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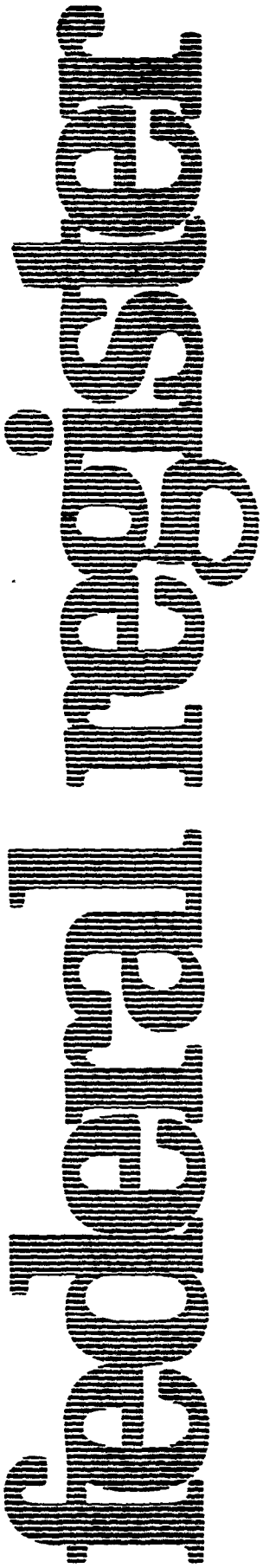

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Highlights

56324 **Rent Subsidies** HUD issues final rule for program whereby the government provides difference between approved rent and family's contribution; effective 9-29-80 (Part VIII of this issue)

56027 **Flood Insurance** FDIC revises regulations that relate to flood insurance protection required for loans secured by improved real estate or mobile homes located in areas with special flood hazards; effective 9-22-80

56304 **Construction Grants Program** EPA invites comment on proposed policy memorandum entitled "Criteria and Guidelines for Evaluating the Profit Element of Subagreements for Architectural/ Engineering Services"; comments by 10-15-80 (Part III of this issue)

56060 **Medicare** HHS/HCFA publishes regulations defining "radiological services" for which Medicare program provides for payment at 100 percent of reasonable charges; effective 9-22-80

56074 **Black Lung Benefits** HHS/SSA issues proposed rule regarding recovery of overpayments from benefits due survivors; comments by 10-21-80

56316 **Grant Programs—Food Stamps** USDA/FNS in a proposed rulemaking announces its intention to conduct a demonstration project; apply by 10-21-80; effective 8-22-80

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56046 **Natural Gas** DOE/FERC authorizes transportation of natural gas to end-users for the displacement of fuel oil; effective 8–31–80

56070 **Credit Practices** FTC announces availability of staff report on proposed trade regulation rule and requests comments by 10–21–80

56308, 56312 **Mine Safety and Health** Labor/MSHA proposes requirements for telephones and signaling devices, and amends requirements regarding mobile diesel-powered transportation equipment in mines; comments by 10–21–80 (Parts IV and V of this issue)

56074 **Alien Workers** Labor/ETA proposes requirement that employers provide temporary aliens in agriculture with meals; comments by 9–22–80

56082, 56093 **Veterans** VA proposes changes in Rules of Practice to reflect conformance with directive to improve Government regulations, and proposes regulations that protect confidentiality of certain medical records; comments by 9–22 and 10–31–80 (2 documents)

56054, 56057 **Postal Service** PS issues final rules concerning handling of matter not bearing postage, time limit for honoring address changes, delivery of mail with duel addresses, and use of ZIP codes; effective 9–21–80 (2 documents)

56104 **Grant Programs—Environmental Protection** EPA in a proposed rule has notified the Secretary of Agriculture of final rule regarding assistance for pesticide enforcement and applicator certification

56034, 56072 **Natural Gas** DOE/FERC issues regulations covering natural gas produced from tight formations, and proposes recommendations of areas for designation as tight formations; effective 9–22–80; comments by 9–29–80 (2 documents)

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 725

[Amdt. 15]

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule (1) defines the phrase "tobacco in the form not normally marketed by producers", (2) expands the inspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season, (3) strengthens the reporting requirements and expands the inspection requirements for tobacco purchased by dealers and warehousemen from processors or manufacturers, (4) requires dealers to report their gross receipts for each lot of tobacco purchased and resold, (5) requires dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ-79 for tobacco purchased from processors or manufacturers in the form not normally marketed by producers.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013. (202) 447-7935. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request form Thomas R. Burgess.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". On June 10, 1980, the proposed rule was published in the Federal Register (45 FR 39277). The public was given 30 days to comment on the proposal. The Department received from the public eleven comments. Since the 1980 marketing season is underway, dealers and warehousemen need to know now the changes provided in this rule. It is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553, and Executive Order 12044 is impractical and contrary to the public interest.

Discussion of Comments

1. Define the phrase "tobacco in the form not normally marketed by producers". Eleven comments—all favorable—were received regarding this proposal. No specific reason for favoring the proposal was given by the respondents.

2. Expand the inspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season. Eleven comments were received, all favoring the proposal. No specific reason for favoring the proposal was given by the respondents.

3. Strengthen the reporting requirements and expand the inspection requirements for tobacco purchased by dealers and warehousemen from processors and manufacturers. Eleven comments were received, all favoring the proposal. No specific reason for favoring the proposal was given by the respondents.

4. Require dealers to report their gross receipts for each lot of tobacco purchased and resold. Eleven comments were received, all favoring the proposal. No specific reason for favoring the proposal was given by the respondents.

5. Require dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ-79 for tobacco purchased from processors or manufacturers in the form not normally marketed by producers. Eleven comments were received, all favoring the proposal. No specific reason for favoring the proposal was given by the respondents.

The basic purpose of the proposed changes is to prevent dealers and warehousemen from substituting low quality, low price tobacco for good quality "excess" producer tobacco (tobacco produced in excess of 110 percent of a farm's marketing quota) to avoid the payment of marketing quota penalties. Current rules do not provide for adequate inspection by ASCS representatives of warehouse and dealer tobacco on hand at the end of the marketing season.

After giving careful consideration to all comments received the proposed rule is hereby adopted with the following changes: Paragraphs 725.99(g)(17) and 725.100(c)(6) as set forth in the proposed rule have been rewritten to clarify that warehousemen and dealers will be asssessed penalty based on the reinspection of carryover tobacco when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales after the initial certification and reconciliation.

Final Rule

Accordingly, 7 CFR Part 725 is amended to read as follows:

1. In § 725.51 paragraphs (oo), (pp), and (qq) are revised and a new paragraph (rr) is added to read as follows:

§ 725.51 Definitions

* * * * *

(oo) *Tobacco in the form not normally marketed by producers.* Tobacco leaves, stems, strips, scrap or parts thereof that are the result of green tobacco having been redried, green prized, stemmed, tipped, threshed or otherwise processed.

(pp) *Trucker.* A person who trucks or otherwise hauls tobacco for a producer, or any other person.

(qq) *Undermarketings.* The number of pounds by which the effective farm marketing quota is more than the number of pounds marketed.

(rr) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

2. Section 725.99 is amended by adding a new subparagraph (g)(17) as follows:

§ 729.99 Warehouseman's records and reports.

* * * * *

(g) * * *

(17) Before the next marketing season begins, carryover tobacco reported by the warehouseman as provided in (g)(16)(i), (ii) and (iii) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the warehouseman shall provide for the weighing of such tobacco which shall be witnessed by ASCS. The warehouseman shall furnish to ASCS at the time of weighing a certification as to the actual weight of the tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in (g)(16) of this section shall be used for the purpose of determining the amount of penalty, if penalty is due. Penalty will be assessed after the initial certification and reconciliation when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be creditited to the account as carryover tobacco.

3. In § 725.100 paragraph (a) is revised; paragraph (c) is amended by revising the first sentence in subparagraphs (4) and (5) and by adding a new subparagraph (6); and a new paragraph (g) is added.

§ 725.100 Dealer's records and reports.

* * * * *

(a) *Record of marketing.* Each dealer shall keep such records as will enable the dealer to furnish the State ASCS office for each lot of tobacco purchased by the dealer the following information:

(1)(i) The name of the warehouse through which the tobacco was purchased if the tobacco was purchased by the dealer at a warehouse sale, (ii) the name of the operator of the farm on which the tobacco was produced and the name of the seller if the tobacco was purchased by the dealer at a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller if the tobacco was purchased by the dealer at a nonauction sale from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer, and as to each lot of tobacco sold by the dealer the following information:

(i) Name of the warehouse through which the tobacco was sold if the tobacco was sold at a warehouse sale, and the name of the purchaser if the tobacco was sold at other than an auction warehouse sale.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Gross sale price.

(v) If tobacco bought by the dealer and carried over from a crop which was produced before the current crop is resold, the fact that such tobacco was bought and carried over.

* * * * *

(c) *Record and report of purchases and resales.*

* * * * *

(4) At the end of the dealer's annual marketing operation, but not later than December 15, the dealer shall for each kind of tobacco: * * *

(5) Notwithstanding the provisions of paragraph (c)(4) of this section, any dealer having tobacco transactions after December 15 shall make reports on Form MQ–79 at the end of each week, as provided in paragraph (c)(2).

(6) Before the next marketing season begins, carryover tobacco reported by the dealer as provided in subparagraph (c)(4) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the dealer shall provide for the weighing of such tobacco which shall be witnessed by ASCS. The dealer shall furnish to ASCS at the time of weighing a certification as to the actual weight of such tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification the initial weight together with the reweighed quantity, after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in (c)(4) of this section, shall be used for the purpose of determining penalty, if penalty is due. Penalty will be assessed after the initial certification and reconciliation when the redetermined pounds exceeds the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover tobacco.

* * * * *

(g) *Reporting of tobacco in the form not normally marketed by producers.* Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers under conditions provided in § 725.101(c) shall maintain on a separate Form MQ–79 a record of all such purchases and resales.

(4) § 725.101 paragraphs (a) and (b) are revised and a new paragraph (c) is added to read as follows:

§ 725.101 Dealer purchases of damaged tobacco or tobacco from processors or manufacturers.

(a) *Damaged tobacco.* Any dealer, warehouseman, or other person who plans to purchase tobacco that was damaged by fire, water, or any other cause shall prior to purchase report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that a representative of ASCS can determine the marketable value of such damaged tobacco, and so that the weighing and removal of such tobacco can be witnessed by a representative of ASCS. Any damaged tobacco purchased by the dealer before such plans are reported to the State ASCS office and before such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

(b) Purchase from processor or manufacturer. Any dealer, warehouseman, or other person who plans to purchase tobacco from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that a representative of ASCS can determine the marketable value of the tobacco, and whether the tobacco is in the form normally marketed by producers. The weighing and removal of the tobacco shall be witnessed by a respresentative of ASCS. Any tobacco purchased from processors or manufacturers before such plans are reported to the State ASCS office and before the tobacco is inspected by an ASCS representative shall be deemed to be excess tobacco and penalty at the full rate shall be due.

(c) Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers which is determined by an ASCS representative to be in the form not normally marketed by producers shall, before such tobacco is disposed of or blended with other tobacco in the form normally marketed by producers, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so as to allow an ASCS representative to witness the disposition of or the blending of such tobacco. Any such

tobacco purchased by a dealer, warehouseman, or other person and marketed, disposed of by any means, or blended with other tobacco before the State ASCS office has been timely notified shall be deemed to have been substituted for excess tobacco, and penalty at the full rate shall be due on each pound of such tobacco.

(Sections 301, 313, 314, 316, 317, 363, 372-375, 377, 378 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995, section 401, 63 Stat. 1054, as amended, sections 106.112, 125, 70 Stat. 191, 195, 198, as amended, section 16(e), 76 Stat. 606: (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372, 1377, 1378, 1421, 1813, 1824, 1836), (16 U.S.C. 590p(e)))

Signed at Washington, D.C., on August 12, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-25330 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 760

[Amdt. 2]

Indemnity Payment Programs: Beekeeper Indemnity Payment Program (1978-1981)

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the Beekeeper Indemnity Payment Program Regulations to provide that indemnity claims filed after June 15, 1979 will be paid on the basis of the earliest filing date.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, 4702 South Building, Washington, D.C. 20013 (202) 447-7997. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This regulation has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant."

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of this regulation contained in 7 CFR 1446.38-40 for need, currency, clarity and effectiveness will be made within the next five years.

The title and number of the Federal assistance program that this final rule applies to is: Title—Beekeeper Indemnity Payments, NUMBER—10.060 as found in the Catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A-95, was not used to assure that units of local government are informed of this action.

Section 207 of the Food and Agriculture Act of 1977, 91 Stat. 921, 7 U.S.C. 284, extended the authority of the Secretary to conduct the Beekeeper Indemnity Payment Program through September 30, 1981. On July 14, 1978, the Department published final regulations (43 FR 30264) to govern the conduct of the program through September 30, 1981. It is not mandatory that the program be conducted.

Since the proposed budget for the Department of Agriculture for fiscal year 1980 contained no provision for funding the Beekeeper Indemnity Payment Program, the Beekeeper Indemnity Payment Program Regulations were amended on June 15, 1979 to provide that the payment of claims filed after that date would be conditioned upon the availability of funds.

Subsequently, the Agriculture Appropriations Act for Fiscal Year 1980 authorized $2.89 million for the Beekeeper Indemnity Payment Program. The proposed budget for the Department for fiscal year 1981 again requests no funding for the program. All claims filed prior to June 15, 1979 have been paid. The Department now has remaining approximately $900,000 to pay an estimated $4.0 million in claims filed after June 15, 1979. In addition claims are continuing to be filed by beekeepers under the program.

On June 3, 1980, a Notice of Proposed Rulemaking was published in the Federal Register at 45 FR 37454, which proposed to pay the remaining claims filed after June 15, 1979 under the Beekeeper Indemnity Payment Program on the basis of the earliest filing date. Comments were solicited on this proposal or on any alternative proposals for payment of such claims. The deadline for receiving comments was July 18, 1980.

Comments on the method of disbursing funds were received from nineteen parties. Only one person commented in favor of making payments on the basis of the earliest filing date. Five parties commenting were opposed to making payments on the basis of the earliest filing date, but offered no alternative method. Thirteen parties suggested disbursing the available funds on a pro rata basis.

One of the primary concerns expressed in the comments was that making payments on the basis of the earliest filing date would favor beekeepers located in southern States. This position is not correct in that Department records indicate there is no significant difference in the patterns of filing claims by beekeepers located in the various States. Generally, beekeepers have filed their claims for losses in the fall and not at the time that the losses occurred. If payments are made on the basis of the earliest date of filing, over fifty percent of the claims filed prior to April 1, 1980, could be paid in full. Claims are continuing to be filed by beekeepers under the program as losses caused by pesticide are incurred. Therefore, if all claims filed were to be honored and payments were to be made on a pro rata basis, beekeepers filing claims from June 15, 1979 to any termination date established for the program would receive relatively small indemnities in proportion to their claims.

Final Rule

Accordingly, the regulation at 7 CFR 760.119 is revised to read as follows:

§ 760.119 Availability of funds.

Payment of indemnity claims filed after June 15, 1979, is contingent upon availability of funds to the Department to pay such claims. Claims filed after such date will be paid in full, in the order in which they were filed, to the extent that funds are available.

(Sec. 804, 84 Stat. 1382 (7 U.S.C. 135b note); sec. 1(27), 87 Stat. 237 (7 U.S.C. 135b note); and sec. 207, 91 Stat. 921 (7 U.S.C. 284 note))

Signed at Washington, D.C. on August 19, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-25708 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 266]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 24-30, 1980.

Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 24, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

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

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 19, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues very easy.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.566 Lemon Regulation 266.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period August 24, 1980, through August 30, 1980, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: August 20, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-25945 Filed 8-21-80; 1:38 pm]

BILLING CODE 3410-02-M

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7 CFR Part 926

Tokay Grapes Grown in San Joaquin County, Calif.; Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, AMS.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and rate of assessment for the 1980–81 fiscal period to be collected from handlers to support activities of the Industry Committee which locally administers the Federal marketing order for Tokay grapes grown in San Joaquin County, California. It also authorizes the carryover of unexpended funds from the 1979–80 fiscal period.

DATES: Effective April 1, 1980, through March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This final rule is issued under Marketing Order No. 926 (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Industry Committee, established under the order, and upon other information. It is found that the expenses, rate of assessment, and carryover of unexpended funds, as hereafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). This order requires that the rate of assessment for a particular fiscal year shall apply to all assessable fruit handled from the beginning of such year which began April 1, 1980. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, new § 926.220 (M.O. 926) is added to read as follows: (§ 926.220 expires March 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 926.220 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Industry Committee during the fiscal period April 1, 1980, through March 31, 1981, will amount to $153,040.

(b) The rate of assessment for said period payable by each handler in accordance with § 926.46 is fixed at $0.10 per No. 38K grape lug (as specified in § 1380.19(14) of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes.

(c) A portion of the unexpended assessment funds in excess of expenses incurred during the fiscal period ended March 31, 1980, shall be carried over as a reserve in accordance with § 926.47.

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

Dated: August 18, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-25651 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D, Docket No. R-0306]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) imposes Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. The Act authorizes the Federal Reserve to require reports from depository institutions as necessary or desirable to monitor and control monetary and credit aggregates, provides access to the Federal Reserve discount window for depository institutions with transaction accounts or nonpersonal time deposits, and requires the Federal Reserve to price its services and provide access to system services to all depository institutions. The Board has adopted a revised Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to implement the reserve requirement provisions of the Monetary Control Act. The revised reserve requirement regulation will also apply to Edge Act and Agreement Corporations and United States branches and agencies of foreign banks.

DATE: November 13, 1980. On that date, depository institutions, U.S. branches and agencies of foreign banks, and Edge and Agreement Corporations will be required to commence maintaining required reserves under revised Regulation D based upon deposits held during the seven-day reserve computation period beginning October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625), Paul S. Pilecki, Attorney (202/452-3281), or Thomas D. Simpson, Senior Economist (202/452-3361), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 ("Act") (Title I of Pub. L. 96-221; 94 Stat. 132) imposes Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. Depository institutions subject to reserve requirements include any Federally-insured commercial or savings bank, or any such bank that is eligible to become insured by the Federal Deposit Insurance Corporation; any mutual or stock savings bank; any savings and loan association that is a member of a Federal Home Loan Bank, insured by, or eligible to apply for insurance with, the Federal Savings and Loan Insurance Corporation; and any credit union that is insured by, or eligible to apply for insurance with, the National Credit Union Administration Board. The reserve requirements of the Act will apply to United States branches and agencies of foreign banks with total worldwide consolidated bank assets in excess of $1 billion, and to Edge and Agreement Corporations. In this regard, the Act provides that nothing in the reserve requirement provisions of the Act limits the authority of the Board under section 7 of the International Banking Act of 1978 ("IBA") (12 U.S.C. 3105). On March 19, 1980, the Board adopted amendments to Regulation D to impose reserve requirements on such branches and agencies (45 FR 19216); however, as discussed below, the revised regulation modifies certain aspects of that action in view of the enactment of the Monetary Control Act. In addition, since U.S. branches of foreign banks are eligible to apply for Federal deposit insurance, Regulation D also will apply to foreign banks with total worldwide consolidated bank assets of $1 billion or less in the same manner as applicable to other nonmember depository institutions.

In light of the enactment of the Monetary Control Act, on June 4, 1980, the Board requested public comment (45 FR 38388) on a revised Regulation D to implement the provisions of the Act. The period for public comment expired on July 15, 1980. After consideration of the more than 750 comments received from the public (primarily from depository institutions and financial institution trade groups), the Board has adopted a revised Regulation D substantially in the form proposed. However, certain modifications were made, as discussed below, relating primarily to the definition of a transaction account and in the area of nonpersonal time deposits. In addition, certain technical changes were made in order to clarify regulation.

Digest of Board Actions

The following is a general description of certain aspects of the Board's actions with respect to the imposition of reserve requirements that are broadly applicable to all depository institutions. A detailed discussion of the reserve requirements and various technical issues follows this digest.

General Requirement. A depository institution is required to maintain reserves against its transaction accounts and nonpersonal time deposits. An institution's reserve requirements are computed on the basis of the institution's average daily net deposit balances during a seven-day period beginning each Thursday (the "computation period"). Required reserve balances must be maintained at a Federal Reserve Bank during a corresponding seven-day period (the "maintenance period") which begins on the second Thursday following the end of the computation period. However, in determining the reserve balance to be held with the Federal Reserve during the maintenance period, the average daily United States currency and coin held during the computation period is deducted from the institution's reserve requirements. The first reserve maintenance period under revised Regulation D will begin November 13, 1980 based on deposits held during the reserve computation period beginning October 30, 1980.

Transaction Accounts. A "transaction account" is defined to include demand deposits, negotiable order of withdrawal (NOW) accounts, savings accounts subject to automatic transfers (ATS), share draft accounts, accounts that permit payments to third parties through use of a check, draft, negotiable instrument, debit card or other similar items, accounts under the terms of which a depositor is *permitted* to make more than three preauthorized or telephone transfers per month (whether to another account of the depositor or to a third party), and accounts that permit a depositor to make payments to third parties through automated teller machines or remote service units. An account is not regarded as a transaction account merely because it permits repayments or transfers in connection with loans made by the institution itself (as originator or servicer). Whether an account is a transaction account by virtue of the number of telephone or preauthorized transfers (excluding loan repayments) permitted is to be determined based upon the terms of the account contract or by practice of the depository institution and not on the basis of the actual number of transfers made in a particular calendar month. Institutions are expected to establish adequate monitoring procedures or systems to insure that the number of transfers made in a calendar month does not exceed the permissible amount in order for such accounts not to be regarded as transaction accounts.

The reserve ratio on transaction accounts will be 3 percent on amounts of $25 million or less and 12 percent on amounts in excess of $25 million. In

computing the amount of its transaction accounts, a depository institution is permitted to deduct all cash items in process of collection and balances due on demand from other depository institutions.

Nonpersonal Time Deposits. The Act defines "nonpersonal time deposit" as a (1) time deposit or account that is transferable or (2) a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor that is not a natural person. Under the regulation, a time deposit includes certificates of deposit, certificate accounts, credit union share certificates, notice accounts, and regular accounts, savings deposits and share accounts that are not regarded as transaction accounts. Time deposits issued to and held by natural persons are not subject to reserve requirements if they are not transferable. Time deposits that are issued in transferable form on or after October 1, 1980 will be regarded as nonpersonal time deposits because of the transferability feature. The definition of nonpersonal time deposit excludes a time deposit issued to and held by a natural person on or after October 1, 1980, if it includes on the deposit instrument or other document evidencing the account a specific statement that it is not transferable, or is transferable *only* on the books of, or with the permission of, the depository institution. To meet this requirement, a depository institution may use the following terminology or any other statement of equivalent legal effect: "Not transferable;" "Nontransferable;" "Not transferable, as defined in 12 CFR Part 204;" or "Not transferable except on the books of the depository institution." However, the words "Not negotiable" and "Nonnegotiable" will not meet this requirement. Depository institutions may stamp the required terminology on existing stocks of deposit documents.

A transferable time deposit issued before October 1, 1980, to a natural person will not be regarded as a nonpersonal time deposit. Prior to that date, depository institutions shall refrain from issuing transferable time deposits to natural persons that might otherwise be issued in the name of a corporation or other organization for the purpose of avoiding reserve requirements.

Since the provision of the Act defining transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements through the transfer of time deposits from individuals to organizations or governmental units, the Board will not regard as "transfers" a number of transactions that normally would not be undertaken as reserve avoidance devices. A time deposit will not be regarded as "transferable" because it can be pledged as collateral for a loan, or because title or beneficial interest in the deposit can be passed in circumstances involving death, bankruptcy, divorce, marriage, judicial attachment, incompetency, or by operation of law. In addition, the reissuance of a time deposit by a depository institution in the name of another will not be regarded as a transfer.

Nontransferable time deposits representing funds held pursuant to Individual Retirement Accounts (IRA) and Keogh (H.R. 10) Plans will be regarded as personal time deposits. Escrow accounts, such as funds held for tax or insurance payments, will be regarded as personal time deposits if the depositor is a natural person and the other conditions of a time deposit are met, even though the funds are held by the depository institution or other organization as escrow agent. In addition, the Board will regard nontransferable time deposits held by fiduciaries as personal time deposits exempt from reserve requirements where the entire beneficial interest in the funds is held by natural persons. A natural person is an individual or a sole proprietorship. A partnership, corporation (including one solely owned by an individual), governmental unit, or other association or organization (including a not-for-profit organization) is *not* a natural person.

Depository institutions will be permitted to estimate (using standard sampling methods) the breakdown between personal an nonpersonal categories of fixed maturity time deposits issued prior to October 30, 1980, the beginning of the first deposit reporting period under the revised regulation. All existing savings deposits, time deposit open accounts and notice accounts, as well as fixed maturity time deposits issued on or after October 30, 1980, are required to be classified as either personal or nonpersonal. Savings deposits, time deposit open accounts and notice accounts may not be estimated since these accounts do not have a stated maturity and if estimation were permitted for such accounts, they would always be reported on the basis of estimates rather than actual amounts.

Nonpersonal time deposits with original maturities of 14 days or more but less than four years will be subject to a reserve requirement ratio of 3 per cent. Nonpersonal time deposits in the form of borrowings from non-U.S. offices of unrelated depository institutions with original maturities of less than four years also will be subject to a reserved requirement of 3 per cent. All nonpersonal time deposits with original maturities of four years or more will be subject to a zero per cent reserve requirement.

Eligible Reserve Assets. The reserves of a depository institution may be held in the form of vault cash or a balance maintained at the Federal Reserve Bank, either directly or indirectly on a pass-through basis. A depository institution that is a member of the Federal Reserve System must hold its required reserve balances directly with its Federal Reserve Bank. A nonmember depository institution may hold its required reserve balance directly with its Federal Reserve Bank or, alternatively, it may pass its required reserve balance to the Federal Reserve through a correspondent. Such a correspondent may be a depository institution that holds a required reserve balance directly with the Federal Reserve, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility. A depository institution is permitted to use all of its vault cash, that is, United States currency and coin, as eligible reserve assets. However, silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value will not be regarded as vault cash.

On June 26, 1980, the Board announced (45 FR 44962) proposed procedures for nonmember depository institutions to follow if they maintain required reserves under a pass-through arrangement. The Board's final pass-through procedures will be announced shortly.

Phase-in of Reserve Requirements. (1) *Member banks* will be phased down to the new structure of reserve requirements over a three and one-half year period from the effective date of the Act, September 1, 1980. During this period, reserves required to be maintained will equal required reserves under the reserve structure in effect on August 31, 1980 ("old structure") less a portion of the difference between reserves calculated under the structure of the Act ("new structure") and the old structure. In order to relieve the reporting burden during the phase-in period, a member bank's required reserves will be computed under the old structure using its average reserve ratio on time deposits during the 14-day period from July 24–August 6, 1980. This average ratio will be used throughout the phase-in period to compute required

reserves on time deposits under the old structure.

