be affected by the closure and shall publish and broadcast the reasons justifying the closure in the local media in the area of the closure. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty days, and shall not be extended unless the Area Director establishes after notice and informal public hearing that such extension is justified.

(d) *Use of snowmobile, motorboat, fixed-wing aircraft and other motorized vehicles*: (1) The use of snowmobiles, motorboats and fixed-wing aircraft for access to areas within, adjacent to, or across the Refuges may continue where such use is traditional and established or reasonable and appropriate in exercise of a valid property right. In determining whether to restrict the use of such vehicles or to temporarily or permanently close an area to their use, the Area Director shall consider such factors as other visitor uses, public health and safety, environmental and resource protection, endangered and threatened species conservation, research activities, aesthetics, and other management considerations necessary to insure use compatible with the purposes for which the refuge was created. For snowmobile use the Area Director shall also be guided by criteria contained in Section 3 of Executive Order No. 11644 (34 FR 2877), as amended. The Area Director shall temporarily close or, after notice and opportunity for an informal public hearing, permanently close, areas to the use of motorized vehicles governed by this paragraph if, based on the factors enumerated above, he determines that the continuation of such uses is not compatible with the purpose for which the refuge was established.

(2) The use of off-road vehicles other than snowmobiles is prohibited except

where expressly permitted on routes of travel which may be designated by the Area Director, *provided*, however that the use of such vehicles may continue where such use is reasonable and appropriate in the exercise of a valid property right.

(3) All vehicles subject to this subsection shall be operated in compliance with applicable State and Federal law and in such a manner as to prevent waste or damage to fish, wildlife, plants, terrain or any other part or value of the refuge.

(e) *Recreational activities*: On-going public recreational activities within the Alaska National Wildlife Refuges subject to these rules shall be allowed to continue as long as such activities are conducted in a manner compatible with the purposes for which the areas were established. Such recreational activities include but are not limited to sightseeing, nature observation and photography, hunting, fishing, boating, camping, hiking, picnicking and other related activities.

(f) *Taking of fish and wildlife*: (1) The taking of fish and wildlife for sport hunting, commercial trapping and sport or commercial fishing shall continue in accordance with applicable State and Federal law; *provided, however*, that the Area Director may designate areas where, and establish periods when, no taking of a particular population of fish or wildlife shall be permitted within such a Refuge when deemed advisable for management purposes. The following provisions shall apply to each person while engaged in the taking of fish or wildlife within an Alaska National Wildlife Refuge subject to these rules:

(i) Commercial Trapping and Sport Hunting

(A) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(B) Each person shall comply with the applicable provisions of Federal law;

(ii) Sport and Commercial Fishing

(A) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(B) Each person shall comply with the applicable provisions of Federal law.

(2) Nothing in these rules shall be interpreted as waiving the requirements of other fish and wildlife conservation statutes such as the Airborne Hunting Act or these provisions of subchapter C of Title 50, Code of Federal Regulations regarding the taking of depredating wildlife. Animal control programs shall only be conducted in accordance with a

special use permit issued by the Area Director.

(g) *Cabin sites*: Traditional and customary uses of existing cabins and related structures may be allowed to continue provided that such uses are compatible with the purposes for which the refuge was established.

(h) *Unattended property*: (1) Leaving any snowmobile, vessel, off-road vehicle or other personal property unattended for longer than 12 months without the prior permission of the Area Director is prohibited and any property so left may be impounded by the Area Director. This prohibition does not apply to personal property left unattended in a cache or cabin when used in conjunction with an authorized activity.

(2) In the event unattended property interferes with the safe and orderly management of part of the refuge, or causes damage to refuge resources, it may be impounded by the Area Director.

(i) *Firearms*: The possession, use, and transporting of firearms is authorized for hunting and personal protection in accordance with State and Federal laws unless specifically prohibited or otherwise restricted by the Area Director.

(j) *Sled dogs and household pets*: The general trespass provisions of § 26.21 shall not apply to household pets and sled or pack dogs under the control of their owners or handlers.

(k) *Permits*: The National Wildlife Refuge Rules (Subchapter C) provide in several sections that permits may be obtained from the Refuge Manager or Area Director. For activities involving the Alaska refuges subject to this rule, such permits are to be obtained from the Area Director.