Member banks will begin to phase down to the new reserve requirement structure during the reserve maintenance period beginning November 13, 1980. At that time, required reserves will be reduced by ¼ of the difference between reserves under the old structure and the new structure. The phase-down adjustment will increase by ⅛ of the difference between reserves computed under the old and new structures beginning in September 1981, and at each six-month interval thereafter until the new reserve structure is phased in fully.

(2) *Nonmember depository institutions* will be required to hold an amount equal to ⅛ of reserve requirements calculated under the Act beginning with the reserve maintenance period beginning November 13, 1980. During the seven-day maintenance period beginning on that date, a nonmember depository institution will maintain reserves based on its deposits and vault cash outstanding during the seven-day computation period beginning October 30, 1980. Thereafter, the amount of required reserves will increase by an additional ⅛ of the reserve requirements under the Act on the first maintenance period beginning after September 1, of each succeeding year until the new reserve structure is implemented fully.

(3) *United States branches and agencies* of foreign banks will phase in to the new reserve requirements on a quarterly basis over a two-year period beginning November 13, 1980.

(4) *Reserve requirements on NOW accounts* outside New England, New York and New Jersey, authorized pursuant to Federal law on December 31, 1980, will not be subject to the phase-in provisions.

Quarterly Reporting and Reserve Maintenance. To ease the reporting burden and Reserve Bank administration, the Board has adopted a procedure of quarterly reporting and reserve maintenance for institutions that have less than $5 million in total deposits. This procedure will begin in January 1981. This procedure will not apply to Edge or Agreement Corporations or to U.S. branches and agencies of foreign banks.

Deferred Effective Date for Smaller Institutions. To further relieve potential operational problems during the initial period of reserve maintenance by depository institutions, the Board has deferred until May 1981 reserve requirements and reporting for institutions with total deposits of less than $1 million. At that time, the Board will make a determination as to whether to continue to defer reserve requirements on such institutions.

Contemporaneous Reserve Accounting. The Board is disposed toward returning to contemporaneous reserve accounting, possibly by September 1981, if a further investigation indicates that such a system is operationally practical.

Detailed Discussion

Transaction Accounts

Definition. The Board proposed to define transaction accounts to include all demand deposits, negotiable order of withdrawal (NOW) accounts, savings accounts subject to automatic transfer (ATS), share draft accounts, accounts subject to preauthorized or telephone transfer or withdrawal and all accounts that permit the account holder to make third-party payments using automated teller machines (ATMs) or remote service units (RSUs). The Board invited comment on the desirability and feasibility of exempting from reserve requirements those accounts subject to preauthorized or telephone transfers that are limited to a minimal number of transfers per month for special purposes, such as loan repayments and occasional transfers or withdrawals by telephone from a savings account to a checking account.

Comments from the public indicated that the proposed definition of a transaction account was too broad, that accounts that were not normally used for transaction purposes would be covered and that the proposal could adversely affect the level of services offered by depository institutions. Consequently, the Board has narrowed the definition of the term "transaction account" so as not to interfere with occasional withdrawal or payment arrangements. Under the regulation, "transaction account" includes demand deposits, NOW accounts, ATS accounts, share draft accounts, accounts that permit payments to third parties through use of checks, drafts, negotiable instruments, debit cards or other similar items, accounts that permit a depositor to make payments to third parties through ATMs or RSUs, and accounts that permit a depositor to make more than three telephone or preauthorized transfers per calendar month. Under this approach, those accounts that are actively used for transaction purposes will be subject to transaction account reserve requirements.

With regard to accounts subject to telephone or preauthorized transfer, the determination of whether such an account is a transaction account must be made on the basis of the number of transfers *authorized* in a calendar month under the terms of the account agreement rather than on the basis of the number of transfers *actually* made in a particular month. A preauthorized transfer includes any arrangement by the depository institution to pay a third party from the account of a depositor upon written or oral instruction (including an order received through an automated clearing house (ACH)), or any arrangement by a depository institution to pay a third party from the account of the depositor at a predetermined time or on a fixed schedule. For example, if under the terms of a savings account agreement (written or oral) or if permitted by custom or practice of the institution a depositor is allowed to make more than three telephone transfers during a calendar month, including transfers to third parties for purposes of making payments or transfers to another account, then such an account would be a transaction account. This account would be a transaction account at all times even if a depositor never made more than three transfers during a particular calendar month.

In order for an account that permits telephone or preauthorized transfers to be exempt from transaction account reserve requirements, the account must provide that no more than three such transfers per calendar month are permitted and the account must not otherwise meet the definition of a transaction account. A depository institution is required to establish a system or other procedure to insure that no more than three such transfers are made during any calendar month from such accounts. A savings account will not be regarded as a transaction account merely because it permits the depositor to make loan repayments and pay associated expenses, such as insurance and escrow requirements, to the institution itself (as servicer or originator). (Arrangements providing for credit extended to cover checks drawn on a zero balance or low balance account are regarded as ATS accounts.) In addition, an account would not be regarded as a transaction account because withdrawals to be paid directly to the depositor could be effected by telephone or preauthorized order. All other telephone and preauthorized transfers, including those made to third parties or to another deposit account of the same depositor, would count toward the three permissible transfers per month.

Summary of Transaction Account Classifications Always Regarded as Transaction Accounts

1. Demand deposits
2. NOW accounts
3. Share draft accounts
4. ATS accounts
5. Accounts that permit third party payments through ATMs or RSUs
6. Accounts that permit third party payments through use of checks, drafts, negotiable instruments, debit cards or other similar items.

Accounts Regarded as Transaction Accounts If More Than Three of the Following Transactions Per Calendar Month Are Permitted To Be Made by Telephone or Preauthorized Order or Instruction

1. Payments or transfers to third parties
2. Transfers to another account of the depositor at the same institution
3. Transfers to an account at another depository institution

Not Regarded as Transaction Accounts (Unless Specified Above)

1. Accounts that permit telephone or preauthorized transfers or transfers by ATMs or RSUs to repay loans made or serviced by the same depository institution
2. Accounts that permit telephone or preauthorized withdrawals where the proceeds are to be mailed to or picked up by the depositor
3. Accounts that permit transfers to other accounts of the depositor at the same institution through ATMs or RSUs
4. Accounts that permit three or less telephone or preauthorized payments or transfers to third parties or to other accounts

Bona Fide Cash Management Arrangements. In determining the amount of outstanding transaction accounts to which the reserve ratio will apply, a depository institution shall not treat overdrafts in a demand deposit account as negative demand deposits. Since overdrafts are properly reflected on an institution's books as assets, they shall not be netted against positive balances in other transaction accounts; for purposes of reporting deposits, accounts in overdraft status shall be regarded as having a zero balance. However, under present interpretations, in cases where a customer has multiple demand deposit accounts with a member bank, overdrafts in one account pursuant to a *bona fide* cash management arrangement are permitted to be netted against demand balances in other accounts for reserve requirement purposes. Under revised Regulation D, depository institutions will be permitted to continue this practice.

Computation of Net Transaction Accounts. In computing demand deposit reserve requirements, member banks currently are permitted to deduct from their gross demand deposits cash items in the process of collection ("CIPCs") and demand balances due from other banks. The purpose of this deduction is to prevent situations in which more than one institution holds required reserves against the same deposit liability to the nonbank public.

The Board requested comment on the desirability of substituting an exemption from reserve requirements for balances "due to" depository institutions for a "due from" deduction. It was noted that such a treatment of "due from's" and "due to's" is more consistent with an institutional environment in which all depository institutions are subject directly to Federal reserve requirements and, in such an environment, there is no longer a need to control the deposits of nonmember institutions indirectly through reserve requirements on the deposits nonmembers hold with their member bank correspondents. Moreover, it was suggested that such a treatment of interbank transactions would reduce the risk that distortions in measures of the monetary aggregates could arise from the clearing of checks and improve monetary control by removing one source of disturbance to the multiplier connecting reserves to the money stock.

Comment from the public generally was adverse on this issue, indicating that such an approach would be operationally burdensome. In view of the comments received, the Board has determined not to adopt this procedure at this time, but will continue to study the matter. Consequently, a depository institution generally will be permitted to deduct all cash items in process of collection and all balances due on demand from U.S. offices of other institutions subject to Federal reserve requirements from the sum of all transaction accounts in computing reserve requirements. Although requests have been received by the Board to expand the definition of CIPC to include credit card sales slips, the Board has determined that credit card sales slips will continue not to be regarded as cash items in process of collection.

Reserve Requirement Ratio. The Act specifies that any reserve requirement imposed by the Board shall be solely for the purpose of implementing monetary policy and shall be applied uniformly to all transaction accounts at all depository institutions. A reserve ratio of 3 per cent on transaction accounts of $25 million or less is established by the Act. This low reserve requirement tranche will be adjusted annually beginning in 1982 based on the change in the total of transaction accounts at all depository institutions during the previous year. With regard to transaction accounts in excess of $25 million, the Board has established a reserve ratio of 12 per cent, the initial ratio established by law. This ratio may be varied within a range of from 8 to 14 per cent.

Nonpersonal Time Deposits

Definition. The Act defines "nonpersonal time deposit" as a (1) transferable time deposit or account, or (2) a time deposit or account representing funds deposited to the credit of or in which any beneficial interest is held by a depositor that is not a natural person. Nontransferable time deposits solely in the name of, or in which the entire beneficial interest is held by, a natural person are not to be subject to reserve requirements. Under the revised Regulation D, the term "savings deposit" will continue to be included in the definition of "time deposit;" thus any savings deposit that is not otherwise regarded as a transaction account and that is held by a business or nonprofit organization or a domestic governmental unit would be regarded as a nonpersonal time deposit.

Time deposits that are issued in transferable form on or after October 1, 1980 will be regarded as nonpersonal time deposits because of the transferability feature. The provision of the Act that defines transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements through the transfer of time deposits from individuals to organizations or governmental units. Accordingly, the Board has determined that a transferable time deposit issued before October 1, 1980, to a natural person in a denomination of less than $100,000 would not be regarded as a nonpersonal time deposit.[1] In addition, a transferable time deposit of *any* denomination issued to a natural person before that date will be regarded as exempt from the reserve requirement on nonpersonal time deposits. The definition of nonpersonal time deposit excludes a time deposit issued to and held by a natural person on or after October 1, 1980, if it includes on its face a statement that it is not

[1] The date was originally proposed as July 15, 1980. However, in response to numerous comments expressing concern over the ability of institutions to meet this deadline, the Board modified the date to September 1, 1980 (see 45 FR 47846). This date has been modified further to October 1, 1980.

transferable or if it is transferable only on the books of, or with the permission of, the depository institution. To meet this requirement, a depository institution may use the following terminology or any other statement of equivalent legal effect: "Not Transferable;" "Nontransferable;" "Not transferable, as defined in 12 CFR Part 204;" or "Not transferable except on the books of the depository institution." However, the words "Not negotiable" and "Nonnegotiable" will not meet this requirement since such terms would not prohibit the depositor from engaging in certain types of transactions that could lead to an evasion of reserve requirements. In this regard, the transferee of a nonnegotiable time deposit would not be a holder in due course and would not have the ability to cut off certain defenses of an obligor. Although such a transferee would be in a less desirable position vis-a-vis a transferee of a negotiable time deposit, an exchange for value can be made and reserve avoidance transactions would be possible. Consequently, in order to prevent this possibility, a time deposit issued to a natual person on or after October 1, 1980 must be nontransferable in order to be exempt from reserve requirements.

Depository institutions may stamp, type or otherwise affix the required legend to existing stocks of deposit documents. Any personal time deposit or account originally issued before October 1, 1980, would not require a legend to be exempt from reserve requirements, including time deposits that automatically renew after that date and accounts to which additional funds can be added. The required legend must appear on the document that evidences an account issued on or after October 1, 1980 whether in certificate, passbook, statement, or book-entry form.

Depository institutions should not issue time deposits in the name of natural person prior to October 1 that normally would be issued in the name of a corporation or other organization. The Board expects that depository institutions will observe the grandfather date for transferable personal time deposits in good faith.

Transferability. A number of comments received from the public raised questions concerning the potential limitations that could be imposed by designating a time deposit "not transferable." As stated above, the provision of the Act including transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements by transferring time deposits from natural persons to nonexempt entities. Accordingly, the Board will not regard a time deposit as "transferable" although it can be pledged as collateral for a loan from any lender, or even if title or beneficial interest in the deposit or account can be passed on in circumstances arising from death, bankruptcy, divorce, marriage, incompetency, attachment or otherwise by operation of law. In addition, the reissuance of a time deposit by an institution in the name of another or the addition or subtraction of names on the time deposit will not be regarded as a transfer. In this regard, a depository institution's involvement in the transaction would enable it to know if any beneficial interest in the time deposit is being acquired by other than a natural person, and, thus, the appropriate reserve requirement change could be made.

IRA and Keogh Plan Time Deposits and Escrow Funds. The Monetary Control Act provides that any time deposit held in the name of a depositor that is not a natural person is subject to reserve requirements on nonpersonal time deposits. Under this provision IRA and Keogh Plan time deposits, which can only be issued to individuals, would be treated as nonpersonal time deposits since they are held by the depository institution as trustee or custodian due to the technical requirements of the Internal Revenue Code. Since these deposits are indistinguishable from other personal time deposits and are regarded by the depositor as his own funds subject to his direct control, the Board will regard such funds as personal time deposits.

In addition, escrow accounts, such as funds held for tax or insurance payments, will be regarded as personal time deposits if the depositor is a natural person and the other conditions of a time deposit are met, notwithstanding that the funds are held by the depository institution or other organization as escrow agent. (If escrow funds are held in any other type of deposit account, they will be regarded as a transaction account.)

Time Deposits Held by Trustees. A number of commentators raised the issue as to the appropriate treatment of time deposits held by trustees and other fiduciaries where the entire beneficial interest is held by natural persons. The Board believes that the imposition of reserve requirements on such funds is not necessary for the conduct of monetary policy. Therefore, any nontransferable time deposit held in the name of a trustee or other fiduciary, whether or not a natural person, will be regarded as a personal time deposit if the entire beneficial interest is held by natural persons. A nontransferable time deposit that is an asset of a pension fund would normally be regarded as a personal time deposit since the entire benefical interest of such funds normally is held by natural persons.

Definition of Natural Person. Consistent with its longstanding positions currently embodied in Regulations D and Q as to what constitutes an individual for purposes of maintaining a NOW, ATS, or savings account, the Board will regard a "natural person" to consist of an individual and a sole proprietorship. "Natural person" will not include a partnership, corporation (including one solely owned by an individual), governmental unit, or other association or organization.

Estimation of Personal Time Deposits. A number of depository institutions inquired during the comment period whether they would be permitted to estimate the breakdown between the amount of outstanding personal and nonpersonal time deposits. The Board has determined to permit depository institutions to estimate (using standard sampling methods) funds held in fixed maturity time deposits issued before October 30, 1980, the beginning of the first computation period for reserve requirements under the revised regulation.

Amounts of personal and nonpersonal time deposits held in savings accounts, time deposit open accounts and notice accounts may not be estimated since such accounts do not have a stated maturity and reliance on estimates of such accounts, therefore, would continue indefinitely into the future. An institution will be required to classify as personal or nonpersonal all existing savings, time deposit open accounts and notice accounts as well as new fixed maturity time deposits issued on or after October 30, 1980.

Maturity of Time Deposits. The Board has adopted its proposal to shorten the minimum maturity of time deposits for purposes of Regulations D and Q from the present 30 days to 14 days. The Board believes that the shorter minimum maturity on time deposits will improve the competitive position of domestic depository institutions vis-a-vis open market instruments and foreign banking offices. Beginning October 30, 1980, member banks and U.S. branches and agencies of foreign banks that are subject to Regulation Q (12 CFR Part 217) may issue time deposits with original maturities between 14 and 29 days issued in denominations of $100,000 or more and pay interest on

such deposits at any rate since there are no Federal interest rate limitations on time deposits issued in such denominations. It is anticipated that the other Federal financial institution regulatory agencies will consider taking similar action with respect to the definition of the term time deposit and that the Depository Institutions Deregulation Committee will consider the establishment of an interest rate ceiling on time deposits under $100,000 with maturities of 14 to 29 days.

Gross Borrowings From Non-U.S. Offices of Unrelated Institutions. The Board has determined that the term time deposit also will include, regardless of maturity, a promissory note, an acknowledgment of advance, or a similar obligation that is issued to any office located outside the United States of another depository institution or another foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under § 217.3(g) of Regulation Q (12 CFR Part 217.3(g)).

Reserve Requirement Ratio. The Board has established a reserve ratio of 3 per cent on nonpersonal time deposits with original maturities of less than four years. Nonpersonal time deposits with original maturities of four years or more will be subject to a zero per cent reserve ratio.

Treatment of Promissory Notes, Due Bills and Other Miscellaneous Obligations of Depository Institutions

Regulation D currently defines as deposits a number of sources of funds that frequently are not classified as deposits for other purposes. The Board will continue to regard as deposits promissory notes (commercial paper), ineligible acceptances (finance bills), due bills, acknowledgments of advance, repurchase agreements against assets other than obligations of, or fully-guaranteed as to principal and interest by, the United States government and its agencies, and funds supplied from nondepository affiliates. Generally, such obligations having original maturities of less than 14 days will be regarded as demand deposits and will be subject to the reserve requirement on transaction accounts; those having maturities of 14 days or more will be regarded as nonpersonal time deposits, if transferable or held by a depositor other than a natural person. Under this approach, certificates of indebtedness issued by credit unions and mortgage-backed bonds and commercial paper issued by all depository institutions including savings and loan associations will be defined as deposits. While such obligations with original maturities of four years or more will be regarded as time deposits, they will be subject to a zero percent reserve requirement.

Subordinated Notes. Under Regulations D and Q (Interest on Deposits) subordinated capital debt of member banks is not regarded as a deposit subject to reserve requirements or interest rate limitations provided that certain conditions are met, including a minimum maturity of seven years or more. The Board proposed to retain these conditions for depository institutions. In this regard, the Federal Deposit Insurance Corporation has similar rules concerning issuance of subordinated notes exempt from interest rate limitations by insured nonmember commercial banks (see 12 CFR Part 329). For thrift institutions, the Board proposed a similar exemption from reserve requirements for subordinated capital debt. Such a debt obligation would be exempt from reserve requirements if it would have a minimum original maturity of seven years or more and was approved by the institution's primary Federal supervisor or was issued under the rules of the primary Federal supervisor. The Board has adopted these proposals as published.

Obligations of Nondepository Affiliates. The Board has adopted its proposal to revise the reserve treatment of funds advanced by affiliates to depository institutions. At present, deposits of member banks include the liability of an affiliate that it has issued to the extent that the proceeds are used for the purpose of supplying funds to the affiliated institution. However, these rules relating to determination of deposit status of such obligations are complex. In order to simplify the determination of the deposit status of affiliate obligations, the Board will apply the following rules. An obligation issued by the affiliate will not be regarded as a deposit of the affiliated depository institution if the obligation has a maturity of four years or more. In addition, an obligation issued by an affiliate will not be regarded as a deposit of the affiliated depository institution if the obligation would not have been a deposit had it been issued directly by the affiliated depository institution. For example, a borrowing by an affiliate from an unaffiliated depository institution will not be regarded as a deposit of the affiliated depository institution. However, if the proceeds from such obligations are placed with the affiliated depository institution in the form of a deposit or other nonexempt borrowing, then such funds are reservable to the affiliated depository institution. An obligation of a nondepository affiliate will be regarded as a deposit if the obligation issued by the affiliate would have been a deposit had it been issued directly by the affiliated depository institution. For example, a borrowing by an affiliate from a nondepository business organization will be regarded as a deposit of the affiliated depository institution if the funds are supplied to the depository institution by the affiliate. If the affiliate's obligation is determined to be a deposit, then the appropriate reserve ratio to be applied will be determined by the shorter of the maturity of the affiliate's obligation or the maturity of the obligation issued to the affiliate by its affiliated depository institution. If the affiliate's obligation is determined to be a deposit and the proceeds are used to purchase assets, then the appropriate reserve ratio to be applied will be determined by the shorter of the affiliate's obligation or the remaining maturity of the assets purchased.

Due Bills. A due bill is a promise by the depository institution to deliver at some future date a security purchased by the institution's customer. Under existing provisions, due bills issued or undertaken by a member bank principally as a means of obtaining funds to be used in its banking business are regarded as deposits subject to reserves. However, due bills that are not issued principally as a means of obtaining funds to be used in the banking business are deposits only if they are not collateralized with a similar security within three days after issuance. The principal questions that arise in connection with these transactions involve whether a member bank is utilizing due bill transactions as a means of obtaining funds principally for use in its banking business and whether such obligations are collateralized with a "similar" security.

In order to minimize compliance and enforcement problems involving due bills, the Board proposed to revise Regulation D so that *all* due bills would be reservable deposits from the date of issuance without regard to the purpose of the due bill unless collateralized within three days from date of issuance by a security *identical* to the security purchased by the depository institution's customer.

Comments from the public indicated that the requirement that securities identical to those purchased be used as collateral would place dealer banks at a significant competitive disadvantage to nonbank dealers and could impair the market for U.S. government securities. In view of these comments, the Board has adopted the proposed simplifications

concerning due bills in modified form, that is, eliminating the distinction between *bona fide* and other due bills, but requiring that the collateral provided by *similar* to, rather than identical to, the securities purchased. In this regard, a security will be regarded as "similar" if it is of the same type and if its maturity is comparable to that of the obligation purchased by the customer. A due bill that remains uncollateralized after three business days is a deposit from that time forward. In addition, the Board is reviewing other aspects relating to due bills and may adopt additional operational safeguards on due bills at some future date.

Eurocurrency Reserve Requirement

Under the Act, the Board's authority to establish a reserve requirement necessary for the implementation of monetary policy on Eurocurrency transactions is extended to cover all domestic depository institutions. In addition to imposing basic reserve requirements on all depository institutions, the Board is authorized also to place reserve requirements on: net borrowings from related foreign offices, net borrowing from unaffiliated foreign depository institutions, loans to United States residents made by overseas offices of depository institutions located in the United States, and sales of assets by depository institutions in the United States to their overseas offices. With the exception of net borrowings from unaffiliated foreign depository institutions, these are essentially the same categories that are reservable under Regulation D currently. As explained below, using its basic reserve requirement authority as well as a portion of its Eurocurrency reserve requirement authority, the Board has determined to continue to subject to reserve requirements the same categories of transactions that currently are reservable as Eurocurrency transactions, except that the proceeds of sales to foreign branches of all assets—rather than only domestic assets—will be reservable. Loans to U.S. residents made by non-U.S. offices of foreign banks will not be reservable.

Under the Board's proposed regulations, borrowings from foreign offices of unaffiliated depository institutions would continue to be reservable on a gross rather than a net basis. U.S. agencies and branches of foreign banks and some large domestic banks objected to the proposal to reserve such liabilities on a gross basis. These institutions indicated their view that the Monetary Control Act authorizes the Board to impose reserve requirements on borrowings from unaffiliated institutions only on a net basis. The Board has determined to treat these borrowings on a gross basis as time deposits under the basic reserve requirement authority of the Board rather than under the Board's additional Eurocurrency reserve requirement authority. The Board intends to review the matter of gross versus net borrowings from unaffiliated depository institutions in the context of proposals to establish Domestic International Banking Facilities.

The Board has adopted a reserve ratio of 3 per cent on Eurocurrency transactions, the same ratio applied to nonpersonal time deposits. The Board believes that this action will eliminate any artificial incentive through the reserve requirement structure that favors raising funds offshore as compared with the domestic market. As a technical matter, the revised Regulation D reflects a change in the four-week computation and maintenance period for Eurocurrency reserves to one week periods coinciding with normal reserve computation and maintenance periods, as proposed.

Eligible Reserve Assets

The reserves of a depository institution may be held in the form of vault cash or a balance maintained at the Federal Reserve Bank, either directly or indirectly on a pass-through basis. A depository institution that is a member of the Federal Reserve System must hold its required reserve balances directly with its Federal Reserve Bank. A nonmember depository institution may hold its required reserve balance directly with its Federal Reserve Bank or, alternatively, it may pass its required reserve balance to the Federal Reserve through a correspondent. Such a correspondent may be a depository institution that holds a required reserve balance directly with the Federal Reserve, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility.

The Board has the authority to specify the portion of vault cash that a depository institution may use to meet its reserve requirements. Under Regulation D, a depository institution will be permitted to use all of its vault cash as eligible reserve assets. Vault cash consists of United States currency and coin, and does not include securities or earnings assets of any type. In addition, all silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value will not be regarded as vault cash.

Reserve Requirement Calculation by United States Branches and Agencies of Foreign Banks

The Board has determined to continue the system of statewide aggregation for reserve computation and maintenance for branches and agencies. This procedure was adopted by the Board on March 19, 1980, in regulations (45 FR 19216) implementing section 7 of the IBA (12 U.S.C. 3105), which authorizes the Board to impose reserve requirements on United States branches and agencies of foreign banks with total worldwide consolidated assets in excess of $1 billion. However, only one $25 million low reserve requirement tranche on transaction accounts will be permitted for each foreign bank, since its U.S. branches and agencies compete primarily with domestic money center banks, which, by statute, have only one low reserve requirement tranche. Allowing a foreign bank only one low reserve tranche is consistent with the IBA's goal of promoting competitive equality between branches and agencies and domestic depository institutions. The Board also will allow an Edge or Agreement Corporation only one low reserve tranche on transaction accounts regardless of the number of its branches.

Under the Board's rules, a foreign bank or an Edge or Agreement Corporation will be allowed to assign its low reserve requirement tranche to any of its offices. However, if possible, the low reserve tranche must be assigned to a single office or to a group of offices filing a single aggregated report of deposits. In the event that the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing an aggregated report of deposits, the unused portion may be assigned to other offices. Reassignment of the low reserve requirement tranche will be permitted on an annual basis.

Phase-in of Reserve Requirements

Member Banks. Member banks will be phased down to the new structure of reserve requirements over a three and one-half year period from the effective date of the Act, September 1, 1980. During this period, reserves required to be maintained will equal required reserves under the reserve structure in effect on August 31, 1980 ("old structure"), less a portion of the difference between reserves calculated under the structure of the Act ("new structure") and the old structure.

In order to relieve the reporting burden during the phase-in period, the Board has adopted a simplified procedure for computing reserve requirements under the old structure

during this period. The Board believes that this procedure will be beneficial to the Federal Reserve and to member banks and is consistent with Congressional intent concerning transitional adjustments. Under this approach, required reserves of a member bank on time deposits under the old structure will be computed by using its average reserve ratio on total time deposits during the 14-day period from July 24–August 6, 1980. This average ratio will be used throughout the entire phase-in period. A former member bank that did not maintain Federal reserves during this period and, thus, did not report deposits to the Federal Reserve may use the period from August 14–27, 1980 as its base period for purposes of determining its average reserve ratio on time deposits. Required reserves on remaining deposits (including savings deposits) will be computed using the existing ratios.

The current reserve ratios on time deposits are as follows:

	Percent
By original maturity less than 180 days:	
—$0—5 million	3
—over $5 million	6
180 days to less than 4 years	2½
4 years or more	1

Time deposits are subject, at present under the Federal Reserve Act, to a 3% minimum reserve ratio. The average reserve ratio on time deposits will be computed by dividing the daily average total amount of required reserves on such deposits by the daily average total time deposits for the 14-day period.

Member banks will begin to phase-down to the new reserve requirement structure during the reserve maintenance period beginning November 13, 1980. Required reserves computed under the old structure will be reduced at that time by ¼ of the difference between required reserves under the old structure and required reserves under the new structure. By having an initial reserve reduction of 25 per cent rather than ⅛ as originally proposed, member banks will be compensated for the two-month delay in implementation of the new reserve requirements. The phase-down adjustment will increase by ⅛ of the difference between reserves computed under the old and new structures, beginning in September 1981, and at each six-month interval thereafter until the new reserve structure if fully implemented.

Nonmember Banks and Thrift Institutions. Reserve requirements of nonmember banks and thrift institutions will be phased in over an eight-year period. Nonmember institutions (other than U.S. branches and agencies of foreign banks) will be required to hold an amount equal to ⅛ of reserve requirements calculated under the Act, starting with the reserve maintenance period which begins on Thursday, November 13, 1980. During the seven-day maintenance period beginning on that date, a nonmember depository institution will maintain reserves based on its deposits and vault cash outstanding during the seven-day computation period beginning October 30, 1980. Thereafter, the amount of required reserves will increase by an additional ⅛ of the reserve requirements under the Act on the first maintenance period beginning after September 1 of each succeeding year until the new reserve structure is fully implemented.

The Act provides a special phase-in provision for certain State-chartered nonmember depository institutions located in a State outside the continental United States. The Board's proposed Regulation D would have applied this provision to such institutions located in Alaska and Hawaii. However, because the Alaska Omnibus Act (Pub. L. 86–70) provides that Alaska is part of the "continental United States," the special phase-in provision of the Monetary Control Act can only apply to certain State-chartered nonmember depository institutions in Hawaii. State-chartered nonmembers in Alaska that were engaged in business on July 1, 1979, and that were not Federal Reserve members will receive the eight-year phase-in applicable to other depository institutions.

Deposits or Accounts Authorized After April 1, 1980. The Act exempts from the transitional phase-in provisions any category of deposits or accounts that are first authorized pursuant to Federal law in any State after April 1, 1980. This provision most immediately applies to interest-bearing negotiable order of withdrawal (NOW) accounts that are authorized in States outside of New England,[2] New York and New Jersey on December 31, 1980. Therefore, depository institutions outside of New England, New York and New Jersey maintaining NOW accounts will be required to maintain reserves against such accounts at the full transaction account reserve ratio.

In computing reserves required to be maintained on net NOW accounts, a depository institution located outside of New England, New York and New Jersey will be permitted to deduct from its total NOW accounts a portion of its cash items in process of collection and balances due on demand from other depository institutions equal to the ratio of its NOW accounts to its total transaction accounts. In order to provide the most benefit to depository institutions, the Board will permit the $25 million low reserve tranche for transaction accounts to apply to transaction accounts subject to the highest reserve ratio. Under this approach, a nonmember depository institution outside of New England, New York and New Jersey phasing in reserves may apply the $25 million tranche to its NOW accounts initially with any remaining portion applied to other transaction accounts subject to the phase-in. Transaction accounts in excess of $25 million (other than NOW accounts) will be subject to a reserve ratio of 12 per cent, but the effective reserve ratio applicable to these accounts will be lower than 12 per cent because of the phase-in. A member bank may apply the $25 million low reserve tranche to demand deposits or NOW accounts in computing its reserve requirements.

Branches and Agencies. Under the amendments to Regulation D adopted in connection with implementation of the IBA, branches and agencies were granted a phase-in of reserve requirements over a two-year period. This phase-in period is similar to that allowed to nonmember banks joining the Federal Reserve System. The Board has determined to allow branches and agencies to phase-in to the new reserve requirement structure that becomes effective on November 13, 1980, rather than requiring a more complicated and burdensome procedure of phasing up to member bank actual reserve requirements by the end of two years, and then phasing down to the new structure over the next two years in line with member banks. On November 13, when revised Regulation D becomes effective, branches and agencies will begin to maintain reserves subject to a two-year phase-in schedule similar to that proposed in June. Reporting will not be required of branches and agencies until the reserve computation period that begins on October 30, 1980. The deposits of new branches and agencies of a foreign bank that has existing United States Branches or agencies will be entitled only to the remaining phase-in, if any, available to the existing United States branches or agencies.

The amendments to Regulations D and Q (Interest on Deposits (12 CFR Part 217)) that were adopted in March in

[2] Massachusetts, New Hampshire, Connecticut, Rhode Island, Vermont and Maine.

connection with implementation of the IBA will go into effect on September 4, 1980, as originally scheduled, although reserves will not be required to be held until November 13, 1980. Federal Reserve credit facilities also will be available beginning September 4, 1980. System services will be made available to branches and agencies beginning in November 1980 when they actually begin holding reserves. However, clearing balances may be required commensurate with the level of services provided. This will promote competitive equality with member banks and take into account the shorter reserve requirement phase-in period applicable to branches and agencies.

De Novo Banks and New Members. The Act provides an eight-year phase-in only for nonmember depository institutions engaged in business on July 1, 1979. Consequently, a *de novo* nonmember depository institution opening after July 1, 1979, would be required to maintain full reserve requirements beginning on the effective date of the Act. In addition, under the Act, a *de novo* member or a nonmember joining the System ("new member") would be required to maintain full present member bank reserve requirements, and then phase down to the new requirements of the Act. Current Board policy provides a two-year transitional period to full reserve requirement levels for *de novo* and new member banks.

The Board believes that, in order to provide an orderly adjustment to reserve requirements, it is appropriate for the Federal Reserve to continue its policy of providing a 24-month transitional phase-in for all *de novo depository institutions and new members. Under the Board's action, de novo* institutions and new members will be phased in to the new reserve requirements under the Act rather than to present member bank reserve requirements. New member banks on or after September 1, 1980, will not be required to report deposits or maintain reserves until the revised regulation becomes effective. This transition policy will also apply to a newly formed Edge or Agreement Corporation, or a foreign bank establishing its initial branch or agency in the United States.

Former Members and Mergers. On April 23, 1980, the Board announced an interpretation (12 CFR 204.120; 45 FR 28305) of section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. § 461(b), as amended by section 103 of the Act). This interpretation applies to the reserves required of any bank that was a member of the Federal Reserve System on July 1, 1979, and which subsequently withdraws from membership. That interpretation also establishes a System policy for reserve requirements of depository institutions involved in mergers.

Coverage of the Act

During the comment period, several questions were received concerning the scope of institutions covered by the Act. The Board has determined that industrial banks that engage in a deposit-taking function are covered by the Act and are subject to reserve requirements on their transaction accounts and nonpersonal time deposits, since they are eligibile for Federal deposit insurance.

New York Investment (Article XII) Companies, on the other hand, are not subject to reserve requirements under the IBA, and since they accept credit balances rather than deposits, they are not eligible for Federal deposit insurance. Consequently, the Board has concluded that New York Investment Companies are not depository institutions subject to the Act.

Under the Act, bankers' banks are not subject to Federal reserve requirements. Bankers' banks are defined as depository institutions that are organized solely to do business with other financial institutions, do not do business with the general public, and are owned primarily by the financial institutions with which they do business. Questions have arisen with respect to how the Board will apply these criteria in individual cases, particularly with regard to corporate central credit unions. The Board will consider in the near future the issue of what institutions qualify for the exemption.

Quarterly Reporting for Certain Depository Institutions

The Board recognizes that many very small depository institutions—especially credit unions—may not be equipped to report to the Federal Reserve and to maintain reserves on a weekly basis. Moreover, given the substantial number of such very small institutions that might have small amounts of reservable liabilities, the Federal Reserve could encounter operational difficulty in processing reports of these institutions on a weekly basis. In an effort to reduce the reporting and reserve management burdens of very small depository institutions and to reduce the processing burden of the Reserve Banks, depository institutions with total deposits of less than $5 million will report their deposits to the Federal Reserve for a 7-day computation period only once each calendar quarter and maintain reserves over a subsequent three-month period based on such deposits reported.

Quarterly reporting will be staggered so that each month one-third of all quarterly reporters will report deposit data for one week. Reserves will be maintained during a period beginning two weeks after the start of the computation period and ending one week after the end of the institution's next computation period. Balances to be held at the Federal Reserve over the three-month maintenance period, either directly or indirectly on a pass-through basis, would equal required reserves based on the deposit report for one week less vault cash held during the seven-day reporting period. An institution will remain eligible for quarterly reporting until its total deposits are $5 million or more for two consecutive quarterly reports. Depository institutions eligible for quarterly reporting and reserve maintenance would retain the option of reporting and maintaining required reserves on a weekly rather than quarterly basis. Additional details will be supplied to depository institutions in the near future.

The quarterly reporting system will commence in January 1981. Small member banks will continue to report deposits and maintain reserves on a weekly basis until that time. Eligible nonmember institutions will not be required to report or maintain reserves until the quarterly procedure begins. It should be noted that Edge and Agreement Corporations and U.S. branches and agencies of foreign banks will not be eligible for quarterly reporting and reserve maintenance. Rather, all such institutions will—regardles of size—be required to report and to maintain reserves on a weekly basis.

In addition, the Board has deferred reserve requirements for institutions that have less than $1 million in total deposits as of December 31, 1979. These institutions will be exempt from reporting and reserve maintenance until May 1981, at which time the Board will determine whether a further delay is warranted.

Contemporaneous Reserve Accounting

The Federal Reserve Board is disposed toward returning to contemporaneous reserve accounting, possibly by September 1981, if a further investigation of potential operational difficulties indicates that such a system is practical. Under contemporaneous reserve accounting, the reserve computation and reserve maintenance weeks would coincide. Reserve

computation would be based on daily opening-of-business balances while reserves maintained would be based on daily close-of-business balances. Among the issues to be studied are the feasibility of such a reserve accounting system for all types of depository institutions, potential complications arising from pass-through arrangements, and the relation to reserve carryover.

Business Day Computation Period

The Board has determined not to adopt a business-day computation period at this time. However, the Federal Reserve Board expects that depository institutions will not engage in reserve avoidance practices under which reserve requirements are lowered by transactions that artificially increase cash items in the process of collection and "due from" deductions. Included among such practices are so-called "week-end Eurodollar arbitrage" transactions and borrowing arrangements involving the receipt of uncollected funds and repayment in collected (or Federal) funds. To ensure compliance, the Federal Reserve will monitor individual institutions and consider the need for implementation of additional measures, including adoption of a business-day reserve computation week.

* * * * *

The following table presents reporting categories that will be required of depository institutions, Edge and Agreement Corporations and United States branches and agencies of foreign banks.

Table

Reporting categories for institutions subject to reserve requirements:

1. Demand deposits to banks.
2. Demand deposits due to other depository institutions.
3. Demand deposits due to the U.S. Government.
4. Other demand deposits (including noninterest-bearing negotiable orders of withdrawal).
5. Savings deposits authorized for automatic transfer (ATS accounts).
6. Savings deposits that permit more than three telephone or preauthorized transfers or payments per calendar month or that permit payments to third parties through automated teller machines, including remote service units.
7. Negotiable order of withdrawal (NOW) accounts; share drafts.
8. Demand deposits due from depository institutions.
9. Cash items in process of collection.
10. Other savings deposits (i.e., all savings deposits other than those included in items 5, 6, or 7 above)—personal.
11. Other savings deposits—nonpersonal.
12. Personal time deposits.
13. Nonpersonal time deposits with original maturities of 14 days or more but less than 4 years.
14. Nonpersonal time deposits with original maturities of 4 years or more.
15. Time deposits of $100,000 or more.
16. Vault cash.
17. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances have remaining maturities of less than 14 days.
18. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances that have remaining maturities of 14 days or more but less than 4 years—personal.
19. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances that have remaining maturities of 14 days or more but less than 4 years—nonpersonal.
20. Borrowings from offices of other depository institutions outside the United States, foreign national governments, and international institutions.
21. Gross balances due to own non-U.S. branches.[1]
22 Gross balances due from own non-U.S. branches.[1]
23. Assets sold to and held by own non-U.S. branches acquired from U.S. offices (including assets that are claims on both U.S. and non-U.S. residents.[1]
24. Credit extended by own non-U.S. branches to U.S. residents.[1]
25 Gross liabilities to the foreign bank (including its offices located outside the United States).[2]
26. Gross claims on the foreign bank (including its offices located outside the United States).[2]
27. Total assets less the sum of United States coin and currency, cash items in process of collection and unposted debits, balances due from domestic banks and other foreign banks, balances due from foreign central banks and net balances due from the foreign bank and the foreign bank's United States and non-United States offices.[2]
28. Assets sold by a branch or agency to its foreign bank (including its offices located outside the United States) or its foreign parent bank holding company.[2]

Effective November 13, 1980, pursuant to the Board's authority under sections 19, 25, and 25(a) of the Federal Reserve Act (12 U.S.C. §§ 461 *et seq.*, 601 *et seq.*, 611 *et seq.*) and section 7 of the International Banking Act of 1978 (12 U.S.C. § 3105), Regulation D (12 CFR Part 204) is revised to read as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

Sec.

204.1 Authority, purpose and scope.
204.2 Definitions.
204.3 Computation and maintenance.
204.4 Transitional adjustments.
204.5 Emergency reserve requirement.
204.6 Supplemental reserve requirement.
204.7 Penalties.
204.8 Reserve requirement ratios.

[1] To be reported only by U.S. depository institutions and Edge and Agreement Corporations.

[2] To be reported only by U.S. branches and agencies of foreign banks.

Authority: Sections 19, 15, 25(a) of the Federal Reserve Act, 12 U.S.C 461, 601, 611; and Section 7 of the International Banking Act of 1978, 12 U.S.C 3105.

§ 204.1 Authority, purpose and scope.

(a) *Authority.* This Part is issued under the authority of section 19 (12 U.S.C. 461 *et seq.*) and other provisions of the Federal Reserve Act and of section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

(b) *Purpose.* This Part relates to reserves that depository institutions are required to maintain for the purpose of facilitating the implementation of monetary policy by the Federal Reserve System.

(c) *Scope.* (1) The following depository institutions are required to maintain reserves in accordance with this Part:

(i) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or any bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(ii) Any savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(f), (g));

(iii) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or any credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(iv) Any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); and

(v) Any insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or any institution which is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1726).

(2) Except as may be otherwise provided by the Board, a foreign bank's branch or agency located in the United States is required to comply with the provisions of this Part in the same manner and to the same extent as if the branch or agency were a member bank, if its parent foreign bank (i) has total worldwide consolidated bank assets in excess of $1 billion; or (ii) is controlled by a foreign company or by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1 billion. In addition, any other foreign bank's branch located in the United States that is eligible to apply to become an insured bank under section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is required to maintain reserves in

accordance with this Part as a nonmember depository institution.

(3) Except as may be otherwise provided by the Board, an Edge Corporation (12 U.S.C. 611 *et seq.*) or an Agreement Corporation (12 U.S.C. 601 *et seq.*) is required to comply with the provisions of this Part in the same manner and to the same extent as a member bank.

(4) This Part does not apply to any financial institution that (i) is organized solely to do business with other financial institutions; (ii) is owned primarily by the financial institutions with which it does business; and (iii) does not do business with the general public.

(5) The provisions of this Part do not apply to any deposit that is payable only at an office located outside the United States.

§ 204.2 Definitions.

For purposes of this Part, the following definitions apply unless otherwise specified:

(a)(1) *"Deposit"* means:

(i) The unpaid balance of money or its equivalent received or held by a depository institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to an account, including interest credited, or which is evidenced by an instrument on which the depository institution is primarily liable;

(ii) Money received or held by a depository institution, or the credit given for money or its equivalent received or held by the depository institution in the usual course of business for a special or specific purpose, regardless of the legal relationships established thereby, including escrow funds, funds held as security for securities loaned by the depository institution, funds deposited as advance payment on subscriptions to United States government securities, and funds held to meet its acceptances;

(iii) An outstanding draft, cashier's check, money order, or officer's check drawn on the depository institution and issued in the usual course of business for any purpose, including payment for services, dividends, or purchases;

(iv) Any due bill or other liability or undertaking on the part of a depository institution to sell or deliver securities to, or purchase securities for the account of, any customer (including another depository institution), involving either the receipt of funds by the depository institution, regardless of the use of the proceeds, or a debit to an account of the customer before the securities are delivered. A deposit arises thereafter, if after three business days from the date of issuance of the obligation, the depository institution does not deliver the securities purchased or does not fully collateralize its obligation with securities similar to the securities purchased. A security is similar if it is of the same type and if it is of comparable maturity to that purchased by the customer;

(v) Any liability of a depository institution's affiliate that is not a depository institution, on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral), with a maturity of less than four years, to the extent that the proceeds are used to supply or to maintain the availability of funds (other than capital) to the depository institution, except any such obligation that, had it been issued directly by the depository institution, would not constitute a deposit. If an obligation of an affiliate of a depository institution is regarded as a deposit and is used to purchase assets from the depository institution, the maturity of the deposit is determined by the shorter of the maturity of the obligation issued or the remaining maturity of the assets purchased. If the proceeds from an affiliate's obligation are placed in the depository institution in the form of a reservable deposit, no reserves need be maintained against the obligation of the affiliate since reserves are required to be maintained against the deposit issued by the depository institution. However, the maturity of the deposit issued to the affiliate shall be the shorter of the maturity of the affiliate's obligation or the maturity of the deposit;

(vi) Credit balances;

(vii) Any liability of a depository institution on any promissory note, acknowledgment of advance, bankers' acceptance, or similar obligation (written or oral), including mortgage-backed bonds, that is issued or undertaken by a depository institution as a means of obtaining funds, except any such obligation that:

(A) Is issued or undertaken and held for the account of:

(*1*) An office located in the United States of another depository institution, foreign bank, Edge or Agreement Corporation, or New York Investment (Article XII) Company;

(*2*) The United States government or an agency thereof; or

(*3*) The Export-Import Bank of the United States, Minbanc Capital Corporation, the Government Development Bank for Puerto Rico, a Federal Reserve Bank, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility;

(B) Arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States government or any agency thereof that the depository institution is obligated to repurchase;

(C) Is not insured by a Federal agency, is subordinated to the claims of depositors, has a weighted average maturity of seven years or more, is not subject to Federal interest rate limitations, and is issued by a depository institution with the approval of, or under the rules and regulations of, its primary Federal supervisor;

(D) Arises from a borrowing by a depository institution from a dealer in securities, for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank or other immediately available funds (commonly referred to as "Federal funds"), received by such dealer on the date of the loan in connection with clearance of securities transactions; or

(E) Arises from the creation, discount and subsequent sale by a depository institution of its bankers' acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372).

(2) *"Deposit"* does not include:

(i) Trust funds received or held by the depository institution that it keeps properly segregated as trust funds and apart from its general assets or which it deposits in another institution to the credit of itself as trustee or other fiduciary. If trust funds are deposited with the commecial department of the depository institution or otherwise mingled with its general assets, a deposit liability of the institution is created;

(ii) An obligation that represents a conditional, contingent or endorser's liability;

(iii) Obligations, the proceeds of which are not used by the depository institution for purposes of making loans, investments, or maintaining liquid assets such as cash or "due from" depository institutions or other similar purposes. An obligation issued for the purpose of raising funds to purchase business premises, equipment, supplies, or similar assets is not a deposit;

(iv) Accounts payable;

(v) Hypothecated "deposits" created by payments on an installment loan where (A) the amounts received are not used immediately to reduce the unpaid balance due on the loan until the sum of the payments equals the entire amount of loan principal and interest; (B) and where such amounts are irrevocably assigned to the depository institution

and cannot be reached by the borrower or creditors of the borrower;

(vi) Dealer reserve and differential accounts that arise from the financing of dealer installment accounts receivable, and which provide that the dealer may not have access to the funds in the account until the installment loans are repaid, as long as the depository institution is not actually (as distinguished from contingently) obligated to make credit or funds available to the dealer;

(vii) A dividend declared by a depository institution for the period intervening between the date of the declaration of the dividend and the date on which it is paid;

(viii) An obligation representing a "pass through account," as defined in this section;

(ix) An obligation arising from the retention by the depository institution of no more than a 10 per cent interest in a pool of conventional 1–4 family mortgages that are sold to third parties;

(x) An obligation issued to a State or municipal housing authority under a loan-to-lender program involving the issuance of tax exempt bonds and the subsequent lending of the proceeds to the depository institution for housing finance purposes;

(xi) Shares of a credit union held by the National Credit Union Administration or the National Credit Union Administration Central Liquidity Facility under a statutorily authorized assistance program; and

(xii) Any liability of a United States branch or agency of a foreign bank to another United States branch or agency of the same foreign bank, or the liability of the United States office of an Edge Corporation to another United States office of the same Edge Corporation.

(b)(1) *"Demand deposit"* means a deposit that is payable on demand, or a deposit issued with an original maturity or required notice period of less than 14 days, or a deposit representing funds for which the depository institution does not reserve the right to require at least 14 days' written notice of an intended withdrawal. The term includes all deposits other than time and savings deposits. Demand deposits may be in the form of (i) checking accounts; (ii) certified, cashier's and officer's checks (including checks issued by the depository institution in payment of dividends); (iii) traveler's checks and money orders that are primary obligations of the issuing institution; (iv) checks or drafts drawn by, or on behalf of, a non-United States office of a depository institution on an account maintained at any of the institution's United States offices; (v) letters of credit sold for cash or its equivalent; (vi) withheld taxes, withheld insurance and other withheld funds; (vii) time deposits that have matured or time deposits upon which the required notice of withdrawal period has expired and have not been renewed (either by action of the depositor or automatically under the terms of the deposit agreement); and (viii) an obligation to pay on demand or within 14 days a check (or other instrument, device, or arrangement for the transfer of funds) drawn on the depository institution, where the account of the institution's customer already has been debited. The term does not include an obligation that is a time deposit under section 204.2(c)(1)(ii).

(2) A "demand deposit" does not include checks or drafts drawn by the depository institution on the Federal Reserve or on another depository institution.

(c)(1) *"Time deposit"* means (i) a deposit that the depositor does not have a right to withdraw for a period of 14 days or more after the date of deposit. "Time deposit" includes funds:

(A) Payable on a specified date not less than 14 days after the date of deposit;

(B) Payable at the expiration of a specified time not less than 14 days after the date of deposit;

(C) Payable upon written notice which actually is required to be given by the depositor not less than 14 days before the date of repayment;

(D) Such as "Christmas club" accounts and "vacation club" accounts, that are deposited under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than three months even though some of the deposits may be made within 14 days from the end of the period; or

(E) That constitute a "savings deposit" which is not regarded as a "transaction account."

(ii) Borrowings, regardless of maturity, represented by a promissory note, an acknowledgement of advance, or similar obligation described in section 204.2(a)(1)(vii) that is issued to any office located outside the United States of another depository institution or Edge or Agreement Corporation organized under the laws of the United States, to any office located outside the United States of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR Part 217.3(g)).

(2) A time deposit may be represented by a transferable or nontransferable, or a negotiable or nonnegotiable, certificate, instrument, passbook, statement, or otherwise. A "time deposit" includes share certificates and certificates of indebtedness issued by credit unions, and certificate accounts and notice accounts issued by savings and loan associations.

(d)(1) *"Savings deposit"* means a deposit or account with respect to which the depositor is not required by the deposit contract but may at any time be required by the depository institution to give written notice of an intended withdrawal not less than 14 days before withdrawal is made, and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. A deposit may continue to be classified as a savings deposit even if the depository institution exercises its right to require notice of withdrawal. A "savings deposit" includes a regular share account at a credit union and a regular account at a savings and loan association.

(2) For depository institutions subject to 12 CFR Part 217 or 12 CFR Part 329, funds deposited to the credit of, or in which any beneficial interest is held by, a corporation, association, partnership or other organization operated for profit may be classified as a savings deposit if such funds do not exceed $150,000 per depositor at the depository institution.

(3) "Savings deposit" does not include funds deposited to the credit of the depository institution's own trust department where the funds involved are utilized to cover checks or drafts. Such funds are "transaction accounts."

(e) *"Transaction account"* means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar device for the purpose of making payments or transfers to third persons or others. "Transaction account" includes:

(1) Demand deposits;

(2) Deposits or accounts subject to check, draft, negotiable order of withdrawal, share draft, or other similar item;

(3) Savings deposits or accounts in which withdrawals may be made automatically through payment to the depository institution itself or through transfer of credit to a demand deposit or other account in order to cover checks or drafts drawn upon the institution or to maintain a specified balance in, or to make periodic transfers to, such accounts (automatic transfer accounts);

(4) Deposits or accounts in which payments may be made to third parties by means of an automated teller

machine, remote service unit or other electronic device; and

(5) Deposits or accounts in which payments may be made to third parties by means of a debit card;

(6) Deposits or accounts under the terms of which, or which by practice of the depository institution, the depositor is permitted or authorized to make more than three withdrawals per month for purposes of transferring funds to another account or for making a payment to a third party by means of preauthorized or telephone agreement, order or instruction. An account that permits or authorizes more than three such withdrawals in a calendar month is a "transaction account" whether or not more than three such withdrawals actually are made in a calendar month. A "preauthorized transfer" includes any arrangement by the depository institution to pay a third party from the account of a depositor upon written or oral instruction (including an order received through an automated clearing house (ACH)), or any arrangement by a depository institution to pay a third party from the account of the depositor at a predetermined time or on a fixed schedule. An account is not a "transaction account" by virtue of an arrangement that permits withdrawals for the purpose of repaying loans and associated expenses at the same depository institution (as originator or servicer).