(l) *Mining*:

(1) *Mining access permits*. (i) General rule—Notwithstanding the provisions of Subsection (d), no person shall enter, cross by surface transportation, or land aircraft upon, lands, waters or interests therein owned or controlled by the United States within an Alaskan National Wildlife Refuge subject to these rules for purposes of conducting mining operations, except in accordance with the provisions of a mining access permit issued by the Area Director. The issuance of a mining access permit shall not be interpreted as excusing the permittee from compliance with other existing State or Federal laws applicable to mining operations, and shall not be deemed to render valid any claim which is not otherwise valid under applicable law. Accordingly, the issuance of a mining access permit for mining operations on the claim shall not be deemed a waiver of the Secretary's authority to examine, and where

appropriate, to contest the validity of unpatented claims.

(ii) *Permit Application*—In applying for a mining access permit, each applicant shall set forth the following information concerning the proposed mining operations in a sworn statement which acknowledges that providing false information in support of the permit application is a violation of section 1001 of Title 18 of the United States Criminal Code:

(A) The name, mailing address and phone number of the permit applicant;

(B) The claim(s) name and description of type of claim (e.g. patented claim, mill site, unpatented claim, etc.);

(C) A map with a scale of not less than 1/2 inch to a mile (1:125,000) showing the survey or protraction grids on which there will be depicted the location of the claim(s). Contiguous claims and groups of claims in the same general area may be depicted on a single map so long as the individual claims are clearly identified;

(D) The date(s) of location along with a copy of location notice(s);

(E) The date and place of recordation and book and page number of recordation;

(F) The kind of mine and minerals produced (e.g. placer, lode, copper, gold);

(G) A description of the proposed mining operations, the proposed routes and methods of access, period of intended occupancy and operation at claim site, and major equipment to be used in the operations;

(H) A brief environmental summary which: (1) analyzes the environmental impacts of the proposed mining operations and routes and methods of access and the environmental impacts of any alternative routes and methods of access; and (2) describes those measures which will be incorporated into the proposed mining operations and the construction and use of access routes to minimize the anticipated adverse impacts upon the Refuge and its related values; and

(I) For unpatented claims within the Refuge the additional information shall be provided:

(1) The last year in which there was production from this claim or claim group and the amount of production (e.g. pounds, tons, market value, etc.);

(2) The person or company to whom the ore or concentrates were shipped;

(3) The quantity of known reserves on the claim remaining to be mined (e.g. cubic yards, tons, etc.) plus a description of the tests conducted and documents which support this estimation of quantity;

(4) The grade or quality of the known reserves on the claim remaining to be mined (e.g. ounces per cubic yard, assay, etc.) plus a description of the tests conducted and documents which support this estimation of grade or quality.

(J) If the permit applicant requests a single mining access permit for contiguous unpatented claims or a group of unpatented claims in the same general area, it shall be stated to what extent the mineral data requested in question 9 of this Subsection exists for each separate claim to be covered by the permit. Permit applications shall be sent to the Area Director, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99507.

(iii) *Issuance criteria*—(A) Within 45 days of receiving a mining access permit application containing the information required in paragraph (l)(1)(ii), the Area Director shall consider the following factors and decide whether to grant the permit and, if so, under what conditions or restrictions:

(1) For unpatented claims within the refuge whether the supplied mineral data supports a preliminary determination that the permit applicant is the holder of a valid existing right in the specified mining claim(s);

(2) The anticipated environmental impact of the proposed mining operations and routes and methods of access upon the refuge and its related values;

(3) The existence of reasonable and prudent alternatives to the proposed routes and methods of access which could minimize or avoid the adverse impacts of such access upon the refuge and its related values;

(4) The existence of other proposed mining operations on valid mining claims in the same general area and the possibility of consolidating routes and methods of access among such claims;

(5) Whether an Environmental Impact Statement must be prepared prior to the issuance of the access permit.

(B) If the review of the permit application cannot be completed within 45 days after its receipt, the Area Director shall notify the applicant and set forth the reasons why an additional period of time, not to exceed 30 days, is required to complete the review.