(f)(1) *"Nonpersonal time deposit"* means:

(i) A time deposit, including a savings deposit, that is not a transaction account, representing funds in which any beneficial interest is held by a depositor which is not a natural person;

(ii) A time deposit, including a savings deposit that is not a transaction account, that represents funds deposited to the credit of a depositor that is not a natural person, other than a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest in the deposit is held by one or more natural persons;

(iii) A time deposit that is transferable, except a time deposit originally issued before October 1, 1980, to and held by one or more natural persons, including a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest in the deposit is held by one or more natural persons;

(iv) A time deposit that is transferable, issued on or after October 1, 1980, to and held by one or more natural persons, including a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest is held by one or more natural persons. A time deposit is transferable unless it contains a specific statement on the certificate, instrument, passbook, statement or other form representing the account that it is not transferable. A time deposit that contains a specific statement that it is not transferable is not regarded as transferable even if the following transactions can be effected: a pledge as collateral for a loan; a transaction that occurs due to circumstances arising from death, incompetency, marriage, divorce, attachment or otherwise by operation of law or a transfer on the books or records of the institution; and

(v) A time deposit represented by a promissory note, an acknowledgement of advance, or a similar obligation described in section 204.2(a)(1)(vii) that is issued to any office located outside the United States of another depository institution or Edge or Agreement Corporation organized under the laws of the United States, to any office located outside the United States of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR 217.3(g)).

(2) "Nonpersonal time deposit" does not include nontransferable time deposits to the credit of or in which the entire beneficial interest is held by an individual pursuant to an Individual Retirement Account or Keogh (H.R. 10) Plan under 26 U.S.C. (I.R.C. 1954) §§ 408, 401.

(g) *"Natural person"* means an individual or a sole proprietorship. The term does not mean a corporation owned by an individual, a partnership or other association.

(h) *"Eurocurrency liabilities"* means the sum of the following:

(1) *Transactions with related offices outside the United States.*

(i) In the case of a depository institution or an Edge or Agreement Corporation organized under the laws of the United States,

(A) Positive net balances due to its non-United States offices from its United States offices, and

(B) Assets (including participations) held by its non-United States offices or by non-United States offices of an affiliated Edge or Agreement Corporation that were acquired from its United States offices.

(ii) In the case of a United States branch and agency of a foreign bank,

(A) Positive net balances due to its foreign bank (including offices thereof located outside the United States) after deducting an amount equal to 8 percent of the following: the United States branch's or agency's total assets less the sum of United States coin and currency, cash items in the process of collection and unposted debits, balances due from domestic banks and other foreign banks, balances due from foreign central banks, and net balances due from its foreign bank and the foreign bank's United States and non-United States offices; however, the amount that may be deducted may not exceed net balances due to the foreign bank (including offices thereof located outside the United States), and

(B) Assets (including participations) held by its foreign bank (including offices thereof located outside the United States) or by its parent holding company that were acquired from the United States branch or agency (other than assets required to be sold by Federal or State supervisory authorities) or from an affiliated Edge or Agreement Corporation.

(2) *Foreign branch credit extended to United States residents.* Credit outstanding from the non-United States office of a depository institution organized under United States law to United States residents (other than assets acquired and net balances due from its United States offices), except credit extended (i) in the aggregate amount of $100,000 or less to any United States resident, (ii) by a non-United States office that at no time during the computation period had credit outstanding to United States residents exceeding $1 million, or (iii) to an institution that will be maintaining reserves on such credit pursuant to this Part. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations is regarded as credit extended to a United States resident unless the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s). This subparagraph does not apply to United States branches and agencies of foreign banks.

(i)(1) *"Cash item in process of collection"* means:

(i) Checks in the process of collection, drawn on a bank or other depository institution that are payable immediately upon presentation in the United States, including checks forwarded to a Federal Reserve Bank in process of collection and checks on hand that will be presented for payment or forwarded for collection on the following business day;

(ii) Government checks drawn on the Treasury of the United States that are in the process of collection; and

(iii) Such other items in the process of collection, that are payable immediately upon presentation in the United States and that are customarily cleared or collected by depository institutions as cash items, including:

(A) Drafts payable through another depository institution;
(B) Redeemed bonds and coupons;
(C) Food coupons and certificates;
(D) Postal and other money orders, and traveler's checks;
(E) Amounts credited to deposit accounts in connection with automated payment arrangements where such credits are made one business day prior to the scheduled payment date to insure that funds are available on the payment date;
(F) Commodity or bill of lading drafts payable immediately upon presentation in the United States;
(G) Returned items and unposted debits; and
(H) Broker security drafts.
(2) "Cash item in process of collection" does not include items handled as noncash collections and credit card sales slips and drafts.
(j) *"Net transaction accounts"* means the total amount of a depository institution's transaction accounts less the deductions allowed under the provisions of § 204.3.
(k)(1) *"Vault cash"* means United States currency and coin owned and held by a depository institution that may, at any time, be used to satisfy depositors' claims.
(2) "Vault cash" includes United States currency and coin in transit to a Federal Reserve Bank or a correspondent depository institution for which the reporting depository institution has not yet received credit, and United States currency and coin in transit from a Federal Reserve Bank or a correspondent depository institution when the reporting depository institution's account at the Federal Reserve or correspondent bank has been charged for such shipment.
(3) Silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value is not vault cash for purposes of this Part.
(l) *"Pass through account"* means a balance maintained by a depository institution that is not a member bank, by a U.S. branch or agency of a foreign bank, or by an Edge or Agreement Corporation, (1) in an institution that maintains required reserve balances at a Federal Reserve Bank, (2) in a Federal Home Loan Bank, (3) in the National Credit Union Administration Central Liquidity Facility, or (4) in an institution that has been authorized by the Board to pass through required reserve balances if the institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains the funds in the form of a balance in a Federal Reserve Bank of which it is a member or at which it maintains an account in accordance with rules and regulations of the Board.
(m)(1) *"Depository institution"* means:
(i) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or any bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);
(ii) Any savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(f), (g));
(iii) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or any credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. § 1781);
(iv) Any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); and
(v) Any insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or any institution which is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1726).
(2) "Depository institution" does not include international organizations such as the World Bank, the Inter-American Development Bank, and the Asian Development Bank.
(n) *"Member bank"* means a depository institution that is a member of the Federal Reserve System.
(o) *"Foreign bank"* means any bank or other similar institution organized under the laws of any country other than the United States or organized under the laws of Puerto Rico, Guam, American Samoa, the Virgin Islands, or other territory or possession of the United States.
(p) *"De novo depository institution"* means a depository institution that was not engaged in business on July 1, 1979, and is not the successor by merger or consolidation to a depository institution that was engaged in business prior to the date of merger or consolidation.
(q) *"Affiliate"* includes any corporation, association, or other organization:
(1) Of which a depository institution, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 percent of the numbers of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions;
(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a depository institution who own or control either a majority of the shares of such depository institution or more than 50 percent of the number of shares voted for the election of directors of such depository institution at the preceding election, or by trustees for the benefit of the shareholders of any such depository institution;
(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one depository institution; or
(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a depository institution or more than 50 percent of the number of shares voted for the election of directors, trustees or other persons exercising similar functions of a depository institution at the preceding election, or controls in any manner the election of a majority of the directors, trustees, or other persons exercising similar functions of a depository institution, or for the benefit of whose shareholders or members all or substantially all the capital stock of a depository institution is held by trustees.
(r) *"United States"* means the States of the United States and the District of Columbia.
(s) *"United States resident"* means (1) any individual residing (at the time of the transaction) in the United States; (2) any corporation, partnership, association or other entity organized in the United States ("domestic corporation"); and (3) any branch or office located in the United States of any entity that is not organized in the United States.

§ 204.3 Computation and maintenance.

(a) *Maintenance of required reserves.* A depository institution, a U.S. branch or agency of a foreign bank, and an Edge or Agreement Corporation shall maintain reserves against its deposits and Eurocurrency liabilities in accordance with the procedures prescribed in this section and § 204.4 and the ratios prescribed in § 204.8. Penalties shall be assessed for deficiencies in required reserves in accordance with the provisions of § 204.7. Every institution holding transaction accounts or nonpersonal time deposits shall file a report of deposits each week with the Federal Reserve Bank of its District (see § 204.3(d) for the special rule for depository institutions with total deposits of less than $5 million) and any other reports that the Board may require by rule, regulation or order. For purposes of this Part, the obligations of

a majority owned (50% or more) U.S. subsidiary (except an Edge or Agreement Corporation) of a depository institution shall be regarded as obligations of the parent depository institution.

(1) *United States branches and agencies of foreign banks.*

(i) A foreign bank's United States branches and agencies operating within the same State and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) United States branches and agencies of the same foreign bank shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.8(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same foreign bank until the amount the tranche or net transaction accounts is exhausted. The foreign bank shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular State, any unused portion must first be assigned to other offices located within the same State and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. The designation of office(s) to which the low reserve tranche is assigned may be changed at the beginning of a calendar year.

(2) *Edge and Agreement Corporations.*

(i) An Edge or Agreement Corporation's offices operating within the same State and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.

(ii) An Edge or Agreement Corporation shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.8(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same institution until the amount of the tranche or net transaction accounts is exhausted. An Edge or Agreement Corporation shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular State, any unused portion must first be assigned to other offices located within the same State and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. The designation of office(s) to which the low reserve tranche is assigned may be changed at the beginning of a calendar year.

"(b) *Form of reserves.* Reserves shall be held in the form of (1) vault cash, (2) a balance maintained directly with the Federal Reserve Bank in the District in which it is located, or (3) a pass through account. Reserves held in the form of a pass through account shall be considered to be a balance maintained with the Federal Reserve.

(c) *Computation of required reserves.* Required reserves are computed on the basis of the daily average deposit balances during a seven-day period ending each Wednesday (the "computation period"). Reserve requirements are computed by applying the ratios prescribed in section 204.8 to the classes of deposits and Eurocurrency liabilities of the institution. In determining the reserve balance that is required to be maintained with the Federal Reserve, the average daily vault cash held during the computation period is deducted from the amount of the institution's required reserves. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a corresponding seven-day period (the "maintenance period") which begins on the second Thursday following the end of a given computation period.

(d) *Special rule for depository institutions that have total deposits of less than $5 million.*

(1) A depository institution with total deposits of less than $5 million shall file a report of deposits once each calendar quarter for a seven-day computation period that begins on the third Thursday of a given month during the calendar quarter. Each Reserve Bank shall divide the depository institutions in its District that qualify under this paragraph into three substantially equal groups and assign each group a different month to report during each calendar quarter.

(2) Required reserves are computed on the basis of the depository institution's daily average deposit balances during the seven-day computation period. In determining the reserve balance that a depository institution is required to maintain with the Federal Reserve, the average daily vault cash held during the computation period is deducted from the amount of the institution's required reserves. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a corresponding period that begins on the second Thursday following the end of the institution's computation period and ends on the first Wednesday after the close of the institution's next computation period.

(3) A depository institution that has less than $5 million in total deposits as of December 31, 1979, shall qualify under this paragraph until it reports total deposits of $5 million or more for two consecutive calendar quarters.

(4) A depository institution that qualifies under this paragraph may elect at the beginning of a calendar year to report deposits and maintain reserves on a weekly basis.

(5) This paragraph shall not apply to an Edge or Agreement Corporation or a United States branch or agency of a foreign bank.

(e) *Computation of transaction accounts.* Overdrafts in demand deposit or other transaction accounts are not to be treated as negative demand deposits or negative transaction accounts and shall not be netted since overdrafts are properly reflected on an institution's books as assets. However, where a customer maintains multiple transaction accounts with a depository institution, overdrafts in one account pursuant to a *bona fide* cash management arrangement are permitted to be netted against balances in other related transaction accounts for reserve requirement purposes.

(f) *Deductions allowed in computing reserves.*

(1) In determining the reserve balance required under this Part, the amount of cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and Agreement Corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts. However, if a depository institution maintains any transaction accounts that are first authorized under Federal law after April 1, 1980, it may deduct from these balances cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States only to the extent of the proportion that such newly authorized transaction accounts are of the institution's total transaction accounts. The remaining cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States shall be deducted from the

institution's remaining transaction accounts.

(2) United States branches and agencies of a foreign bank may not deduct balances due from another United States branch or agency of the same foreign bank, and United States offices of an Edge or Agreement Corporation may not deduct balances due from another United States office of the same Edge Corporation.

(3) Balances "due from other depository institutions" do not include balances due from Federal Reserve Banks, pass through accounts, or balances (payable in dollars or otherwise) due from banking offices located outside the United States. An institution exercising fiduciary powers may not include in "balances due from other depository institutions" amounts of trust funds deposited with other banks and due to it as a trustee or other fiduciary.

(g) *Availability of cash items as reserves.* Cash items forwarded to a Federal Reserve Bank for collection and credit shall not be counted as part of the reserve balance to be carried with the Federal Reserve until the expiration of the time specified in the appropriate time schedule established under Regulation J, "Collection of Checks and Other Items and Transfers of Funds" (12 CFR Part 210). If a depository institution draws against items before that time, the charge will be made to its reserve account if the balance is sufficient to pay it; any resulting impairment of reserve balances will be subject to the penalties provided by law and by this Part. However, the Federal Reserve Bank may, at its discretion, refuse to permit the withdrawal or other use of credit given in a reserve account for any time for which the Federal Reserve bank has not received payment in actually and finally collected funds.

(h) *Carryover of deficiencies.* Any excess or deficiency in a required reserve balance for any maintenance period that does not exceed 2 percent of institution's required reserves shall be carried forward to the next maintenance period. Any carryover not offset during the next period may not be carried forward to additional periods.

§ 204.4 Transitional adjustments.

The following transitional adjustments for computing Federal reserve requirements shall apply to all member and nonmember depository institutions, except for reserves imposed under §§ 204.5 and 204.6.

(a) *Nonmembers.* Except as provided below, the required reserves of a depository institution that was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date shall be determined by reducing the amount of required reserves computed under section 204.3 in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage that computed reserves will be reduced
Nov. 13, 1980 to Sept. 2, 1981	87.5
Sept. 3, 1981 to Sept. 1, 1982	75
Sept. 2, 1982 to Aug. 31, 1983	62.5
Sept. 1, 1983 to Sept. 5, 1984	50
Sept. 6, 1984 to Sept. 4, 1985	37.5
Sept. 5, 1985 to Sept. 3, 1986	25
Sept. 4, 1986 to Sept. 2, 1987	12.5
Sept. 3, 1987 forward	0

However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980.

(b) *Members and former members.* The required reserves of any depository institution that is a member bank on September 1, 1980, or was a member bank on or after July 1, 1979 and withdrew from membership before March 31, 1980, or withdraws from membership on or after March 31, 1980, shall be determined as follows:

(1) A depository institution whose required reserves are higher using the reserve ratios in effect during a given computation period (§ 204.8(a)) than its required reserves using the reserve ratios in effect on August 31, 1980 (§ 204.8(b)) (without regard to required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980):

(i) Shall maintain the full amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980; and

(ii) Shall reduce the amount of its required reserves on all other deposits computed under section 204.3 by an amount determined by multiplying the amount by which required reserves computed under section 204.3 exceeds the amount of required reserves computed using the reserve ratios that were in effect on August 31, 1980 (§ 204.8(b)), times the appropriate percentage specified below in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage applied to difference to compute amount to be subtracted
Nov. 13, 1980 to Sept. 2, 1981	75
Sept. 3, 1981 to Sept. 1, 1982	50
Sept. 2, 1982 to Aug. 31, 1983	25
Sept. 1, 1983 forward	0

(2) A depository institution whose required reserves are lower using the reserve ratios in effect during a given computation period (§ 204.8(a) (than its required reserves computed using the reserve ratios in effect on August 31, 1980 (§ 204.8(b)) (without regard to required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980):

(i) Shall maintain the full amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980; and

(ii) Shall increase the amount of its required reserves on all other deposits computed under section 204.3 by an amount determined by multiplying the amount by which required reserves computed using the reserve ratios that were in effect on August 31, 1980 (§ 204.8(b)), exceeds the amount of required reserves computed under section 204.3, times the appropriate percentage specified below in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage applied to difference to compute amount to be added
Nov. 13, 1980–Sept. 2, 1981	75
Sept. 3, 1981–Mar. 3, 1982	62.5
Mar. 4, Sept. 1, 1982	50
Sept. 2, 1982–Mar. 2, 1983	37.5
Mar. 3–Aug. 31, 1983	25
Sept. 1, 1983–Feb. 29, 1984	12.5
Mar. 1, 1984 forward	0

(c) *Certain nonmembers and branches and agencies of foreign banks.* The required reserves of a nonmember depository institution that was not engaged in business on or before July 1, 1979, but commenced business between July 2, 1979, and September 1, 1980, and any United States branch or agency of a foreign bank with total worldwide consolidated bank assets in excess of $1 billion shall be determined by reducing the amount of its required reserves computed under section 204.3 in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage that computed reserves will be reduced
Nov. 13, 1980–Feb. 11, 1981	87.5
Feb. 12–May 13, 1981	75.0
May 14–Aug. 12, 1981	62.5
Aug. 13–Nov. 11, 1981	50.0
Nov. 12, 1981–Feb. 10, 1982	37.5
Feb. 11–May 12, 1982	25.0
May 13–Aug. 11, 1982	12.5
Aug. 12, 1982 forward	0

However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980. An additional United States branch or agency of a foreign bank operating a branch or agency in the United States as of September 1, 1980, shall be entitled only to the remaining phase-in available to the existing U.S. branch or agency.

(d) *New members.* The required reserves of nonmember depository institution that was engaged in business but was not a member bank during the period between July 1, 1979 and September 1, 1980, inclusive, and which becomes a member of the Federal Reserve System after September 1, 1980, shall be determined under paragraph (a) or (c), as applicable, as if it had remained a nonmember and adding to this amount an amount determined by multiplying the difference between its required reserves computed using the ratios specified in § 204.8(a) and its required reserves computed as if it had remained a nonmember times the percentage specified below in accordance with the following schedule:

Maintenance periods occurring during successive quarters after becoming a member bank	Percentage applied to difference to compute amount to be added
1	12.5
2	25.0
3	37.5
4	50.0
5	62.5
6	75.0
7	87.5
8 and succeeding	100.0

(e) *De novo institutions.* The required reserves of any depository institution that was not engaged in business on September 1, 1980, shall be computed under § 204.3 in accordance with the following schedule:

Maintenance periods occurring during successive quarters after entering into business	Percentage of reserve requirement to be maintained
1	40
2	45
3	50
4	55
5	65
6	75
7	85
8 and succeeding	100

This paragraph shall also apply to a United States branch or agency of a foreign bank if such branch or agency is the foreign bank's first office in the United States. Additional branches or agencies of such a foreign bank shall be entitled only to the remaining phase-in available to the initial office.

(f) *Certain nonmembers chartered under laws of Hawaii.* Any State-chartered depository institution that was engaged in business on August 1, 1978, which was not a member of the Federal Reserve System on that date, and whose principal office was located in Hawaii on and after that date shall not maintain reserves against its deposits imposed under this Part until January 2, 1986. On or after January 2, 1986, the required reserves of such a depository institution shall be determined by reducing the amount of required reserves computed under § 204.3 in accordance with the following schedule:

Maintenance periods occurring between	Percentage that computed reserves will be reduced
Jan. 2 to Dec. 31, 1986	87.5
Jan. 1, 1987 to Jan. 6, 1988	75
Jan. 7, 1988 to Jan. 4, 1989	62.5
Jan. 5, 1989 to Jan. 3, 1990	50
Jan. 4, 1990 to Jan. 2, 1991	37.5
Jan. 3, 1991 to Jan. 1, 1992	25
Jan. 2, 1992 to Jan. 6, 1993	12.5
Jan. 7, 1993 forward	0

(g) *Mergers and consolidations.* The following rules concerning transitional adjustments apply to mergers and consolidations of depository institutions:

(1) *Nonmembers.* Where the surviving institution of a merger or consolidation between nonmember depository institutions that were engaged in business on July 1, 1979, and were not members of the Federal Reserve System on or after that date is a nonmember institution, it shall compute its transitional adjustment of required reserves under paragraph (a), except that the amount of required reserves shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the institutions had merged) exceeds the sum of the actual required reserves of each bank during the same computation period times the appropriate percentage as specified in the following schedule:

Reserve maintenance periods occurring during quarterly periods following merger	Percentage applied to difference to compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

(2) *Member with surviving nonmember.* Where the surviving institution of a merger or consolidation between a nonmember bank and a bank that was a member bank on or after July 1, 1979, is a nonmember bank, it shall apply the transitional rules for member banks in paragraphs (b) or (d), as applicable, on the proportion of its deposits attributable to the absorbed member bank. This proportion will be the ratio that daily average deposits of the absorbed member bank were to the daily average deposits of the combined banks during the reserve computation period immediately preceding the date of the merger. The bank will compute and maintain reserves against the remaining proportion of deposits applying the transitional rules applicable to nonmember depository institutions in paragraphs (a), (c) or (e), as applicable. A ratio of vault cash also will be computed and applied.

(3) *De novo with surviving nonmember.* Where the surviving institution of a merger or consolidation between a depository institution that was engaged in business on July 1, 1979, and was not a member of the Federal Reserve System on or after that date, and a *de novo* depository institution is a nonmember depository institution, it shall compute and maintain reserves applying the transitional rules for *de novo* depository institutions in paragraphs (c) or (e), as applicable, on a proportion of its deposits attributable to the absorbed *de novo* bank. This proportion will be the ratio that daily average deposits of the absorbed *de novo* institution were to the daily average deposits of the combined institutions during the reserve computation period immediately

preceding the date of the merger. The institution will compute and maintain reserves against the remaining proportion of its deposits by applying the transitional rules applicable to nonmember depository institutions in paragraph (a). A ratio of vault cash also will be computed and applied.

(4) *Nonmember with surviving member.* Where the surviving institution of a merger or consolidation between a member bank and a nonmember bank is a member bank, it shall apply the transitional rules under paragraphs (a), (c) or (e), as applicable, only on the amount of deposits of the nonmember bank outstanding on a daily average basis during the computation period immediately preceding the date of the merger. Reserves will be computed and maintained against the balance of the deposits of the surviving member bank under paragraphs (b), (d) or (e), as applicable.

(5) *Members.* Where a merger or consolidation involves member banks, required reserves shall be computed and maintained applying the transitional rules in paragraph (b), except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the banks had merged) exceeds the sum of the actual required reserves of each bank during the same computation period times the appropriate percentage as specified in the following schedule:

Reserve maintenance periods occurring during quarterly periods following merger	Percentage applied to difference to compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

(6) *De novo with surviving member.* Where the surviving institution of a merger or consolidation between a bank that was a member bank at any time between July 1, 1979, and September 1, 1980, or that was engaged in business on July 1, 1979 and became a member after September 1, 1980, and a *de novo* depository institution is a member bank, it shall compute and maintain reserves by applying paragraph (e) only to the amount of deposits of the *de novo* institution outstanding on a daily average basis during the computation period immediately preceding the date of the merger. Reserves will be computed and maintained against the remaining deposits of the surviving member bank under paragraphs (b) or (d), as applicable.

(7) *De novos.* Where a merger involves *de novo* depository institutions, required reserves shall be computed and maintained in accordance with section 204.3, except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

Maintenance periods occurring during quarterly periods following merger	Percentage applied compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

§ 204.5 Emergency reserve requirement.

(a) *Finding by Board.* The Board may impose, after consulting with the appropriate committees of Congress, additional reserve requirements on depository institutions at any ratio on any liability upon a finding by at least five members of the Board that extraordinary circumstances require such action.

(b) *Term.* Any action taken under this section shall be valid for a period not exceeding 180 days, and may be extended for further periods of up to 180 days each by affirmative action of at least five members of the Board for each extension.

(c) *Reports to Congress.* The Board shall transmit promptly to Congress a report of any exercise of its authority under this paragraph and the reasons for the exercise of authority.

(d) *Reserve requirements.* At present, there are no emergency reserve requirements imposed under this section.

§ 204.6 Supplemental reserve requirement.

(a) *Finding by Board.* Upon the affirmative vote of at least five members of the Board and after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, the Board may impose a supplemental reserve requirement on every depository institution of not more than 4 percent of its total transaction accounts. A supplemental reserve requirement may be imposed if:

(1) The sole purpose of the requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

(2) The requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of basic reserve requirements;

(3) Such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

(4) On the date on which supplemental reserve requirements are imposed, the total amount of basic reserve requirements is not less than the amount of reserves that would be required on transaction accounts and nonpersonal time deposits under the initial reserve ratios established by the Monetary Control Act of 1980 (Pub. L. 96-221) in effect on September 1, 1980.

(b) *Term.* (1) If a supplemental reserve requirement has been imposed on for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need for continuing such requirement.

(2) Any supplemental reserve requirement shall terminate at the close of the first 90-day period after the requirement is imposed during which the average amount of supplemental reserves required are less than the amount of reserves which would be required if the ratios in effect on September 1, 1980, were applied.

(c) *Earnings Participation Account.* A depository institutions's supplemental reserve requirement shall be maintained by the Federal Reserve Banks in an Earnings Participation Account. Such balances shall receive earnings to be paid by the Federal Reserve Banks during each calendar quarter at a rate, not to exceed the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. Additional rules and regulations maybe prescribed by the Board concerning the payment of

earnings on Earnings Participation Accounts by Federal Reserve Banks.

(d) *Report to Congress.* The Board shall transmit promptly to the Congress a report stating the basis for exercising its authority to require a supplemental reserve under this section.

(e) *Reserve requirements.* At present, there are no supplemental reserve requirements imposed under this section.

§ 204.7 Penalties.

(a) *Penalties for Deficiencies.*—(1) *Assessment of Penalties.* Deficiencies in a depository institution's required reserve balance, after application of the 2 per cent carryover provided in § 204.3(f) are subject to penalties. Federal Reserve Banks are authorized to assess penalties for deficiencies in required reserves at a rate of 2 per cent per year above the lowest rate in effect for borrowings from the Federal Reserve Bank on the first day of the calendar month in which the deficiencies occurred. Penalties shall be assessed on the basis of daily average deficiencies during each computation period. Reserve Banks may, as an alternative to levying monetary penalties, after consideration of the circumstances involved, permit a depository institution to eliminate deficiencies in its required reserve balance by maintaining additional reserves during subsequent reserve maintenance periods.

(2) *Waivers.* (i) Reserve Banks may waive the penalty for reserve deficiencies except when the deficiency arises out of a depository institution's gross negligence or conduct that is inconsistent with the principles and purposes of reserve requirements. Each Reserve Bank has adopted guidelines that provide for waivers of small penalties. The guidelines also provide for waiving the penalty once during a two-year period for any deficiency that does not exceed a certain percentage of the depository institution's required reserves. Decisions by Reserve Banks to waive penalties in other situations are based on an evaluation of the circumstances in each individual case and the depository institution's reserve maintenance record. If a depository institution has demonstration a lack of due regard for the proper maintenance of required reserves, the Reserve Bank may decline to exercise the waiver privilege and assess all penalties regardless of amount or reason for the deficiency.

(ii) In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Reserve Bank in the District where the involved depository institution is located shall waive the reserve requirement imposed under this Part for such depository institution when requested by the Federal supervisory authority involved.

(b) *Penalties for Violations.* Violations of this Part may be subject to assessment of civil money penalties by the Board under authority of section 19(1) of the Federal Reserve Act (12 U.S.C § 505) as implemented in 12 CFR Part 263. In addition, the Board and any other Federal financial institution supervisory authority may enforce this Part with respect to depository institutions subject to their jurisdiction under authority conferred by law to undertake cease and desist proceedings.

§ 204.8 Reserve requirement ratios.

(a) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement Corporations and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts:	
$0 to $25 million	3 percent of amount.
Over $25 million	$750,000 plus 12 percent of amount over $25 million.
Nonpersonal time deposits:	
By original maturity (or notice period):	
Less than 4 years	3 percent.
4 years or more	0 percent.
Eurocurrency liabilities	3 percent.

(b) *Reserve ratios in effect during last computation period prior to September 1, 1980.*

Category	Reserve requirement
Net Demand Deposits:	
Deposit Tranche:	
$0 to $2 million	7 percent.
Over $2 million to $10 million.	$140,000+9½ percent of amount over $2 million.
Over $10 million to $100 million.	$900,000+11¾ percent of amount over $10 million.
Over $100 million to $400 million.	$11,475,000+12¾ percent of amount over $100 million.
Over $400 million	$49,725,000+16¼ percent of amount over $400 million.
Savings deposits	3 percent.
Time deposits (subject to 3 percent minimum specified by law):	
By initial maturity:	
Less than 180 days:	
$0 to $5 million	3 percent.
Over $5 million	6 percent.
180 days to 4 years	2½ percent.
4 years or more	1 percent.
Accounts authorized pursuant to Section 303 of Public Law 96-221 offered by member banks located in States outside Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont.	12 percent.
Club accounts	3 percent.

For purposes of computing the reserves under this Part, that would have been required using the reserve ratios that were in effect on August31, 1980, the reserve ratio on time deposits of a member bank shall be the average time deposit ratio of the member bank during the 14-day period ending August 6, 1980, except that the reserve ratio on time deposits of a nonmember bank that was a member bank on or after July 1, 1979, but which became a nonmember bank before March 31, 1980, may be the average time deposit ratio of the nonmember during the 14-day period ending August 27, 1980.

By order of the Board of Governors, August 15, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-25715 Filed 8-21-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 339

Loans in Areas Having Special Flood Hazards; Notice of Revision

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: As part of its regulatory reform program for improving the quality of its regulations, FDIC has revised Part 339 of its regulations. Part 339 relates to the flood insurance protection that is required for certain loans that are secured by improved real estate or mobile homes located in areas having special flood hazards. The revision is intended to simplify the regulation by restructuring it for easier reading and by eliminating unnecessary and outdated provisions. In addition, minor technical amendments have been made to the part to conform it to the requirements of the International Banking Act of 1978.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation,

550 17th Street, N.W., Washington, D.C. 20429, (202) 389-4237.

SUPPLEMENTARY INFORMATION: On December 21, 1979 FDIC published for public comment a proposed revision of Part 339. The comment period ended on February 19, 1980. During the comment period six comment letters were received. The majority favored FDIC's efforts to simplify the regulation. However, a number of suggestions were made. Two of the comments suggested that the regulation be eliminated because it is costly for banks to administer and the customers can adequately protect themselves without government intervention. FDIC, however, cannot eliminate the regulation since its requirements are mandated by statute.

Another comment suggested that the sample notices in the regulation be expanded to include a statement regarding the borrower's responsibilities under the statutory mandate so that the responsibilities of both the lender and borrower can be covered on the same form. The sample notices in § 339.6(b) of the regulation provide language which FDIC considers sufficient to satisfy the notice requirements that are imposed on insured State nonmember banks under § 339.6(a). The sample notices were developed and included in the regulation solely for the purpose of assisting the banks in understanding what these specific notices should contain. The banks may, and often do, place the notices on the same form containing statements regarding the borrower's responsibilities. This is a matter that is not restricted by the regulation and within the discretion of the bank.

It was also suggested that the references to the Secretary of Housing and Urban Development be deleted and replaced by references to the Director of the Federal Emergency Management Agency since the latter official has been given the responsibility for the Federal flood insurance program. This correction has been made in the final rule.

Further, it was suggested that FDIC not issue its final revision of Part 339 until after the Federal Emergency Management Agency (FEMA) has completed its new program which will permit lenders to obtain a telephonic determination regarding whether improved real estate or a mobile home is located in a flood hazard area by calling the Federal Insurance Administration Map Information Facility at a toll free number. The suggestion presumes that the new FEMA program will require modifications to FDIC's flood insurance regulation. FDIC has reviewed the program with FEMA and does not believe that the program will require any changes to its regulation. Thus, the issuance of the final revision of Part 339 has not been delayed for the completion of the new telephone program.

In addition to minor editorial changes and the correction noted above regarding the reference to the Secretary of the Department of Housing and Urban Development, the final regulation differs from the proposed regulation as follows:

(1) The words "at least" have been added to the third sentence in the sample customer notice under § 339.6(b)(1) so that it reads: "This area has at least a 1 percent chance of being flooded within any given year." The new language makes it clear that the designated area can have more than a 1 percent chance of flooding at the time of the loan.

(2) The words "for the property" have been added after the words "Federal disaster relief assistance" in the third sentence of § 339.6(b)(2)(ii) to clearly indicate that the statement regarding the availability of Federal disaster relief assistance relates only to the property securing the loan.

(3) A clarifying footnote has been added to § 339.3.

The revised Part 339 will not have any adverse impact on insured banks since it merely simplifies the structure of existing provisions and does not impose any new requirements. Further, the revision will not affect the competitive status of the banks. Accordingly, a cost/benefit analysis (including a small bank impact statement) regarding the changes was not prepared.

The revised Part 339 does not reflect a flexible regulatory approach that distinguishes between small and large bank requirements because the provisions of the part are not amenable to such an approach. All of the requirements in the part are specifically mandated by statute except the procedural requirements in § 339.6(a)(2). The § 339.6(a)(2) requirements were designed to insure that borrowers would receive the required notices in a timely manner. They are considered to be appropriate for customers of both large and small banks.

Accordingly, under Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819), the FDIC Board of Directors revises Part 339 as stated below:

PART 399—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Sec.

339.1 Authority and scope.
339.2 Definitions.
339.3 Requirement to purchase flood insurance.
339.4 Exemption.
339.5 Records of compliance.
339.6 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

Authority: Secs. 102(b) and 202(b), Pub. L. 93-234, 87 Stat. 978, 982 as amended by Secs. 704(a) and 703(a), Pub. L. 95-128, 91 Stat. 1145 (42 U.S.C. §§ 4012a (b), 4106(b)); Sec. 1364, Pub. L. 93-383, 88 Stat. 739 (42 U.S.C. § 4104a).

§ 339.1 Authority and scope.

This Part is issued under section 1364 of the Housing and Community Development Act of 1974 and sections 102(b) and 202(b) of the Flood Disaster Protection Act of 1973 as amended by section 703 of the Housing and Community Development Act of 1977. Its provisions apply to loans which are secured by improved real estate or mobile homes and are made by insured State nonmember banks or insured State branches of foreign banks.

§ 339.2 Definitions.

(a) The term "bank" means an insured State nonmember bank and an insured State branch of a foreign bank.

(b) The term "loan" means an extension of credit secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards.

§ 339.3 Requirement to purchase flood insurance.

No bank shall make, increase, extend, or renew any loan as defined in § 339.2(b) when the improved real estate or mobile home securing the loan is located or is to be located in an area in which flood insurance has been made available under the National Flood Insurance Act of 1968,[1] unless the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance. The amount of the insurance must be at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available for the particular type of property under the Act, whichever is less.

§ 339.4 Exemption.

Flood insurance shall not be required on any State-owned property that is covered under an adequate policy of self-insurance satisfactory to the Director of the Federal Emergency Management Agency who will publish and periodically revise the list of States

[1] Flood insurance is available to a community when the community is participating in the National Flood Insurance Program.

falling within the exemption provided by this section.

§ 339.5 Records of compliance.

Each bank shall maintain for all extensions of credit secured by improved real estate or a mobile home sufficient records to indicate the method used by the bank to determine whether the extensions of credit fall within the provisions of § 339.3 or § 339.4 of this part.

§ 339.6 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

(a) *Notice Requirement.* In making, increasing, extending, or renewing a loan as defined in Section 339.2(b), each bank shall mail or deliver a written notice to the borrower stating: (1) that the property securing the loan is or will be located in an area identified as a flood hazard area (or in lieu of such notification, the bank may obtain satisfactory written assurance from the seller or lessor that the seller or lessor has notified the borrower, before the execution of any agreement for sale or lease, that the property securing the loan is or will be located in such an area); and (2) whether Federal disaster relief assistance will be available for the property if the property is damaged by a flood in a federally declared disaster. The notice must be mailed or delivered as soon as feasible but not later than 10 days before the closing of the transaction (or not later than the bank's commitment if any, if the period between commitment and closing is less than 10 days). Each bank shall require the borrower, before closing, to provide the bank with a written acknowledgment that the borrower realizes the property securing the loan is or will be located in an area identified as a flood hazard area and that the borrower has received the required notice regarding Federal disaster relief assistance.

(b) *Sample Notices.* A bank providing written notice containing language substantially similar to that presented below, as appropriate, within the time limits prescribed in paragraph (a) will be considered to be in compliance with the notice requirements of paragraph (a).

(1) *Notice to Borrower of Special Flood Hazard Area.* Notice is hereby given to ———— (Name of borrower) that the improved real estate or mobile home described in the attached instrument is or will be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area. This area is delineated on ———— (Name of Community) Flood Insurance Rate Map (FIRM) or, if the FIRM is unavailable, on the Flood Hazard Boundary Map (FHBM). The area has at least a 1 percent chance of being flooded within any given year. The risk of exceeding the 1 percent chance increases with time periods longer than one year. For example, during the life of a 30-year mortgage, a structure located in a special flood hazard area has a 26 percent chance of being flooded.

(2) *Notice to Borrower about Federal Disaster Relief Assistance.—(i) Notice in participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is now participating in the National Flood Insurance Program. If the property is damaged by flooding in a federally declared disaster, Federal disaster relief assistance may be available. However, such assistance will be unavailable if your community has been identified as a flood-prone area for one year or longer and is not participating in the National Flood Insurance Program when the assistance is approved. This assistance, usually in the form of a loan with a favorable interest rate, may be available for damages incurred in excess of your flood insurance.

(ii) *Notice in nonparticipating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is not participating in the National Flood Insurance Program. This means that the property is not eligible for Federal flood insurance. If the property is damaged by flooding in a federally declared disaster, Federal disaster relief assistance for the property will be unavailable if your community has been identified as a flood-prone area for one year or longer. Such assistance may be available only if, at the time the assistance would be approved, your community is participating in the National Flood Insurance Program or has been identified as a flood-prone area for less than one year.

By Order of the Board of Directors, August 18, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-25563 Filed 8-21-80; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 80-488]

Federal Savings and Loan Associations; Service Corporation Investment Authority

August 15, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: Pursuant to title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, the Board has amended its regulations to authorize Federally-chartered savings and loan associations to invest up to three percent of association assets in service corporations. An association investing in service corporations to the full extent permitted must allocate one percent of assets to investments that serve primarily community, inner-city or community development purposes.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Telephone number: (202) 377-6445.

SUPPLEMENTARY INFORMATION: On April 3, 1980, the Federal Home Loan Bank Board, by Resolution No. 80-233 (45 FR 24178) proposed amendments to its regulations pertaining to investment in service corporations by Federal associations. The public comment period ended on May 9, 1980, with receipt of approximately 75 comment letters from savings and loan associations, service corporations, trade associations and others. The comments generally supported the proposed amendments, although many recommended modification or clarification of one or more of the provisions. After reviewing the comments received and other available information, the Board has decided to adopt the proposed amendments with modifications, as described below.

Increased Investment Authority

Section 401 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (the "Act"), Pub. L. No. 96-221, 94 Stat. 132, amends section 5(c)(4)(B) of the Home Owners' Loan Act of 1933, as amended, to provide Federally-chartered savings and loan associations with authority to invest up to three percent of assets in the capital stock, obligations or other securities of service corporations. Section 401 further

requires that one-half of the aggregate outstanding investment in excess of the current one percent limitation shall be used primarily for community, inner-city and community development purposes. This provision requires that a Federal association investing in service corporations to the full extent permitted must allocate one percent of assets to investments that serve community development purposes.

The Board's proposed implementing regulation would have required that one-half of any investment in excess of one percent of assets be allocated to programs that serve community, inner-city and community development purposes. Several commenters expressed concern regarding the restrictive character of the proposed formula for increased investment, and pointed out the difficulty in operating under the formula. These commenters questioned whether conditioning the use of any of the increased general investment authority on allocation to community development programs was consistent with the legislative purpose in increasing service corporation investment. In addition, commenters pointed out the difficulty of specifically "matching" community development and other projects for each service corporation investment in excess of one percent of assets.

Service corporations of Federal associations typically are organized to engage in activities in which the association may not engage directly. Such activities often earn a yield on investment in excess of that which may be earned on the usual investments of a Federal association. Increased investment authority in service corporations gives greater flexibility to Federal associations to diversify their asset portfolios and increase earnings. Upon consideration, the Board believes that a requirement of matching community development and other service corporation investments may result in associations foregoing use of their increased service corporation investment authority because matching investments might not be available. In addition, matching presents administrative problems for an institution exercising this new authority by requiring coordination of the timing, size and term of service corporation activities funded by an investment. This may be particularly difficult in the case of service corporations owned by more than one savings and loan association.

In order to facilitate the use of the increased investment authority provided by section 401, the Board has modified the proposal to provide for investment in the capital stock, obligations or other securities of service corporations under § 545.9-1 in an amount not to exceed two percent of assets, and an additional investment of one percent of assets where such investment serves primarily community, inner city or community development purposes.

In order to facilitate supervision through the examination process of the use of the additional one percent investment authority for community development purposes, the Board has required an association with service corporation investments in excess of two percent of assets to designate qualifying investments. However, the Board desires to encourage community development investments by permitting such investments to be counted in either the one or two percent investment categories and to be moved from one category to the other at the association's option.

Investment for Community, Inner-City and Community Development Purposes

In the proposal, the Board stated its belief that investments qualifying as serving community, inner-city, and community development purposes should be directed substantially at programs for development, preservation and revitalization of low- and moderate-income areas, both urban and rural. The Board cited investment approved for Community Investment Fund advances or which meet the criteria enumerated in the Board's Community Reinvestment Act regulations (12 CFR 563e.7) as examples of qualifying investments. The Board specifically solicited comments regarding what types of investments should qualify or what standards should be applied to determine whether an investment qualifies.

Almost every comment received suggested types of qualifying investments or standards for determining whether an investment would qualify for community development purposes. These suggestions varied greatly. However, most comments urged the Board to construe the community development requirement broadly. Such an approach is supported in the legislative direction that one-half of the increased investment authority be used "primarily" for community development purposes and would permit flexibility in addressing the varying needs of different communities across the nation.

In order to encourage use of the authority to invest in community development projects and to permit flexibility in selecting qualified investments, the Board has decided to adopt broad standards to determine whether an investment qualifies as having a community development purpose. These include investments in governmentally sponsored programs for housing, small farms or businesses that are local in character; investments for the preservation or revitalization of either urban or rural communities; and investments designed to meet the community development needs of and primarily benefit low- and moderate-income communities. In addition, the Board has authorized its Principal Supervisory Agent, i.e. the president of the Federal Home Loan Bank of which the Federal association investing in the service corporation is a member, to qualify investments on a case-by-case basis.

Other Comments

Several commenters urged the Board to preapprove new types of investment authority for service corporations of Federal associations; one commenter urged the Board to limit rather than increase the amount and scope of the service corporation investment authority. The Board's proposal was limited to implementation of a statutory increase in the amount of investment by Federal associations in service corporations, and consideration of expansion or limitation of the scope of activities of service corporations is not being considered at this time.

The Board finds that a 30-day delay of effective date under 5 U.S.C. 553(d) and 12 CFR 508.14 with regard to these amendments is unnecessary because the amendments implement a statute and relieve a restriction.

Accordingly, the Federal Home Loan Bank Board hereby amends § 545.9-1(d)(1) of the Rules and Regulations for the Federal Savings and Loan System to read as follows:

PART 545—OPERATIONS

§ 545.9-1 Service corporations.

* * * * *

(d) *Amount of investment.* (1) An association may invest under this section in the capital stock, obligations, or other securities of service corporations, *provided,* that its aggregate outstanding investment does not exceed 3 percent of assets, and any investment in excess of 2 percent of assets serves primarily community, inner-city or community development purposes. The investment limitations of this paragraph shall include all loans, secured and unsecured, and all guarantees or takeout commitments of such loans, to service corporations or any subsidiaries thereof, and to joint ventures of such service corporations or

subsidiaries, whether or not the association is a stockholder therein. An association with an aggregate outstanding investment in excess of 2 percent of assets shall designate investments that serve primarily community, inner-city or community development purposes, which shall include the following:

(i) Investments in governmentally insured, guaranteed, subsidized or otherwise sponsored programs for housing, small farms, or businesses that are local in character;

(ii) Investments for the preservation or revitalization of either urban or rural communities;

(iii) Investments designed to meet the community development needs of, and primarily benefit, low- and moderate-income communities; or

(iv) Other community, inner city or community development-related investments approved by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this Chapter).

* * * * *

(Sec. 401, Pub. L. No. 96-221; sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 C.F.R., 1943-48, Comp. p. 1071).

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-26714 Filed 8-21-80; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 563 and 578

[No. 80-489]

Amendments Relating to Federal Mutual Savings Banks

Dated: August 15, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Temporary final regulations.

SUMMARY: The Federal Home Loan Bank Board adopts regulations on a temporary basis to implement changes to the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464), regarding Federal mutual savings banks. Comments are invited on the amendments through October 15, 1980. The regulations will be reconsidered by the Board and either modified or adopted permanently on the basis of comments received and experience with the temporary regulations.

The amendments (1) authorize a 5 percent leeway authority and corporate demand deposit account authority for Federal mutual savings banks; (2) reconcile inconsistent investment limitations for Federal mutual savings banks in corporate bonds and consumer loans as provided in the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. No. 95-630, 92 Stat. 3641), and the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221, 94 Stat. 132); (3) define terms and conditions relating to the Board's authority to grandfather a mutual savings bank's activities and investments; and (4) add a technical revision to the Board's reserve account regulation to include types of investments typically held by mutual savings banks.

DATES: Effective date August 21, 1980. Comments are invited on the amendments through October 15, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Lois G. Jacobs, Office of General Counsel, at the above address. Telephone No. (202) 377-6456.

SUPPLEMENTARY INFORMATION: Title XII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRA") amended the Home Owners' Loan Act ("HOLA") (12 U.S.C. § 1464) to authorize the Federal Home Loan Bank Board to grant Federal charters to existing state-chartered mutual savings banks ("MSBs") and to provide for their examination, operation, and regulation. On June 14, 1979, by Board Resolution No. 79-325 (44 FR 36013; June 20, 1979), the Board adopted regulations implementing title XII at 12 CFR 575 *et seq.*

At this time, the Board has decided to make temporary amendments to those regulations to define terms and further describe the conditions pertaining to grandfathered activities and investments, as provided by FIRA and 12 CFR 578.2. FIRA states that a Federal mutual savings bank may, "* * * to the extent authorized by the Board, continue to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investments of a type it held on that date * * *" (12 U.S.C. § 1464(a)), and the current regulation incorporates similar language. In the amended regulation, "activity" is defined in order to clarify that it includes acceptance of deposit accounts, non-deposit services, and any consistent pattern of investment activity, except those investments subject to the 5-year average ratio investment limitation set forth at 12 CFR 578.2(d).

"Activities engaged in" include activities that MSBs were performing on December 31, 1977; had performed before and after December 31, 1977, although temporarily suspended on that date; and had committed to perform on that date. Commitment to perform an activity may be shown by any board of trustees action which approved: a binding contract to perform an activity, a commitment of either financial or personnel resources to the development of an activity, a budget which includes a contemplated activity, or a resolution evidencing a decision to engage in an activity.

For purposes of this regulation, an "investment" is defined as a security or other property purchased or otherwise acquired for income or profit, and an "investment held" also includes an investment that an MSB had acquired the right to hold on December 31, 1977, through binding contract or specific court order.

Section 578.2 is also amended to allow a Federal mutual savings bank to retain any investment it held at the time of filing the conversion application, if such investment is not prohibited by the National Housing Act (12 U.S.C. § 1724 *et seq.*). The Board believes that it may properly grandfather any specific investments held by a converting MSB if such investments are not prohibited by statute for institutions insured by the Federal Savings and Loan Insurance Corporation.

The Board has added two conditions to the grandfathering section that indicate when the Board will use its prerogative to modify those activities and investments that otherwise might be grandfathered. The Board will not grandfather any activity or investment which prevents a strong orientation toward mortgage financing and community development or is detrimental to an MSB's safety and soundness. The Board believes these conditions are necessary to fulfill the Congressional mandate regarding continued home financing by mutual savings banks.

The Board has also amended the grandfathering section to reconcile apparently inconsistent investment limitations for corporate bonds and consumer loans in FIRA and the Depository Institutions Deregulation and Monetary Control Act of 1980 ("Deregulation Act"). Under FIRA, the equity, corporate bond, and consumer loan investments held by a Federal mutual savings bank may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of a

conversion application. The Deregulation Act authorizes all Federal associations to invest up to 20 percent of their assets in consumer loans, commercial paper, and corporate debt securities. Federal mutual savings banks are associations under the HOLA and are authorized to make investments permitted associations under the HOLA.

Based on analysis of the legislative history of FIRA, the Board believes that the two statutes may be reasonably reconciled by providing authority for a Federal mutual savings bank to invest in corporate bonds and consumer loans according to their five-year average or the 20 percent limit for Federal associations, whichever is greater. Therefore, the Board has amended this section as follows:

(1) the equity investment held by a mutual savings bank shall not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of the conversion application.

(2) If, when an MSB files a conversion application, its combined five-year average ratio investment in corporate bonds and consumer loans exceeds 20 percent, then its combined investment ratio shall not exceed its five-year average ratio.

(3) If, when an MSB files a conversion application, its combined five-year average ratio investment in corporate bonds and consumer loans is less than 20 percent, then the total amount of its combined investment ratio in corporate bonds, consumer loans, and any commercial paper investments that are not grandfathered under 12 CFR 578.2(b), shall not exceed 20 percent.

The Board will also be considering limitations on commercial paper investments by Federal MSBs in cases where: (1) an MSB has no grandfathered authority to invest in commercial paper and its combined consumer loan/corporate debt average exceeds 20 percent, and (2) an MSB with grandfathered authority to invest in commercial paper chooses to take advantage of commercial paper investment authority under Board regulations promulgated under Sec. 5(c)(2)(B) of the HOLA. With regard to this issue, the Board may require such limitations on a case-by-case basis in connection with applications filed before permanent regulations are adopted, but may propose a general rule on this subject in the near future.

The Board believes that the existing regulations may not adequately reflect the Board's view that Federal mutual savings banks should continue to operate as mutual savings banks. With that view in mind, 12 CFR 578.4 is amended to state that unless specified otherwise by Board resolution, a Federal mutual savings bank may continue to follow applicable state laws and regulations in effect on December 31, 1977, for all types of activities and investments grandfathered under 12 CFR 578.2 (b)(2) and (b)(3).

Section 408 of the Deregulation Act provides new authority for Federal mutual savings banks to invest up to 5 percent of assets in corporate, business, and commercial loans, so long as the loan is made within 75 miles of the home office or within the state where the MSB is located Part 575 is amended to add a new section implementing this authority. Excluded from this new section are real estate loans, consumer loans, and participation interests in such loans. The Board will consider a loan made: (1) where the main office, corporate headquarters, or regional office of the borrower is located; (2) where the loan proceeds are to be primarily used; or (3) if the loan is for the purchase of mobile equipment, where such equipment is primarily used, maintained, or stored. The Board believes that these definitions give proper scope to the 75-mile limitation. Since a Federal MSB will be subject to the Board's Insurance of Accounts Regulations, loans made under this section will be subject to the limitations regarding loans to one borrower contained in § 563.9-3 of such regulations.

Section 408 also allows a Federal mutual savings bank to accept demand deposits in connection with a commercial, corporate, or business loan relationship. The Board believes that such deposits may be accepted in connection with any such loan, as defined in new § 578.2-1(a), not just those made under the 5 percent leeway authority. The Board is concerned, however, that these loans represent true business transactions, and has defined a loan relationship to include (1) any outstanding loan, (2) the establishment of a line of credit, and (3) a consistent pattern of lending between an MSB and a business evidencing a legitimate lending relationship between the MSB and the business entity.

The Board is also amending the existing Asset Composition and Net Worth Index ("ACNWI") to include three components—business loans, common stock, and corporate bonds—that are typically held by mutual savings banks. The Board is adding these components at this time even though it has proposed to eliminate the ACNWI. (See Board Resolution No. 80-445, dated July 24, 1980, and published on July 31, 1980 at 45 FR 50797.) The Board believes the ACNWI should include all appropriate assets as long as it does exist.

The Board also has determined to revise its admission fee for those institutions obtaining insurance from the Federal Savings and Loan Insurance Corporation. Effective August 21, 1980, the existing fee of 3/100 of one percent of saving capital, or a minimum of $300, is no longer in effect. The new admission fee is 2/1000 (.002) of one percent of savings capital, or a minimum fee of $1,000. The Board believes that this schedule better reflects the costs to the Board of processing insurance applications. For all applications in process in the Federal Home Loan Bank System or at the Board before August 21, 1980, applicants will be charged the lower of the two fees.

The Board believes it is in the public interest to adopt these amendments on a temporary final basis without delay so that it may begin to process existing mutual savings bank applications and gain experience in this area and, therefore, finds that notice and public procedure with respect to such amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. § 553(b); the Board also finds that publication of the amendments for the 30-day period specified in 12 CFR 508.12 and 5 U.S.C. § 553(d) prior to the effective date is unnecessary for the same reason.

The Board will reconsider these temporary regulations promptly in the light of comment received on them and experience with them, and accordingly either modify them or adopt them on a permanent basis.