(C) A mining access permit shall not be granted if:

(1) in the case of unpatented mining claims within the refuge, it is the preliminary determination of the Area Director that the permit applicant is not the holder of valid existing rights in the claims; or

(2) the Area Director concludes that the proposed routes and methods of

access would constitute a nuisance or would significantly injure or adversely affect the Refuge and its related values, and that such nuisance, injury or effect could not be adequately mitigated through the imposition of reasonable conditions or restrictions in the mining access permit;

(3) a reasonable and prudent alternative exists to the proposed routes and methods of access which could minimize or avoid the adverse impacts of such access upon the Refuge and its related values; or

(4) it is determined that an Environmental Impact Statement must be prepared prior to the issuance of a mining access permit.

(iv) Appeals process—(A) Any permit applicant aggrieved by a decision of the Area Director in connection with the issuance or denial of a mining access permit may file with the Area Director a written statement setting forth in detail the respects in which the decision is contrary to, or in conflict with, the facts, the law, these regulations, or is otherwise in error. No such appeal will be considered unless it is filed with the Area Director within thirty (30) days after the date of notification to the permit applicant of the action or decision complained of. Upon receipt of the written statement from the permit applicant, the Area Director shall promptly review the action or decision and either reverse or reaffirm the original decision. If the Area Director reaffirms his original decision, he shall set forth the reasons therefor and forward his decision and the record on appeal to the Director, United States Fish and Wildlife Service, for review and final decision. Copies of the Area Director's decision on appeal shall be furnished to the permit applicant who shall have 20 days within which to file exceptions to the Area Director's decision. The Fish and Wildlife Service retains the discretion to initiate a hearing before the Office of Hearing and Appeals in a particular case. (See 43 CFR 4.700.)

(B) The official files of the Fish and Wildlife Service on the proposed mining operations and routes and methods of access, and any testimony and documents submitted by the parties on which the decision of the Area Director was based, shall constitute the record on appeal. The Area Director shall maintain the record under separate cover and shall certify at the time it is forwarded to the Director of the Fish and Wildlife Service that it is the record on which his decision was based. The Fish and Wildlife Service shall make the record available to the permit applicant upon request.

(C) If the Director considers the record inadequate to support the decision on appeal, he may request the production of such additional evidence or information as may be appropriate, or may remand the case to the Area Director, with appropriate instructions for further action.

(D) Within forty-five (45) days of receipt of the permit applicant's exceptions to the Area Director's decision, the Director shall make his final decision in writing; *provided, however,* that if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reasons for delay. The decision of the Director shall include (1) a statement of facts, (2) conclusions, and (3) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action on the mining access permit application.

(E) A decision of the Area Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be filed with the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

(v) Public inspection of documents— Any permit application and accompanying documentation submitted pursuant to the regulations of this Section shall be made available for public inspection at the Office of the Area Director. The availability of such records shall be governed by the rules and regulations found at 43 CFR Part 2, including the provisions therein regarding the confidentiality of commercial and financial information.

(National Wildlife Refuge Administration Act, 16 U.S.C. § 668dd *et seq.*; Fish and Wildlife Act of 1956, 16 U.S.C. § 742. *et seq.*; Federal Land Policy and Management Act, § 204(j), 43 U.S.C. § 1714(j).)

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# Reader Aids

Federal Register

Vol. 45, No. 44

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## INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

### Federal Register, Daily Issue:

- 202-783-3238 Subscription orders and problems (GPO) "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
- 202-523-5022 Washington, D.C.
- 312-663-0884 Chicago, Ill.
- 213-688-6694 Los Angeles, Calif.
- 202-523-3187 Scheduling of documents for publication
- 523-5240 Photo copies of documents appearing in the Federal Register
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- 523-5235 Public Briefings: "How To Use the Federal Register."

### Code of Federal Regulations (CFR):

- 523-3419
- 523-3517
- 523-5227 Index and Finding Aids

### Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

### Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S. -5282 Statutes at Large, and Index
- 275-3030 Slip Law Orders (GPO)

### Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
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**AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK**

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of

the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

**REMINDERS**

The "reminders" below identify documents that appeared in issues of the Federal Register 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

**Rules Going Into Effect Today**

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

**List of Public Laws**

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing March 3, 1980