Accordingly, the Board, on a temporary basis, hereby (1) amends § 563.13 (12 CFR 563.13) of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation, and (2) amends §§ 578.1, 578.2, and 578.4 (12 CFR 578.1, 578.2 and 578.4) of the Rules and Regulations for Federal Mutual Savings Banks, and adds new §§ 578.2-1 and 578.2-2 (12 CFR 578.2-1 and 578.2-2) thereto, to read as set forth below.

SUBCHAPTER D—RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

PART 563—OPERATIONS

1. Amend § 563.13 by revising the entry entitled "Other Assets" in subparagraph (b)(3)(i) to read as follows:

§ 563.13 Reserve accounts.

* * * * *

(b) *Net worth requirements.*

* * * * *

(3) *Asset Composition and Net Worth Index.* (i) * * *

Asset category	Minimum net worth percentage
* * * * *	
Other assets:	
Furniture, fixtures, and equipment	10
Investment in service corporations and subsidiaries	5
Corporate bonds	3
Business loans	7
Common stock	20
All other (except excluded assets)	3

* * * * *

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 578—OPERATIONS

2. Revise § 578.1 to read as follows:

§ 578.1 General.

(a) Except as otherwise provided in this Subchapter or by specific Board resolution, or except to the extent otherwise inconsistent with this Subchapter or with the Act, as determined by the Board's Office of General Counsel, a Federal mutual savings bank shall be subject to the Rules and Regulations for Federal Savings and Loan Associations (Part 541 *et seq.* of this chapter), the Rules and Regulations for Insurance of Accounts (Part 561 *et seq.* of this Chapter) and as a member of a Federal Home Loan Bank, to the Regulations for the Federal Home Loan Bank System (Part 521 *et seq.* of this Chapter), all as now in effect or as hereinafter amended.

(b) References in the Federal rules and regulations to associations with a Charter K (Rev.) or Charter N, other than § 545.4, shall be deemed as also referring to Federal mutual savings banks with a Charter B. In addition, the trustees of each mutual savings bank shall be subject to all of the above rules and regulations that pertain to directors of Federal savings and loan associations just as if they were directors.

3. Revise 12 CFR 578.2 to read as follows:

§ 578.2 Investments and activities.

(a) *Definitions.* For purposes of this section: (1) "Activity" includes acceptance of deposit accounts, non-deposit services, and any consistent pattern of investment activity, except for those investments subject to the five-year average ratio in paragraph (d) of this section.

(2) "Activities engaged in" include activities that banks (i) were performing on December 31, 1977, (ii) performed before and after December 31, 1977, although temporarily suspended on that date, and (iii) had committed to perform on that date. Commitment to perform an activity may be shown by board of trustees action approving: (*a*) a binding contract to perform an activity; (*b*) a commitment of either financial or personnel resources to the development of an activity; (*c*) a budget which includes a contemplated activity; or (*d*) a resolution evidencing a decision to engage in an activity.

(3) An "investment" is a security or other property purchased or otherwise acquired for income or profit.

(4) "Investment held" includes any investment actually held or one that a bank had acquired the right to hold by binding contract or specific court order on December 31, 1977.

(b) *General.* A bank may, to the extent authorized by the Board, (1) retain any investment it held at the time of filing the conversion application if such investment were not prohibited by statute for institutions insured by the Federal Savings and Loan Insurance Corporation on that date; (2) continue to carry on any activities it was engaged in on December 31, 1977, as a State-chartered savings bank, and (3) continue to hold and make any investment of a type it held on December 31, 1977.

(c) *Conditions.* A bank shall not engage in any activity or retain or make any investment which (1) prevents the bank from a strong orientation toward mortgage financing and community development, or (2) is detrimental to its safety and soundness.

(d) *Equity, corporate bonds, and consumer loans.* (1) The equity investments held by a bank shall not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of the conversion application. (2) If, when a bank files a conversion application, the combined average ratio of its investments in corporate bonds and consumer loans for the five-year period immediately preceding the filing exceeds 20 percent, then the combined corporate bond and consumer loan investments shall not exceed such average. (3) If, when a bank files a conversion application, the combined average of its investments in corporate bonds and consumer loans for the five-year period immediately preceding the filing is less than 20 percent, then the total of such investments plus investments in commercial paper not grandfathered under paragraph (b) of this section shall not exceed 20 percent.

4. Add new §§ 578.2-1 and 578.2-2, to read as follows:

§ 578.2-1 Commercial, corporate, and business loans.

(a) *Definition.* For purposes of this section, a commercial, corporate, or business loan is any loan other than (1) a real estate loan (2) a loan to a natural person for personal, family, or household use, or (3) a participation interest in such loans.

(b) *General.* In addition to other provisions of this Chapter, a bank may invest up to 5 percent of its assets in commercial, corporate, and business loans.

(c) *Geographic limitation.* (1) Loans under this section must be made within the state where the bank is located or within 75 miles of the bank's home office. (2) A loan shall be deemed made: (i) where the main office, corporate headquarters, or regional office of the borrower is located; or (ii) where the loan proceeds are to be primarily used; or (iii) if the loan is for the purchase of mobile equipment, where such equipment is primarily used, maintained, or stored.

§ 578.2-2 Demand deposits.

(a) A bank may accept demand deposits in connection with a commercial, corporate, or business loan relationship, as defined in § 578.2-1(a) of this Part.

(b) A loan relationship includes (1) any outstanding loan, (2) the establishment of a line of credit, and (3) a consistent pattern of lending between a bank and a business evidencing a legitimate lending relationship between the bank and the business.

5. Revise § 578.4 to read as follows:

§ 578.4 Applicability of State laws and regulations.

(a) *Lending discrimination.* Banks permitted to convert to Federal charter will be subject, as enforced and supervised by the Board, to the requirements of State laws (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, pertaining to discrimination in the extension of home mortgage loans or adjustment in terms of mortgage instruments based on neighborhood or geographical area, or to the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*), if the Board determines that the State law imposes more stringent requirements than Federal law and regulations.

(b) *Grandfathered investments and activities.* Unless otherwise provided by the Board, a bank may continue to follow applicable State laws and regulations in effect on December 31, 1977, for all types of activities and

investments grandfathered under § 578.2 (b)(2) and (b)(3) of this Part until such time as the Board may amend this Part to provide rules regarding those activities and investments.

(Sec. 5, 48 Stat. 132, as amended by title IV, § 408, Pub. L. 96-221, 94 Stat. 160 (12 U.S.C. 1464); Secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-25564 Filed 8-21-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3032]

Beneficial Corp., et al.; 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 requires, among other things, a Wilmington, Del. firm and Beneficial Management Corp. of Morristown, N.J. to cease, in connection with the extension of consumer credit and purchase of consumer contracts, from misrepresenting the effect of state laws and consumer's right to assert against contract holder any claim or defense arising from the contract. The order further bars respondents from using past notice to defeat any valid consumer claim and requires them to notify all active account consumers who received the notice that their claims and defenses have not been waived.

DATES: Complaint and order issued August 5, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174, (206) 442-4655.

SUPPLEMENTARY INFORMATION: On Tuesday, May 13, 1980, there was published in the Federal Register, 45 FR 31416, a proposed consent agreement with analysis In the Matter of Beneficial Corporation, a Corporation, and Beneficial Management 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.

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; 13.533-45 Maintain records. Subpart-Misrepresenting Oneself and Goods-Business Status, Advantages Or Connections: § 13.1370 Business methods, policies, and practices; § 13.1417 Financing activities.—Goods: § 13.1675 Law or legal requirements.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

James A. Tobin,

Acting Secretary.

[FR Doc. 80-25475 Filed 8-21-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271, 273, 274

[Docket No. RM79-76; Order No. 99]

Regulations Covering High-Cost Natural Gas Produced From Tight Formations

August 15, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Federal Energy Regulatory Commission pursuant to sections 107 (b) and (c) of the NGPA hereby adopts regulations that establish an incentive maximum lawful price ceiling for certain natural gas produced from tight formations. The regulations also provide guidelines for formally designating tight formations and for determining which wells drilled into such formations will qualify for the incentive price.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT:

June G. Perin, Office of the General Counsel, 825 North Capitol Street, NE., Room 8100-D, Washington, D.C. 20426, (202) 357-8473.

Colette Bohatch, Office of the General Counsel, 825 North Capitol Street, NE., Room 8100-B, Washington, D.C. 20426, (202) 357-8140.

Webster Gray, Division of NGPA Compliance, Office of Pipeline and Producer Regulation, 825 North Capitol Street, NE., Room 6000, Washington, D.C. 20426, (202) 357-8682.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) firmly supports the national policy to encourage production of natural gas from unconventional sources that can be put into production only at extraordinary risk or cost. One such source of gas is a fairly common geological feature known as a "tight formation" or "tight sand" that is described in detail below. By the final regulations promulgated in this order the Commission establishes an incentive price ceiling for certain natural gas produced from tight formations.

This rule implements the Congressional authorization to the Commission in section 107(b) of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3317), to set a "special price" which is "necessary to provide reasonable incentives for the production of * * * high-cost natural gas." In exercising this authority, the Commission has been concerned that any section 107 special price provide an incentive during the period before the NGPA deregulation beginning in 1985. The key question addressed by the Commission in this rulemaking is what incentive price best meets the statutory standard of a "necessary" incentive during the transitional period between issuance of this rule and 1985.

In addition to specifying an incentive price, the regulations also provide guidelines for formally designating tight formations and for determining which wells drilled into such formations will qualify for the incentive price. Under the rule, most new wells and recompleted wells producing from designated tight formations will be eligible for the incentive price.

II. Background

A "tight formation" is a sedimentary layer of rock cemented together in a manner that greatly hinders the flow of any gas through the rock.[1] Because such

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[1] One commenter was concerned that the Commission referred to "tight sands" in the preamble of the inerim rule. Any use or reference to "sands" in the interim rule or in this rule does not have the effect of limiting the applicability of the

Footnotes continued on next page

a formation is characterized by low permeability, wells drilled into gas-bearing formations of this kind usually produce at very low rates.

To stimulate production from these formations, producers must use expensive enhanced recovery techniques. The technique usually applied to tight formations involves massive hydraulic fracturing, which creates a system of cracks permitting trapped gas to flow more easily into a wellbore.

It is estimated that between 200 and 700 trillion cubic feet (Tcf) of natural gas is trapped in tight formations within the United States. Depending upon the applicable price incentive, it is estimated that the gas recoverable in tight formation might equal the amount of proven domestic conventional gas reserves.

The estimated amount of tight formation gas includes formations that are presently being developed as well as formations that are known but undeveloped. This rule will provide an incentive price for production of gas produced from several types of drilling programs: (1) Infill wells drilled into certain developed tight formations; (2) recompletion of wells that are already producing from formations vertically situated in relationship to the designated tight formations; and (3) new wells drilled and completed in undeveloped tight formations. Most of the first gas to be produced from tight formations under this incentive program is likely to be gas produced through recompleted wells. Some of these wells can be brought into production without any additional drilling by completing existing wells in tight formations.

The Commission issued a Notice of Inquiry (Docket No. RM79-44, 44 FR 34969, June 18, 1979) regarding high-cost gas. The public response to the notice generally recommended that tight formation gas be considered for qualification as a high-cost gas. President Carter, in his energy address to the nation on July 16, 1979, also urged the Commission to set a price incentive for tight formation gas.

A Notice of Proposed Rulemaking was issued by the Commission on August 29, 1979 (Docket No. RM79-76, 44 FR 52255, September 7, 1979), proposing an incentive price ceiling for tight formation gas. Public hearings were held in Washington, D.C. on September 24th and in Denver, Colorado, on September 27th. Numerous written comments were received. The Commission encouraged State agencies that would be affected by these regulations to participate in the rulemaking process.

Interim regulations were developed from the proposed regulations taking into account the suggestions submitted during the public proceedings. The interim regulations were issued on February 20, 1980, along with newly proposed regulations for recompletion tight formation gas. The Commission requested comments on both the interim regulations and the proposed regulations.

The Commission has been persuaded by the final series of comments to adjust upward the incentive price ceiling for new tight formation gas, to incorporate an incentive price ceiling for recompletion tight formation gas, and to refine further the designation and well category determination procedures of the interim rule.

III. Summary of the Rule

A. Price

These regulations establish an incentive price ceiling for new and recompletion tight formation gas produced from designated tight formations (see § 271.703(b) (2) and (3)). The maximum lawful price for both categories is the effective negotiated contract price (see § 271.703(a)) between the buyer and seller or 200 percent of the maximum lawful price for section 103 gas, whichever is lower.

B. Negotiated Contract Price Requirement

The incentive price established in this rule is only a ceiling price. Once gas is found to qualify as new or recompletion tight formation gas, the seller can collect a price higher than the otherwise applicable maximum lawful price up to the ceiling if the contract contains an effective negotiated contract price.

As defined in § 271.702 of this rule an effective negotiated contract price is one that either is established by reference to the incentive pricing authority of the Commission under section 107 of the NGPA or is established by a fixed rate or fixed escalator clause, *i.e.* a clause that changes the price for the gas by a specified amount on a specified date.

C. Designation of Tight Formations

As provided in the interim rule, the price incentives in the final rule are available only for gas produced from tight formations that are designated in accordance with the procedures set forth in the rule. The designation procedure begins with the jurisdictional agency. The jurisdictional agency will establish procedures and conduct investigations to identify tight formations that meet the guidelines set forth in § 271.703(c). The jurisdictional agency will then recommend to the Commission that specific formations or portions thereof be designated as tight formations.

The guidelines for identifying tight formations contain standards regarding permeability, gas productivity, and production of associated oil. In addition, if infill drilling had been approved for the formation prior to the date of recommendation, the guidelines require an exclusion for any portions of the formation for which an incentive price is not warranted.

1. *Permeability Standard.* The Commission has established a permeability limit of 0.1 millidarcy. Pursuant to this limitation the average permeability throughout the "pay" or gas-producing section of the recommended formation may not exceed 0.1 millidarcy. If the formation does not meet the 0.1 millidarcy permeability standard, the jurisdictional agency may still recommend the formation under the alternative guideline contained in § 271.703(c)(2)(ii). Under this guideline, the jurisdictional agency must make an adequate showing that the formation exhibits low permeability characteristics and must find that, due to extraordinary costs, the incentive price is necessary for production.

2. *Gas Productivity Standard.* The guidelines also impose a gas productivity standard. According to this standard production expected from the recommended formation, without stimulation, may not exceed a certain rate. The standard applicable to a given formation depends upon the average depth from the surface location to the top of the formation. The cost of drilling and completing gas wells increases exponentially with the depth of the well, so deeper wells must produce more to be economical. We have provided this productivity scale to allow a greater production rate for the deeper, more expensive wells.

3. *Associated Oil Productivity Standard.* A well in a designated tight formation may not be expected to produce more than five barrels of crude oil per day. The definition of crude oil includes only hydrocarbons that exist in the liquid phase in underground reservoirs and remain liquid at atmospheric pressure after passing through surface separating facilities. The five-barrel limit has been imposed because the value of oil in greater quantities should, by itself, provide the necessary incentive for the development

Footnotes continued from last page
rule to "tight sands." The rule makes the incentive price available for all gas produced from qualifying tight formations.

of the formation, obviating the need for additional incentives.

4. *Infill Drilling Standard.* A guideline has been added in § 271.703(c)(2)(i)(D) concerning infill drilling that was authorized prior to the date of recommendation. Under this guideline the jurisdictional agency should exclude that portion of the formation it determines can be developed without the incentive price.

D. Recommendation and Designation of Tight Formations

Section 271.703(c)(3) of the rule also provides that a jurisdictional agency's recommendation must be accompanied by engineering, geological, geographic, and other information identifying the characteristics of the formation. Upon receipt of a recommendation the Commission will publish it in the Federal Register, will accept written comments on the recommendation, and will provide an opportunity for public hearing. After the comments have been reviewed, the Commission will prescribe a rule approving, disapproving, or modifying the recommendation. No modification will be made until the jurisdictional agency has been consulted. If the formation is approved, the Commission will list the qualifying formation in new § 271.703(d) of the regulations.

E. Well Determinations

Once a recommended formation has been approved by the Commission, a well category determination can be made regarding the eligibility of the gas as either new tight formation gas or recompletion tight formation gas. To qualify for one of these categories, the gas must meet the definitional criteria set forth in the definitions of new or recompletion tight formation gas in § 271.703(b) (2) and (3), respectively.

Section 274.205 of the rule also provides two sets of filing requirements for well determinations: one for new tight formation gas and the other for recompletion tight formation gas. In the case of new gas, the requirements are designed to elicit the following information: first, whether such gas has been produced from a designated tight formation; second, whether the surface drilling of the well was begun on or after July 16, 1979; and third, whether the gas qualifies as new natural gas or is produced through a new onshore production well. In the case of recompletion gas, the application must show that the gas is produced from a designated tight formation through a well which was not completed for production from the designated tight formation before July 16, 1979.

IV. Comment Analysis

A. Price

Under § 271.702 of the interim rule, an incentive price ceiling of 150 percent of the section 103 price was available for "new tight formation gas," defined in § 271.703 as gas: (1) Which is new natural gas, or gas produced through a new onshore production well;

(2) Which is produced from a designated tight formation through a well the surface drilling of which began on or after July 16, 1979; and

(3) For the first sale of which a negotiated contract price is effective.

At the time the interim rule issued, the Commission proposed the following definition for tight formation gas produced through recompleted wells: (c) "Recompletion tight formation gas" is natural gas: (1) Which is produced from a designated tight formation through a well, the surface drilling of which was begun before July 16, 1979, if such well was not completed for production from such formation before July 16, 1979; and

(2) For the first sale of which a negotiated contract price is effective.

and proposed a maximum price as follows: (2) *Recompletion tight formation gas.* The maximum lawful price, per MMBtu, for recompletion tight formation gas shall be the lesser of: (i) The negotiated contract price; or

(ii) The maximum lawful price specified for the Subpart C of Part 271 in Table I of § 271.101(a) [section 103].

In this final rule, the Commission has increased the interim ceiling price for new tight formation gas and has also made the incentive price applicable to recompletion tight formation gas. Modifications to the above-quoted definitions were made and are described in a separate discussion below.

The ceiling price for new tight formation gas provided in the interim rule was considered by the Commission to be a substantial incentive at 150 percent of the section 103 price.[2] However, the Commission was open to suggestions recommending a higher incentive price but requested that such recommendations be supported by data.

The Commission's reluctance to adopt a higher price also reflected a concern that a higher price might create perverse incentives, that is, manpower and material resources would be shifted from the production of other types of gas to less productive but higher priced tight formation gas with the consequence being a decrease in the nation's total production of natural gas. Because the interim record was punctuated with legal and practical questions, the Commission set a moderate interim price and invited further comment and submission of information on the need for a higher price.

The next round of comments submitted in response to the interim rule presented for the most part conclusions unsubstantiated with data or empirical information, even though the Commission strongly urged that such supporting information be submitted on the price issue. The Commission particularly requested that additional information be submitted to enable it to make the requisite statutory findings that a higher incentive price is "necessary to provide reasonable incentives." Despite this appeal, most of the commenters asserted without substantiating information that a higher price is necessary and that the price should be indexed to a commodity value of gas.

Commenters can be divided into three groups. Some suggested a commodity value based upon the marginal value of gas supplies such as imported gas. Others suggested a Btu-equivalent price based upon oil products with which gas would compete. The third but smaller group of commenters supported prices in line with the interim price.

Comments filed on behalf of several members of the U.S. Senate, producers, and governmental agencies supported a Btu-equivalent price for new tight formation gas. Some suggested using decontrolled domestic oil, while others suggested imported oil. Utilizing an oil price as an index would probably require a ceiling price around 250 percent of the section 103 price as of August, 1980.

Others suggested pricing new tight formation gas at the border price of imported Mexican or Canadian gas, which is approximately 200 percent of the section 103 price as of August, 1980.

Numerous arguments were offered in support of the higher incentive price. Several commenters argued that production costs for gas from tight formations are approximately twice as high as production costs from conventional formations. The greater cost of tight formation production, they contended, is attributable to the massive hydraulic fracturing that is required to enable gas to flow at a producible rate to a wellbore.

Commenters stated that gas production from tight formations is also accompanied by a slow rate of production that extends the payback period to approximately twice what

[2] Regarding incentive prices, the Conference Report stated that the price need not be cost-justified. H. Rep. No. 95-1752, 95th Cong., 2d Sess., 88 (1978).

would be expected for a conventional well. The commenters contended that together, the increased costs and the extended payback period require the price of tight formation gas to be approximately four times greater than the price for conventional gas in order to provide an incentive for the development and production of tight formation gas.

A commodity price was further supported by the commenters' argument that tight formation reserves can be added to the nation's total gas reserve potential only if investment dollars are attracted to tight formation development. If the incentive price is high enough, investment dollars will be attracted to the development of tight formation gas reserves. The anticipated return on capital investment in a tight formation will be compared, however, to other investment opportunities. The commenters argued that energy investment dollars will not flow to tight formation development if the price for such gas is not, at least, comparable to the free market value of the gas.

Commenters argued that the statute permits a commodity value price if that price is necessary to provide reasonable incentives for production of high-cost gas. They also emphasize that the Conference Report suggests that the price need not be cost-based or require cost justification.[3] They argued that a cost comparison between tight formation drilling and conventional drilling indicates that tight formation gas must be priced at least twice as high as conventional gas to provide an incentive that exceeds the cost basis. It is asserted by these commenters that the Commission is free to boost the incentive to reflect a commodity value price for this gas if the Commission finds that the price will provide reasonable incentives.

Several Senators further argued that this statutory interpretation is supported by the legislative history. The House Ad Hoc Committee of Energy stated that the incentive price is extended to provide the "fullest practicable development" of our gas reserves.[4] This can be accomplished by extending a commodity value price so as to make development of tight formations competitive with other energy sources. In this way, tight formations can successfully compete with other energy sources for investment dollars.

The interim price was supported by Northwest Pipeline, the Public Service Commission of New York, and Southern California Gas Company. Texas Oil and Gas Company suggested a variation of the interim price, *i.e.* 150 percent of the otherwise applicable maximum lawful price, either the section 103 or 102 price. Professor Dorfman from the University of Texas and the Interstate Oil Compact Commission suggested a graduated price based on the depth of a well. Under this last approach a shallow well would qualify for a price approximately at the interim price but a deep well would qualify for a higher price approaching the Btu-equivalent price of oil.

Some commenters maintained that a higher price would result in a windfall to producers and not necessarily result in increased production from tight formations. They shared the concern about perverse incentives expressed by the Commission in the interim rule, that even if increased production from tight formations occurred, drilling rigs would be diverted from conventional wells to tight formations. They argued that because the drilling rig industry would be unable to meet the increase in the total demand for new rigs there would be less activity in other, more productive formations. Their conclusion was that the nation's total gas production would decline because of the shift of investment dollars and drilling activity from conventional sources to tight formations that have lower rates of productivity.

Commenters further argued that actual delivery of gas produced from tight formations would be deferred because of a lack of pipeline capacity to handle increased production from many tight formations.

On statutory grounds, these commenters argued that price treatment under section 107 does not warrant a Btu-equivalent or a commodity-value price. Indexing the price of tight formation gas to a commodity value effectively deregulates the price because the suggested commodities, imported oil, domestic decontrolled oil, and imported Canadian or Mexican gas, are free of price controls.

In support of this argument, the commenters stated that Congress' explicit deregulation of certain categories of gas, including for example high-cost gas, section 107(c) (1) through (4), did not mean that other categories can or should be deregulated. Although the Commission was given discretion over determination of additional categories of high-cost gas under section 107(c)(5) and establishment of a ceiling price for these additional categories under section 107(b), they contended that the Commission does not have the authority to deregulate the price of such gas.

After these comments were received, the Commission held a hearing on June 10, 1980, to discuss the commenters' suggestions regarding the interim rule. This meeting provided an opportunity for a frank exchange between interested parties and the Commission regarding, among other issues, the price issue. Since the majority of participants at this hearing urged a price higher than the interim price, the discussion centered around the economic basis for a higher price and the policy that would be furthered by a higher price.

V. Price Analysis

The Commission is in a unique position in implementing section 107. Congress established a pricing scheme in Title I of the NGPA and mandated prices which it believed provided appropriate incentives for all categories of gas, except for categories of high-cost gas under section 107(c)(5). Thus, in sharp contrast to other categories of gas under the NGPA, Congress left unanswered the question of what incentive price should be set for high-cost gas and granted to the Commission the discretionary authority to establish the appropriate incentive price.

In establishing prices for high-cost gas, the Commission must be sensitive not to undermine Congress' overall pricing scheme. Section 107(c)(5) prices must not create perverse incentives but must be in harmony with the overall Congressional scheme.

In addition, the Commission must balance the competing interests of suppliers and consumers. On the supply side, gas producers must make long term resource commitments for the development of tight formations. It is in the nation's interest that they view development of tight formation gas as an attractive investment. The higher the incentive price, the more attractive it will be to develop this resource. The price should provide an incentive for producers to begin such development now. Absent this additional incentive, some producers may decide to defer production efforts until decontrol, which begins in 1985. On the other hand, consumers should not be required to pay a price higher than the otherwise applicable NGPA price unless there is a reasonable basis for assuming that a higher price is necessary and will result in an increased supply of gas.

Keeping in mind the needs of producers and consumers, the focus of our pricing inquiry is to determine the necessary incentive for the transition period between now and 1985. It is our intention to establish a price that will

[3] H. Rep. No. 95-1952, 95th Cong. 2d Sess., 88 (1978).

[4] H. Rep. No. 95-543 (Vol. I), 95 Cong., 1st Sess, 48 (1977).

stimulate production of gas from tight formations during the transition period.

The Commission has developed and applied two different approaches in determining the necessary and appropriate incentive price for this transition period. One approach is value-related, while the other is cost-related. The value-related approach attempts to index the price of tight formation gas to that of other energy forms. The cost-related approach looks instead to the costs and risks associated with tight formation gas production. Taken together, the two approaches define a range of reasonableness for the incentive price which would seem to be fully consistent with the statutory mandate.

A. Value-Related Price Approach

Congress, in enacting the NGPA, stated that natural gas prices should no longer be set on a utility-type, cost-based approach as had been the practice under the Natural Gas Act (NGA). In connection with this change from cost-based prices to incentive prices, Congress realized that the NGA prices discouraged producers from producing expensive, unconventional resources. The incentive prices established by Congress are not based upon a strict commodity-value concept because the NGPA price ceilings do not explicitly track any alternative fuel price. But it seems that the Congress intended a pricing scheme that related incentive prices to the price of competing fuels rather than just to the cost of producing gas.

Many commenters who urged a commodity-value approach for tight formation gas would have the Commission adopt an incentive price tied explicitly to the price of some other fuel. The fuels most commonly suggested were crude oil and fuel oil. These commenters concluded, on the basis of current prices, that the price for tight formation gas should be $6.00 or more.

The commodity value of gas is tied to end-user costs of competing or alternative fuels. The value of each additional unit of gas to the end user will depend upon the alternative fuel capability of that user. Over the near term (0–5 years), additional or "marginal" gas supplies will tend to be used in industrial or electric utility applications. For these uses, the principal competing fuel will be No. 6 (residual) or No. 2 (distillate) fuel oil. Few, if any, of these applications can be served by burning unrefined crude oil. So the appropriate basis for measuring the end-use market value of tight formation gas is fuel oil. Therefore, the Commission believes that a properly designed commodity-value approach must utilize fuel oil rather than crude oil as the point of reference.

The appropriate maximum lawful first sale (wellhead) price of tight formation gas can be derived using this approach by subtracting from the end-use market value of fuel oil the average cost of moving gas from wellhead to industrial and utility customers. It should be apparent that the comments of those who recommended a wellhead price for tight formation gas based on Btu equivalence with imported crude oil do not present a logically consistent model. The Commission cannot adopt the suggestion to derive the first sale price ceiling of tight formation gas by reference to the price of imported fuel oil. There can be no assurance that these two prices would result in comparable values at the point of end use, which is the best transactional point for measuring value of fuel because no further value is added to the fuel when it is burned.

Having established that the preferred method of implementing a commodity-value approach is by reference to the price of fuel oil, the Commission must next decide which grade of fuel oil is most appropriate. Because the Commission seeks to establish a favorable incentive for tight formation gas, it has chosen to use No. 2 fuel oil, which is generally the more expensive.

The most recently available Btu-equivalent price based on the delivered price for No. 2 fuel oil to electric utility facilities was $5.78[5] effective April, 1980 as reported by the Energy Information Agency (EIA).[6] Prices of No. 6 residual fuel oil were lower by $2.00 or more.

Using this Btu-equivalent delivered price, the imputed value of tight formation gas at the wellhead can be obtained by subtracting the average cost of transporting gas from the wellhead to the user. Transportation costs will vary depending primarily upon the distance of the industrial or utility user from the tight formation source. However, referring to the EIA's *Monthly Energy Review* for March, 1980, the average transportation and distribution costs for gas appear to be roughly $1.00 for industrial and utility customers. Reducing the Btu-equivalent delivered price, $5.78, by this $1.00 average transportation cost results in a "net back" wellhead value of equal to $4.78 for marginal supplies of gas. As measured by this method, we believe a price of around $4.78 reflects the upper bound on the wellhead value of gas to the economy for additional domestic production as defined by the commodity-value or the Btu-equivalent approach using No. 2 fuel oil as an index.[7] This price is sharply lower than the $6.00 price advocated by proponents of a simple imported crude oil equivalent price for tight formation gas.

Another commodity-value approach that the Commission considers to be of merit would relate the maximum lawful price for tight formation gas to the price of imported gas rather than to fuel oil. At present, the border price for Canadian and Mexican gas is $4.47.

B. Cost-Related Approaches

A "necessary" price within the meaning of the statute must at a minimum cover reasonable production costs and provide a reasonable profit. While the Commission need not establish a cost-justified price, estimates regarding the costs of production do provide one vital source of information for judging the adequacy of an incentive price. The Commission has considered two cost-related approaches, a supply-response approach, and a relative-costs approach that compares costs of tight formation production to the costs of other NGPA production.

1. *Supply-Response Approach.* At the time this rulemaking was initiated, the National Petroleum Council (NPC) had begun an extensive study of the resource base and production potential of domestic gas reserves in undeveloped tight formations.[8] The Commission has analyzed the NPC data to estimate

[5] In quoting prices throughout the discussion of the price analysis, the Commission eliminated in most instances references to unit measures, of Mcf (thousand cubit feet) and MMBtu (million British thermal units). For the purpose of this discussion, the terms are interchangeable because an average Mcf contains approximately one MMBtu.

[6] The Energy Information Agency publishes monthly a report entitled Energy Data Report, FPC Form No. 423.

[7] The extensive record on incremental pricing developed in connection with the Commission's Title II implementation activities forcefully suggests that high sulfur residual fuel oil should be used to define a commodity value. However, because the Btu-equivalent price for No. 6 oil is now in the range of $2.50 to $3.75 even before subtracting $1.00 of transportation charges, the Commission is of the opinion that despite the logic and strong record linking the gas produced from tight formations to residual fuel oil, indexing the prices for tight formation gas to this fuel would not provide adequate incentive.

[8] The National Petroleum Council is a Federal advisory committee to the Secretary of Energy. The sole purpose of the NPC is to advise, inform, and make recommendations to the Secretary of Energy on any matter requested by the Secretary relating to petroleum or the petroleum industry. The Commission encouraged its staff to contact the NPC regarding an exchange of information which the NPC has collected on this topic.

potential supply responses to price increases.[9]

The available NPC data indicate that prices higher than the otherwise applicable maximum lawful prices under sections 102 or 103 of the NGPA will produce increases in supply. A significant supply response occurs in the $3.50–$4.00 price range. Beyond this range, however, additional increases in price produced smaller increases in supply. Analysis of the NPC data also indicates that beyond the $3.50–$4.00 price range, the effective cost of the additional supply response may be as high at $7.54. Therefore, the NPC data would support a price of $4.00 on the basis of economically efficient increases in supply.[10]

2. *Relative-Incentive Approach.* A second cost-related approach would relate the ceiling price for tight formation gas to the prices Congress established in the NGPA to provide incentives for developing conventional gas. The measure of a necessary price for high-cost gas under this approach would be derived from consideration of the relative cost, yield, and risk of production from tight formations as compared with conventional gas production.

Relative Cost. Several commenters argued without providing substantiating data that the average total cost of drilling and completing a tight formation well is roughly twice as great as the cost of bringing a comparably deep conventional well into production. This is because the cost of fracturing can be as great as the cost of drilling a well. All other things being equal, this means that a producer will require an incentive price at least twice as high for tight formation production as for conventional production in order for the expected financial return from the two production categories to be equal.

Clearly, this two-fold ratio will not hold for every tight formation well. Some production has a sufficiently low relative cost that it enjoys a positive incentive relative to current conventional development opportunities even at existing NGPA prices. But, on the average, if the relative cost of tight formation drilling is higher, then logic implies that such gas should be afforded a relatively high incentive price for production from this source to be a comparably attractive investment.

Relative Yields. A second prong of this approach is to examine the relative yields of tight formation wells compared to conventional wells. This is more difficult to analyze because upon fracturing, the production rate of a tight formation well may be comparable to or even exceed production from a conventional well during its first year or two. After that point in time, however, production usually falls off dramatically and continues at a relatively low rate for 15 to 20 years or more. In contrast, production rates of conventional wells tend to be relatively high for a period typically between 5 to 7 years, but then drop off dramatically. In that 5 to 7 year period a conventional well typically will have produced as much gas as the tight formation well will produce over its 15 to 20 year life.

Commenters argued that the discounted present value of the revenues expected from tight formation wells tends to be much lower than the discounted present value of the revenues expected from wells drilled in conventional formations. However, it is difficult to define and to quantify "typical" production profiles for tight formation wells and conventional wells, making it impossible to consider lower yields, by themselves, a basis for a higher tight formation gas incentive price.

Relative Risks. The third step in determining a price using the relative incentive approach is to examine relative risks of production. Section 107(c)(5) refers to production "under such conditions as the Commission determines to present extraordinary *risks* or costs" (emphasis added). The record identifies two types of risks involved in tight formation gas production. One is the normal drilling risk of failing to find a gas bearing formation. The second risk especially pertinent to tight formation development is that of a partially or totally unsuccessful fracturing job. This second element of risk exposure provides a basis for arguing that tight formation production is more risky than conventional gas production. Neither the record nor staff's analysis has yielded an acceptable quantitative estimate of the extent to which the risk exposure of tight formation drilling exceeds conventional activities.

In summary, a "necessary" price can be viewed as the price necessary to create an equal or positive relative incentive as compared with the NGPA incentive for typical conventional drilling. Other NGPA categories, especially sections 102 and 103, provide a new incentive environment to producers. The premise underlying the relative incentive approach is that the price under section 107(c)(5) must be necessary to create a "reasonable" incentive in comparison with other NGPA categories. The record indicates that the Commission can reasonably determine that the combined factors of risk, cost, and yield warrant a relative incentive price for tight formation gas that is at least twice as high as would otherwise be available under Title I (generally the NGPA section 103 or 102 price). This two-fold ratio would indicate a current price of about $4.50 in the case of section 103 (development) wells and about $5.00 in the case of section 102 (new gas).

C. Conclusion—Price Issue

Applied collectively to the information gathered on the record in this proceeding, the value-related and cost-related approaches yield a $3.50–$5.00 zone of prices that can be considered reasonably necessary to create an incentive for tight formation gas production.

As a basis for narrowing this range, the Commission acknowledges that the cost of producing tight formation gas will vary considerably among formations and among specific drilling projects. Virtually any incentive ceiling price that the Commission establishes for tight formation gas will provide a more than ample return on some wells and an insufficient return on other wells. Indeed, the same can be said of the present NGPA ceiling prices for which new tight formation production would otherwise qualify. If the Commission chooses the low end of the $3.50 to $5.00 range, its action would tend to minimize any unnecessary windfalls associated with this rulemaking. On the other hand, a low price will operate to discourage producers from drilling more difficult formations and could retard the development of costly, but promising, fracturing and recovery techniques.

The Commission seeks to resolve this difficult issue in favor of providing as great a production incentive as can be supported by both cost-related and commodity-value concepts. From the standpoint of energy policy, economic policy, and environmental policy, enhanced production of natural gas is in the nation's interest. On the basis of these policy considerations, the Commission rejects the low end of the $3.50 to $5.00 range because it seeks to create a truly favorable drilling

[9] A subsidiary problem is to estimate the time pattern of response. To know that eventually the response to a price of X dollars will be Y Tcf's is of only limited assistance if the price of X dollars will be in effect for only a few years and then a different and deregulated price will apply.

[10] Commission staff noted that the NPC estimates were based on certain assumptions regarding the availability of capital, manpower, equipment, and pipeline capacity. Staff believes that the NPC assumptions were somewhat optimistic and that these factors will actually restrain the supply-response. However, staff was not able to quantify the effect these factors would have on the supply response and therefore did not account for them in their supply-response analysis.

environment for tight formation producers.

On the other hand, the Commission rejects the high end of the price range (above $4.78) on the ground that such prices are not supported by assessments of the commodity value of marginal gas supplies. In seeking to provide a high price, but one capable of being supported by both commodity-related and cost-related concepts, the Commission is drawn to the $4.50 to $4.78 range.

A final policy consideration for selecting a specific ceiling price for tight formation gas focuses on the price of imported natural gas, the fuel most likely to be directly displaced by increased tight formation production. On policy grounds, a strong argument can be made that domestic producers of high-cost gas should be permitted to receive at least the $4.47 border price paid by U.S. pipelines for imported gas.

The Commission hereby adopts a price ceiling for tight formation gas at 200 percent of the NGPA section 103 price. For the month of August, 1980, the maximum price is $4.548. Future tight formation gas prices will escalate each month as the section 103 price escalates. For September and October, 1980, the maximum price of tight formation gas will be $4.586 and $4.624, respectively. Maximum prices for subsequent months will be included in the Commission's quarterly ceiling price publications.

A final point of emphasis on the issue of prices for tight formation gas is that the Commission by this rule is establishing ceiling prices only. A producer of tight formation gas does not have authority to charge these ceiling prices unless the producer has the requisite contractual authority. If the contract entered by the producer and the purchaser includes a negotiated contract price as described in this rule, the producer can collect the contract price even if it exceeds the otherwise applicable NGPA price, but the producer cannot collect a price which exceeds the ceiling price established by this rule. The concept of negotiated contract price is discussed more extensively below.

D. Recompletion Tight Formation Gas

At the time the interim rule was issued, the Commission proposed establishing an incentive price for gas produced from existing wells which were not completed for production in a designated tight formation before July 16, 1979. The proposed incentive price for such gas was the section 103 price.

Most commenters agreed that gas produced from recompleted wells should qualify for an incentive on par with the price afforded new tight formation gas. The commenters generally justified their recommendation on the basis that costs of producing from a recompleted well are comparable to costs of producing from a new well (even though drilling costs are lower or are not incurred at all) because a producer would still incur the completion costs that represent a significant portion of the cost of production from a tight formation.

Another factor that argues in favor of an increased incentive price is that recompletion gas is the most readily accessible tight formation gas. The Commission's goal is to encourage producers to employ the most cost efficient and least time consuming programs for recovering tight formation gas. A price discrepancy between new gas and recompletion gas may cause producers to embark upon new well drilling programs with a lag time up to 3 years from inception to delivery in order to receive the higher incentive price for new gas rather than institute more cost-efficient recompletion programs.

To encourage producers to bring tight formation gas into production as soon as possible, the Commission is, therefore, establishing the same incentive price for both categories of gas. The maximum lawful price for recompletion tight formation gas under the final rule is 200 percent of the section 103 price.

E. Other Considerations

The price set in the interim rule at 150 percent of the section 103 price was significantly grounded on a concern that a higher price would create perverse incentives that could result in less, rather than more gas supply on a national basis. A key concern was the predicted inability of the drilling rig industry to meet the increased demand for rigs to drill in tight formations while meeting the demand for rigs for other conventional formations. The NPC study has concluded and has convinced the Commission that the drilling rig industry has the capability to respond to likely increased demand that may result from this rule. If recompletion tight formation gas is the first to be placed into production, we believe this rule, in the short run, will place a smaller demand on the drilling rig industry than originally predicted.

Similarly, we find the arguments that have been raised regarding the adequacy of currently available pipeline capacity near tight formations to be a minor matter. Customarily, arrangements regarding transportation are made in advance of gas production. In the case of tight formation development, such large capital investments must be committed that it is reasonable to assume that a producer will negotiate with a pipeline for capacity long before the gas begins to flow. We believe that pipelines will make every effort to provide transportation capacity to satisfy the needs of the production industry.

A third concern, not ascribed to by many commenters, is the potential inadequacy of capital to invest in tight formation development. We cannot predict how much capital will be available in the future for tight formation development. It is reasonable however to expect that a good investment will attract capital regardless of the economic environment. If tight formation gas is priced appropriately high, such development will successfully compete for investment capital.

F. Negotiated Contract Price

The negotiated contract price requirement appeared in the interim rule definition of "new tight formation gas" and the proposed definition of "recompletion tight formation gas." The negotiated contract price requirement was also reflected in the maximum lawful prices for new and recompletion tight formation gas.

The interim definitions of "negotiated contract price" and "fixed rate or fixed escalator clause" have been adopted in the final rule. Thus, as defined in § 271.702(a)(1) the term "negotiated contract price" means any price established by a contract which either references the incentive pricing authority of the Commission under section 107 of the NGPA or contains a fixed rate or fixed escalator clause. Fixed rate or fixed escalator clause defined in § 271.702(a)(2) means a provision in a contract for the first sale of natural gas which changes the price for gas by a specified amount on a specified date.

In the interim rule, the Commission stated that negotiated contract requirement was added to insure that the incentive maximum lawful price is extended as an *incentive* for the production of additional new tight formation gas, rather than as a windfall to the sellers. The same rationale would apply to recompleted tight formation gas. The Commission noted that contracts which do not presently contain a negotiated contract price may be amended to permit collection of the incentive price. In addition the Commission clarified that the negotiated contract price requirement in no way constitutes an interpretation of an area rate clause.

The overwhelming majority of comments opposed the negotiated contract requirement on legal and policy

grounds and urged that it be deleted. Many comments stated that the Commission is without authority under the NGPA or NGA to require that specific contract language be employed as a condition precedent to collecting the maximum lawful price. The comments asserted that the statutory scheme of the NGPA and the NGA in view of the *Mobile Sierra* [11] line of cases grants parties to gas sales contracts an absolute right to pay or to collect any price they may agree upon, subject only to price ceilings lawfully imposed by a governmental authority. In particular, paragraphs 101(b) (5) and (9) of the NGPA permit parties to sell gas at the applicable highest maximum lawful price not in excess of the contract price. It is argued that the Commission lacks authority to impose a requirement that contracts be renegotiated before the maximum lawful price can be collected.

Certain commenters asserted that contracts entered into post-NGPA, specifically reference the NGPA in order to permit the collection of higher prices and that the requirement to specifically reference section 107 could not possibly have been foreseen. Therefore, it is claimed that the rule operates unfairly to preclude sellers, who renegotiated their contracts in comtemplation of NGPA prices and who undertook development of tight formations in anticipation of the Commission's action, from collecting the incentive price.

Under section 107, it is contended that the Commission's authority goes to establishing tight formation gas as high-cost natural gas and establishing an incentive price for its development and production. While it is agreed that the Commission has the discretion to establish the parameters for classification, it is submitted that the Commission does not have the authority to condition a well determination upon the presence of specific contract language. Rather, it is claimed that the NGPA provides that once an incentive price is established the producer must have contractual authority to collect the price (a contract that references the NGPA established price is sufficient to permit collection of the incentive price).

In addition, it is submitted that if the Commission's purpose in issuing this rule is to encourage the development and production of tight formation gas the negotiated contract requirement will not advance this purpose.

Still other commenters submitted that market forces will operate to set prices at an appropriate level only for those tight formations yet to be developed. It is asserted that most tight formations are already identified and are located near conventional gas which is already being produced or is dedicated to pipelines. For these reasons, it is argued that the negotiated contract requirement will place pipelines in superior bargaining positions and they will either refuse to renegotiate contracts up to the incentive price or will require additional consideration. In both cases the requirement will operate as a disincentive to production.

This argument led some commenters to request that purchasers be precluded from demanding additional consideration for existing contracts. If a purchaser refuses to amend his contract he should be required to release the seller from existing contractual obligations. It is also proposed that the Commission should permit producers to file petitions for exceptional relief in circumstances in which the pipeline is being arbitrary and capricious in not offering the required amendment, and in which the producer petitioner can demonstrate that the full incentive price is necessary for further development and production of tight formation gas.

The Commission reaffirms the position taken in the interim rule that it must limit the availability of the incentive price ceiling to those contracts which specifically refer to it (or to the extent permitted under a fixed rate or fixed escalator clause) because its pricing authority is limited to setting incentive prices "necessary" to encourage additional production. Therefore, the negotiated contract price requirement has been retained in § 271.703(a) of the final rule which sets forth the maximum lawful price for both categories of tight formation gas. However, the Commission agrees that an effective negotiated contract price is not a necessary incident to obtaining a well determination and has deleted the requirement from the definitions of new and recompletion tight formation gas.

The Commission believes that the price ceiling if applied to all tight formation gas may operate as a windfall to sellers rather than an incentive to increase production of tight formation gas. This occurs in any case in which one incentive price is established to cover a broad range of production costs and risks. This is especially true where both parties to the contract did not contemplate the availability of an incentive price. The Commission believes that the imposition of the negotiated contract price requirement is therefore necessary to insure that a purchaser is given an opportunity to bargain for increased production of tight formation gas before he agrees to pay a price higher than the otherwise applicable maximum lawful price. In this regard, the negotiated contract price requirement will operate as part of the ceiling price which the Commission is establishing under section 107(b). Thus, in the Commission's view a "necessary" price for tight formation gas is one that is contractually agreed upon either at or below the ceiling price.

The statutory scheme of the NGPA or the NGA and the *Mobile-Sierra* line of cases do not compel a different conclusion. As we stated in the interim rule, parties to gas sales contracts are free to enter into or amend their contracts to permit the collection of the incentive maximum lawful price. Existing contracts that specifically reference the Commission's incentive pricing authority under section 107 of the NGPA or that contain fixed rate or fixed escalator clauses are sufficient to permit collection of any price up to the ceiling price of 200 percent of the 103 price.

VI. Definitions for New and Recompletion Tight Formation Gas

Under § 271.703(b)(1) of the interim rule, gas qualifies as

new tight formation gas" is natural gas: (1) Which is either new natural gas or gas produced through a new onshore production well; (2) which is produced from a designated tight formation through a well the surface drilling of which began on or after July 16, 1979; and (3) for the first sale of which a negotiated contract price is effective.

In addition, the Commission requested comments on the proposed definition of "recompletion tight formation gas." Under this proposal, gas qualifies as

recompletion tight formation gas" is natural gas: (1) Which is produced from a designated tight formation through a well the surface drilling of which was begun on or before July 16, 1979, if such well was not completed for production from such formation before July 16, 1979; and (2) for the first sale of which a negotiated contract price is effective.

A. *Negotiated Contract Price*

As stated in the previous section, the negotiated contract price requirement has been deleted from the definitions of new and recompletion tight formation gas, but has been retained in § 271.703 that establishes the maximum lawful price.

B. Spud Date

Only a few comments discussed the requirement that to qualify as new tight formation gas, the gas had to be produced from a well the surface drilling of which began on or after July 16, 1979.

[11] *United Gas Pipeline Company v. Mobile Gas Service Corporation*, 350 U.S. 332 (1956); *FPC v. Sierra-Pacific Power Company*, 350 U.S. 348 (1956).

One comment suggested that the spud date should be changed to "the date before which a well was not being commercially produced."

Another commenter suggested that February 19, 1977, be adopted as the spud date, for both categories of gas, since it is the pivotal date in the wellhead pricing scheme under the NGPA. This commenter argued that producers who commenced drilling into tight formations prior to July 16, 1979, did so with the expectation that the Commission adopt the suggestion in the Conference Report that gas produced from tight formations should be eligible for incentive price treatment.

Comments of a similar nature were made prior to the adoption of the interim rule. The first suggestion that the cut-off date apply to the date on which gas was first commercially produced from the well has been at least partially accommodated since the incentive price is now available for recompletion gas. In effect, so long as the well was not completed for production in the tight formation prior to July 16, 1979, the gas may qualify for the incentive price. The date of July 16, 1979, (as a spud date) was chosen in the interim rule in recognition of the fact that this rule was undertaken to give effect to a policy initiated by the President's July 16, 1979, speech. This date then, is consistent with the Conference Report, at page 88, which indicates that the pivotal date for section 107(c)(5) gas is the date the Commission exercises its authority under section 107(c)(5). The Commission is not free to make available special prices for gas whose development was encouraged by previously available prices. Therefore, July 16, 1979, will remain as a spud date for new tight formation gas, and as a completion date, for recompletion tight formation gas.

C. Conclusion

The definitions of new and recompletion tight formation gas appear in § 271.703(b) (2) and (3) of the rule. Gas qualifies as new tight formation gas if it is produced from a designated tight formation through a well which was spudded on or after July 16, 1979, and it is either new natural gas (as defined in section 102(c) or (d) of the NGPA), or gas produced through a new onshore production well, (as defined in section 103(c)). To qualify as recompletion tight formation gas, the natural gas must be produced from a designated tight formation through a well which was spudded before July 16, 1979, but not completed for production from such formation before July 16, 1979.

VII. Procedure for Designating Tight Formations

The procedure for designating tight formations was contained in § 271.705 of the interim rule. That section set forth guidelines for identifying tight formations and established procedures whereby a jurisdictional agency may recommend the designation of a tight formation. Upon the receipt of a jurisdictional agency recommendation, the Commission will publish it in the Federal Register and will accept comments on the recommendation. After a review of the comments the Commission will prescribe a rule approving or disapproving the designation of the recommended tight formation.

Several comments and proposals concerning the designation procedure in general were received. Some commenters urged the Commission to "predesignate" or at a minimum to take the lead in designating formations that have been studied by the Department of Energy (DOE) and the United States Geological Survey (USGS). Another suggestion was that there be automatic approval of jurisdictional agency or the USGS recommendations that meet the permeability, gas productivity, and crude oil production guidelines, reserving for Commission action recommendations made under the alternate permeability guidelines. Other commenters stated that the jurisdictional agency process combined with the Commission process will be lengthy, unnecessarily burdensome and will cause a substantial delay in the production of gas from tight formations. These commenters suggest that the time periods and standard of review set forth in section 503 (a) and (b) be utilized.

The Commission is not persuaded that a modification to the designation procedure is warranted. As stated in the interim rule the Commission does not have the information needed to accurately identify qualifying tight formations.[12] The interim rule's designation procedure was established to enable the Commission to fully utilize the information and expertise available to jurisdictional agencies and to thereby *prevent* undue delay in the identification of tight formations. To the extent that other Federal agencies have studied certain tight formations, we expect this information will be available to jurisdictional agencies and will facilitate the jurisdictional agency process.

[12] The Commission adopted this procedure in response to comments which suggested that the Commission should rely on the jurisdictional agencies' information and expertise in designating tight formations.

Still another commenter submitted that there are not enough procedural safegards in the interim rule. The rule does not provide producers an opportunity to seek review of a jurisdictional agency's refusal to make a recommendation. Commenters suggested a procedure to allow review in such a case.

Jurisdictional agencies are not obligated to recommend tight formations. The Commission believes the review procedure suggested is unnecessary and would constitute an unwarranted intrusion into the state jurisdictional agency process.

Proposals respecting interim collection authority were also received. One commenter urged that producers be permitted to make interim collections prior to designation of a formation after it has submitted information and certified to the jurisdictional agency that the formation meets the criteria set forth in the guidelines. Pursuant to this proposal, interim collections would be allowed pending jurisdictional agency designation recommendation and final Commission approval. Another comment requested clarification of whether interim collection authority will be permitted prior to designation of the formation upon filing of an application for a well determination.

As discussed above, the procedure in the final rule provides for the expeditious designation of tight formations. The Commission believes that interim collection of the incentive price prior to designation of the formation is inappropriate. However, the Commission in § 273.204 has provided for retroactive collection for gas produced from qualifying wells in designated tight formations.

VIII. Guidelines

The interim rule provided that the Commission would approve the designation of any formation recommended by a jurisdictional agency if it met the three guidelines relating to permeability, gas production, and oil production. Certain of the comments were directed to these guidelines. The Commission has added a guideline that will be discussed below concerning formations or portions thereof which have been authorized to be developed by infill drilling programs.

The interim rule also provided that if a formation met the gas productivity and oil production guidelines but did not meet the permeability standard, then the Commission would consider the recommendation if the jurisdictional agency made an adequate showing that the formation exhibited low permeability characteristics and that an

incentive price would be necessary. No comments specifically addressed this provision, and it has been adopted without change in § 271.703(c)(2)(ii) of the final rule.

A. Permeability Standard

The interim rule required that the estimated *in situ* gas permeability, throughout the pay section be 0.1 millidarcy or less. A few commenters suggested that this standard is still unduly restrictive and will disqualify many formations that should be considered "tight." Higher standards ranging from 0.15 millidarcy to 0.5 millidarcy were suggested.[13]

Several arguments were presented in support of a greater permeability threshold. First, average permeability depends on the number of wells drilled and their location in the formation. Since most tight formations have not been developed extensively, the average permeability of a small number of wells would probably not be representative of the formation as a whole. Thus, the amount of necessary preliminary drilling and the greater expense and time involved in *in situ* permeability testing requires a millidarcy standard that is flexible enough to warrant the increased costs.

Some comments urged that the permeability standard be eliminated. One commenter asserted that a permeability determination of 0.1 millidarcy requires an expensive drawn down and build up test. It was proposed that a 30-day flow test based upon the depth criteria set forth in the interim rule be the sole factor in determining if a zone is tight.

Another alternative presented was that the designation by the jurisdictional agency should be based solely on production rates from newly drilled wells that had been tested in accordance with the procedures set forth by the United States Bureau of Mines Monograph No. 7. This commenter stated that the gas productivity standard should be retained until such time as information based on the testing of actual wells indicates that a revision would be appropriate.

The Commission remains cognizant of the difficulties inherent in adopting a permeability guideline. However, the objective of the rule is to identify and provide incentives for the development of tight formations, not to provide incentives to develop all formations with low pre-stimulation production rates. The Commission still believes that the problem presented by formations of extremely variable characteristics is not present in many tight formations and that estimates of average permeability may reasonably represent the permeability that will be encountered from one location to the next. However, if the average permeability cannot be reasonably estimated or if the average permeability does not fall within the 0.1 millidarcy guideline, then under the alternate guideline the formation may still be recommended for designation if the jurisdictional agency makes an adequate showing that the incentive price is necessary for production of gas from the formation because the formation is high-risk and high-cost and has low permeability characteristics.

B. Gas Production Standard

The interim rule set forth maximum allowable production rates. One commenter suggested that the gas productivity standard should only be applied to formations from zero to two thousand feet in depth since the costs of drilling and completing deeper wells multiply at a rate disproportionate to those for shallower drilling. If the standards for deeper wells are retained, the commenter urged a 35 percent higher price.

A similar argument was made that the straight payout of original drilling, completion, and equipping costs over a more feasible period than is indicated by the present gas productivity standard would be more appropriate for these high-risk ventures. This commenter proposed that in the event a Btu-equivalent price is not allowed, then the maximum allowable production rate should be increased.

The Commission believes that the higher incentive maximum lawful price provided in this rule will be adequate to cover the increased costs of equipping and completing deeper wells. Therefore, a revision to the gas productivity formula is unnecessary.

C. Production of Crude Oil

The interim rule provided that no well drilled into the recommended tight formation should be expected to produce more than five barrels of crude oil per day. This requirement was added to ensure that the gas is not produced with any more than a *de minimus* amount of oil. The production of more than five barrels of oil per day would, in itself, create an incentive for the development of the formation. One commenter claims that this limitation is unclear since "oil" is undefined and questioned whether it would include "condensate" from gas wells.

The interim rule and § 271.702(a)(3) of the final rule refers to the definition of "crude oil" contained in § 270.102(b)(5) of our regulations. Thus, as defined, crude oil includes any mixtures of hydrocarbons that are liquid in underground formations and remain liquid at atmospheric pressure.

Another commenter suggested that this guideline should be modified to provide that:

> • • • no well drilled into the recommended tight formation is expected to produce, *without stimulation,* more than five barrels of crude oil per day . . .

The commenter asserted that the addition of the phrase "without stimulation" appears in the gas productivity standard and should be tracked here to remove any ambiguity. We agree. Section 271.703(c)(2)(i)(C) has been so modified in the final rule.

D. Infill Drilling

In the preamble to the interim rule, the Commission stated that its objective in establishing the incentive program—

> Consist[s] of identifying and including tight formations that could not be commercially developed absent application of enhanced production techniques, and excluding the types of development activities that could occur under the otherwise applicable maximum lawful prices. (*mimeo* at p. 24).

The Commission did not adopt any of the several alternatives considered which would have mechanically excluded infill or developed portions of an otherwise tight formation. The Commission chose instead to rely on the skill and judgment of the jurisdictional agencies to identify and exclude the portions of a formation which would otherwise qualify as a tight formation but which could be developed without the incentive price. The following guidance was provided to jurisdictional agencies:

> While new infill wells are not excluded from qualification under this rule, jurisdictional agencies should be sensitive to the fact that some portions of tight formations have been developed to such an extent as to indicate that the incentive maximum lawful price is not necessary to encourage full production of that portion of the formation. If the agency has information which indicates such portions can be developed without the incentive price, such portions should be excluded from the jurisdictional agency's recommendation (*mimeo* at p. 27).

Subsequent to the adoption of the interim rule, it has come to the Commission's attention that there is some uncertainty regarding the appropriateness of recommending formations or portions of formations that are currently being developed by infill drilling programs. To clarify this

[13] The NPC study and "various DOE reports" are cited for the proposition that a formation may be "tight" if it has a permeability of 1.0 millidarcy.

uncertainty and to give effect to the policy enunciated in the interim rule, the Commission has added a new guideline, at § 271.703(c)(2)(i)(D). Under this guideline, if a formation or portion thereof was authorized to be developed by an infill drilling program prior to the date of recommendation and the jurisdictional agency has information which in its judgment indicates that such formation or portion subject to infill drilling can be further developed without the incentive price established in §271.703(a), then the jurisdictional agency may not include such formation or portion thereof in its recommendation.

Two aspects of this guideline warrant clarification. The guideline has been added to focus jurisidictional agency attention on only those formations (or portions thereof) where development by infill drilling has been authorized *prior* to the date of recommendation. In this situation development of such formation may have been economical at previously available prices and therefore may indicate that the full development could occur absent the incentive price. If information available to the jurisidictional agency indicates that this is the case, it should not recommend the formation or should exclude that portion of the formation from its recommendation. Second, it should be emphasized that once a formation has been approved by the Commission as a designated tight formation, future infill wells will be eligible to receive the incentive price.

A definition of "infill drilling" has been added in § 271.703(b)(6). As defined, "infill drilling" means any drilling that occurs in a substantially developed formation or portion thereof that is subject to requirements respecting well-spacing or proration units which were amended by the jurisdictional agency after the formation or portion thereof was substantially developed and which were adopted for the purpose of promoting more effective and efficient drainage of the reservoirs in such formation. Such amendment may provide for the establishment of smaller drilling or production units or may permit the drilling of additional wells on the original units.

The Commission wishes to emphasize that the infill drilling must have taken place in a substantially developed formation or portion of a formation *after* a jurisdictional agency amendment to well-spacing or proration unit requirements. In some situations, field or spacing rules are in effect and applicable to undeveloped portions of a field and these rules are amended prior to substantial development in order to permit the drilling of wells at closer spacing than permitted by the original rules. Where the original units had not been drilled prior to the creation of the smaller units or prior to the adoption of amended rules which permit the drilling of an additional well on the original unit, drilling in such circumstances would not be covered under this definition.

IX. Contents of Recommendations

The interim rule prescribed information that is required to accompany the jurisdictional agency's recommendation that a formation be designated as a tight formation. The comments criticized the requirement that a jurisdictional agency must submit a map or list locating all wells "which have produced" natural gas from the recommended tight formation. The comments argued that this requirement is unnecessary, burdensome, and may be impossible to meet in cases where records on these wells were either never compiled, were lost, or were destroyed over the years. One comment suggests that the requirement be limited to the identification of wells producing on or after January 1, 1980. Another proposal is that the requirement be retained for only those formations that did not meet the 0.1 millidarcy permeability standard and are being recommended under the alternative standard.

In response to these comments we have reduced the burden by amending § 271.703(c)(3)(iii) of the final rule to require jurisdictional agencies to submit either a map or list which locates wells which are *currently producing* from the recommended tight formation. We have retained the requirement, as amended, so that the Commission can have information indicating how much the formation was developed prior to its being recommended as a tight formation.

X. Environmental Impact

As stated in the interim rule, staff completed an environmental assessment of this rule in which staff concluded that establishing an incentive price would not constitute a major Federal action significantly affecting the quality of the human environment.

The Commission will continue to investigate the possible effects of the tight formations program and will make a final determination as to environmental impact at such time as the jurisdictional agencies submit their recommendations for tight formations. The information of the jurisdictional agencies when they make their recommendations includes information regarding the identification and location of fresh water aquifers which may be affected by development of the formation.

XI. Retroactive Collections

Some commenters questioned whether interim collection authority under §§ 273.202 and 273.203 would be permitted prior to final designation of a formation as a tight formation. As previously stated the Commission is not providing interim collection authority prior to final designation of the formation. However, the retroactive collection provisions contained in § 273.20(a)(1)(ii) of the Commission's regulations are applicable to new and recompletion tight formation gas that qualifies under § 271.703(b) to receive the incentive maximum lawful price set forth in § 271.703(a).

XII. Effective Date

These rules shall become effective as final regulations September 22, 1980.

(Department of Energy Organization Act, 42 U.S.C. § 7101, et seq.; E.O. 12009, 42 FR 46267, Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Subpart G of Part 271, Subpart B of Part 273, and Subpart B of Part 274, of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, are revised as set forth below, effective as final rules on September 22, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

1. Part 271 is amended in Table of Contents under Subpart G to read as follows:

Subpart G—High-Cost Natural Gas

Sec.
271.701 Applicability.
271.702 General rules.
271.703 Tight formations.

Authority: Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*); E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, (15 U.S.C. 3301–3432)).

2. Subpart G of Part 271 is revised to read as follows:

Subpart G—High-Cost Natural Gas

§ 271.701 Applicability.

This subpart implements section 107 (b) and (c) of the NGPA and applies to the first sale of natural gas which a jurisdictional agency determines is:

(a) Tight formation gas for which there is a negotiated contract price.

(b) [Reserved]

§ 271.702 General rules.

(a) *Definitions.* For purposes of this subpart:

(1) "Negotiated contract price" means any price established by a contract which either specifically references the

incentive pricing authority of the Commission under section 107 of the NGPA or contains a fixed rate or a fixed escalator clause.

(2) A "fixed escalator clause" is a provision in a contract for the first sale of natural gas which changes the price for the gas by a specified amount on a specified date.

(3) For the definition of "crude oil," *see* § 270.102(b)(5).

(b) *Cross reference.* For special rules applicable to high-cost natural gas retroactive collections, *see* § 273.204.

§ 271.703 Tight formations.

(a) *Maximum lawful price for tight formation gas.* The maximum lawful price, per MMBtu, for the first sale of tight formation gas for which there is a negotiated contract price shall be the lesser of:

(1) The negotiated contract price; or

(2) 200 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I of § 271.101(a).

(b) *Definitions.* (1) "Tight formation gas" means new tight formation gas or recompletion tight formation gas.

(2) "New tight formation gas" is natural gas:

(i) Which is new natural gas, (as defined in section 102(c)), certain OCS gas qualifying for the new natural gas ceiling price (as defined in section 102(d)), or gas produced through a new onshore production well (as defined in section 103(c)); and

(ii) Which is produced from a designated tight formation through a well the surface drilling of which began on or after July 16, 1979.

(3) "Recompletion tight formation gas" is natural gas which is produced from a designated tight formation through a well, the surface drilling of which was begun before July 16, 1979, if such well was not completed for production from such designated formation before July 16, 1979.

(4) "Formation" means any geological formation, or portion thereof described by geological as well as geographical parameters.

(5) A "designated tight formation" is a natural gas formation which is designated a tight formation by the Commission pursuant to paragraph (c) of this section.

(6) "Infill drilling" means any drilling in a substantially developed formation (or a portion thereof) subject to requirements respecting well-spacing or proration units which were amended by the jurisdictional agency after the formation (or portion thereof) was substantially developed and which were adopted for the purpose of more effective and efficient drainage of the reservoirs in such formation. Such amendment may provide for the establishment of smaller drilling or production units or may permit the drilling of additional wells on the original units.

(c) *Designation of tight formations—* (1) *General.* Upon the written recommendation by a jurisdictional agency, submitted in accordance with the requirements of this section, the Commission may approve a recommendation that a natural gas formation be designated as a tight formation.

(2) *Guidelines.* (i) The Commission will approve the designation of any formation recommended by a jurisdictional agency if the formation meets each of the following guidelines:

(A) The estimated average *in situ* gas permeability, throughout the pay section, is expected to be 0.1 millidarcy or less.

(B) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed the production rate determined in accordance with the following table:

If the average depth to the top of the formation (in feet)		The maximum allowable production rate (in thousand cubic feet per day) may not exceed—
exceeds—	but does not exceed—	
0	1,000	44
1,000	1,500	51
1,500	2,000	59
2,000	2,500	66
2,500	3,000	79
3,000	3,500	91
3,500	4,000	105
4,000	4,500	122
4,500	5,000	141
5,000	5,500	163
5,500	6,000	188
6,000	6,500	217
6,500	7,000	251
7,000	7,500	290
7,500	8,000	336
8,000	8,500	388
8,500	9,000	449
9,000	9,500	519
9,500	10,000	600
10,000	10,500	693
10,500	11,000	802
11,000	11,500	927
11,500	12,000	1,071
12,000	12,500	1,238
12,500	13,000	1,432
13,000	13,500	1,655
13,500	14,000	1,913
14,000	14,500	2,212
14,500	15,000	2,557

(C) No well drilled into the recommended tight formation is expected to produce, without stimulation, more than five barrels of crude oil per day.

(D) If the formation or any portion thereof was authorized to be developed by infill drilling prior to the date of recommendation and the jurisdictional agency has information which in its judgment indicates that such formation or portion subject to infill drilling can be developed absent the incentive price established in paragraph (a) of this section then the jurisdictional agency shall not include such formation or portion thereof in its recommendation.

(ii) The Commission will consider and may approve or disapprove a recommendation by a jurisdictional agency to designate as a tight formation any formation which meets the guidelines contained in paragraph (c)(2)(i) (B) and (C) of this section, but does not meet the guideline contained in paragraph (c)(2)(i)(A) of this section, if the jurisdictional agency makes an adequate showing that the formation exhibits low permeability characteristics and the price established in paragraph (a) of this section is necessary to provide reasonable incentives for production of the natural gas from the recommended formation due to the extraordinary costs associated with such production.

(3) *Content of recommendations.* A recommendation that a formation should qualify as a designated tight formation shall contain the following information:

(i) Geological and geographical descriptions of the formation which is recommended for classification as a tight formation;

(ii) Geological and engineering data to support the recommendation and the source of that data;

(iii) A map which clearly locates wells which are currently producing from the recommended tight formation or a list locating all wells which are currently producing natural gas from the recommended tight formation;

(iv) A report of the extent to which existing State and Federal regulations will assure development of the recommended tight formation will not adversely affect any fresh water aquifers (during both hydraulic fracturing and waste disposal operations) that are or are expected to be used as a domestic or agricultural water supply;

(v) If the formation is recommended under paragraph (c)(2)(ii) of this section, the types and extent of enhanced production techniques which are expected to be necessary and the estimated expenditures necessary for employing those techniques; and the degree of increase in production to be expected from use of such techniques and engineering and geological data to support that estimate;

(vi) Any other information which the jurisdictional agency deems relevant; and

(vii) Any other information requested by the Commission.

(4) *Commission review of recommendations.* Upon receipt of a recommendation submitted in

accordance with this section, the Commission shall publish in the Federal Register, a notice of proposed rulemaking containing such recommendation. After review of any comments, the Commission will prescribe a rule approving or disapproving the recommendation.

(d) *Designated tight formations.* [Reserved]

PART 273—COLLECTION AUTHORITY; REFUNDS

§ 273.204 [Amended]

3. Section 273.204(a)(1) is amended by deleting "; and" in clause (i) and inserting in lieu thereof a period at the end of clause (i), and by deleting "new" in clause (ii) and by deleting the semicolon and inserting in lieu thereof a period at the end of clause (ii).

PART 274—DETERMINATION BY JURISDICTIONAL AGENCIES

4. Section 274.205 is amended by revising paragraph (e) to read as follows:

§ 274.205 High-cost natural gas.

* * * * *

(e) *Natural gas produced from designated tight formations*—(1) *New tight formation gas.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is new tight formation gas shall file with the jurisdictional agency an application which contains the following items:

(i)(A) If the gas is produced from a well which qualifies as a new, onshore production well, all information required in § 274.204 (except for the item specified in paragraph (d)(1) of that section); or

(B) If the gas qualifies for the new natural gas price, the information required in § 274.202 or § 274.203;

(ii) A map which locates and identifies the well for which the determination is sought as being within the designated tight formation;

(iii) The heading and pertinent portions of the well log, or a drilling report identifying the designated tight formation; and

(iv) A statement by the applicant, under oath, that:

(A) The surface drilling of the well for which a determination is sought was begun on or after July 16, 1979;

(B) The gas is being produced from a designated tight formation; and

(C) The applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusions.

(2) *Recompletion tight formation gas.* A person seeking a determination for purposes of Subpart G of Part 271 of this chapter that natural gas is recompletion tight formation gas shall file with the jurisdictional agency an application which contains the following items: (i) FERC Form No. 121;

(ii) The well completion report;

(iii) A map which locates and identifies the well for which the determination is sought as being within the designated tight formation;

(iv) The heading and pertinent portions of the well log, or a drilling report identifying the designated tight formation; and

(v) A statement by the applicant, under oath, that:

(A) The gas is being produced from a designated tight formation;

(B) The well was not completed for production in the designated tight formation prior to July 16, 1979; and

(C) The applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusions.

[FR Doc. 80-25558 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-85-M

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18 CFR Part 284

[Docket No. RM79-34]

Transportation Certificates for Natural Gas for the Displacement of Fuel Oil

August 15, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission hereby adopts a final rule extending and amending its Order No. 30 program. Under the Order No. 30 program, fuel oil users certified by the Economic Regulatory Administration may purchase natural gas from producers, distributors or pipelines. The final rule authorizes the transportation of such natural gas to end-users for the displacement of fuel oil. The Order No. 30 program is extended until 11:59 p.m. on May 31, 1981.

EFFECTIVE DATE: August 31, 1980.

FOR FURTHER INFORMATION CONTACT:
Robert Platt, Assistant Advisory Counsel, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8433.
Glenn Berger, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8364.
Robert J. Cupina, Office of Pipeline and Producer Regulations, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-9036

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission), by this order, adopts a final rule extending until May 31, 1981, and amending its Order No. 30 program for the transportation of natural gas to displace the consumption of fuel oil.

I. Background

On May 17, 1979, the Commission issued Order No. 30 which established a short term program authorizing the transportation of natural gas for the displacement of fuel oil (44 FR 30323, May 25, 1979). That order was adopted in response to a proposal of the Economic Regulatory Administration (ERA) of the Department of Energy which was referred to the Commission pursuant to section 403(a) of the Department of Energy Organization Act, 42 U.S.C. 7173(a) (DOE Act).[1]

In Order No. 30, the Commission authorized interstate pipelines to transport natural gas to end-users certified by ERA.[2] In significant part, the Commission determined that the public interest was served by action to displace fuel oil with natural gas in order to relieve demand pressure on distillate and related stocks of petroleum products as the peak winter heating season approached. The Commission perceived the fuel oil shortages would be relieved by the beginning of the next summer period. Hence we terminated the program on June 1, 1980.

On May 12, 1980, the ERA proposed, pursuant to section 403(a) of the DOE Act, that the program should be extended for an additional year ending May 31, 1981.[3] The ERA found "that the urgent need to reduce oil imports still exists." No claim was made that a "fuel shortage" exists in absolute terms as was the case in 1979. Rather the rationale was grounded on the general and urgent need to simply reduce oil imports. The Commission sought comment upon the ERA proposal extension by Federal Register notice of 45 FR 34264 (May 22, 1980).[4]

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[1] In a related rule, the ERA established a procedure to certify the eligibility of end-users for this program. 10 CFR Part 595, 44 FR 20398 (April 5, 1979).

[2] The ERA certification procedure is set forth at 10 CFR Part 595.

[3] The ERA proposal was published in the Federal Register concurrently with the interim rule at 45 FR 34299.

[4] Consolidated Edison Company of New York, Public Service Electric and Gas, and National Fuel Gas Supply Corporation have filed motions in this docket seeking an extension of the program.

Footnotes continued on next page

While section 403(a) of the DOE Act authorizes the Secretary of Energy to propose rules with respect to any function within the jurisdiction of the Commission, section 403(b) of that Act provides that the Commission shall have exclusive jurisdiction over such proposals. Accordingly, the Commission proceeded in Order No. 30–B, 45 FR 34364 (May 22, 1980), by requesting written comments [5] and holding a public hearing on June 16, 1980. Order No. 30–B also provide for an interim extension of the Order No. 30 program through August 31, 1980. For the reasons explored below, the Commission amends its rules herein to extend the Order No. 30 program for the full year proposed by ERA.

II. Discussion

A. Adequate Natural Gas Supplies Support Continuation of the Program

A short term oversupply of natural gas now exists in the interstate market. Data filed with the Commission indicate that every major interstate pipeline will enter the 1980–81 winter heating season with storage filled to capacity.[6] Furthermore, data reported to the Commission by the 28 major interstate pipelines indicate that 6,288.8 Bcf of natural gas is projected to be delivered during this coming winter as compared with 6,264.3 Bcf for the corresponding period in 1979–80. In addition, telephone surveys conducted by both the Commission staff and the ERA,[7] indicate that several interstate pipelines lack a market for all of the deliverable gas supplies that they have a right to obtain under contract.[8] In general, it appears that in the next nine months, interstate pipelines and their distributors will be able to satisfy current customer requirements with gas remaining which could be made available for short term sales.[9]

Several commenters argue that such a short-term assessment of the nation's natural gas supplies overlooks the long-term consequences of a failure to husband current supplies of natural gas for future requirements. The essence of this argument is that it is bad public policy to spend today's excess supplies (even for the admitted benefits resulting from displacement of imported oil) unless we are confident that the current excess will not be needed to meet the priority requirements of tomorrow.

The Commission collected extensive expert opinion on this question at the Informal Public Conference on the Availability and Pricing of Natural Gas and Alternative Fuels, convened on April 2, 1980, in Docket No. GP80–76.[10] Although the projections of the experts vary, nothing in this record supports a conclusion that a short-term extension of the Order No. 30 program would drain pipelines and distribution companies so as to imperil their ability to meet their service obligations in the future.

On the contrary, the concern was raised by numerous parties that a sustained but under-utilized delivery capability in excess of demand could have the principal effect of inducing producers to defer exploration and development efforts. Moreover, pipelines confronting take-or-pay problems may be forced to accommodate the demand deficit by reducing or postponing new supply initiatives. In effect, the brunt of any market softness would really be borne by producers of potential new sources of gas,[11] thus posing a more significant risk to future service than would occur by draining off the short-term excess presently available.

One comment theorized that if the natural gas could be husbanded, such gas could be used to displace premium fuels (such as distillate fuel oil) at some unstated future date, rather than residual fuel oil at present. The Commission does not agree. Of the 13 million barrels of fuel oil displaced by the program through June, 1980, only 2 million barrels were high-sulphur residual fuel oil.[12] Of greater significance, however, is that the comment failed to consider how cost of any such husbanding effort would be borne or that the existing unabsorbed deliverability would have a determental

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Footnotes continued from last page
Comments have also been filed, some in favor of and others in opposition to an extension. Futhermore, the Commission convened an informal conference on April 2, 1980, to study the nation's natural gas supply outlook. Notice of Informal Conference, Docket No. GP80–76, 45 FR 15944 (March 12, 1980).

[5] Written comments favoring the extension of the program were filed in Docket No. RM79–34 by: Asarco, Inc., Public Service Electric and Gas Company, Air Products and Chemicals, Inc., Anchor Hocking, Southern California Edison Company, Aluminum Company of America, Olinkraft, New England Power Service Company, Northern Natural Gas Co., Montana Power Company, Arizona Public Service Company, Edison Electric Institute, Pacific Gas and Electric Company, Georgia-Pacific Company, Calcasieu Refining Company, Equitable Gas, Public Service Commission of the State of New York, Michigan Wisconsin Pipe Line Company, Salt River Project Agricultural Improvement and Power District, Delhi Gas Pipeline, Northern Natural Gas Company, Tucson Electric Company, Sen. Jacob R. Javits, Sen. Daniel P. Moynihan, and the New York State Congressional Delegation.

Written comments opposing the extension were filed in Docket No. RM79–34 by: New England Gas Distributors, Northern Illinois Gas Company, Petrochemical Energy Group, Tosco Corporation, Process Gas Consumers Group, Georgia Industrial Group, American Iron and Steel Institute, Brooklyn Union Gas Company, and Concerned Municipal Gas Systems.

Written comments were also filed in Docket No. RM79–34 by: Transcontinental Gas Pipeline Corporation, Philadelphia Electric Company, and Bristol-Myers Company.

In addition, oral presentations or written comments were filed in Docket No. GP80–76 by: Gas Research Institute (GRI), Economic Regulatory Administration, Ohio Producers, National Gas and Oil Corporation, Public Service Electric and Gas Company, Texas Oil and Gas Corporation, Edward W. Erikson, William L. Murray, Jr., Harvard Business School Energy Project, Henry B. Taliferro, Jr., Texas Railroad Commission, Interstate National Gas Association of America, Transcontinental Gas Pipe Line Company, Tennessee Gas Transmission, Natural Gas Pipeline Company of America, National LP-Gas Association, Oil Jobbers Council, Midwest Fuel Oil Council, American Gas Association, Michigan Consolidated Gas Company, Edison Electric Institute, Consolidated Edison of New York, System Fuels, Inc., Florida Power and Light, Process Gas Consumers Group, American Iron and Steel Institute, Georgia Industrial Group, Petrochemical Energy Group, Public Service Commission of the State of New York, Columbia Gas Systems Service Corporation, New Jersey Natural Gas Company, Northern Natural Gas Company, New England Power Service, Weirton Steel Division of the National Steel Corporation, Independent Petroleum Association of America, and The Honorable John D. Dingell.

[6] FERC Form 8 data.

[7] June 16, 1980, transcript at 5–6.

[8] Staff obtained the following measure of interstate pipeline surplus from phone calls to the interstate pipelines and from information supplied to the Commission in response to its April 15, 1980, order requesting information on supply situations of 28 interstate pipelines for the upcoming winter. Panhandle Eastern Pipe Line Co. is currently not purchasing 148 MMcf per day of available pipeline supplies and projects a backoff of at least 86 MMcf per day through the winter. Transcontinental Gas Pipe Line Corporation is currently declining to take 300 MMcf per day from its producer supplies but does not expect to be backing off in the upcoming winter. Columbia Gas Transmission Corp. projects a surplus supply of 43 Bcf during the summer with liquefied natural gas (LNG) supplies and a surplus 22 Bcf without LNG, and projects a surplus of 22 Bcf with LNG in the coming winter. (Columbia also expects to totally replace LNG with other supplies if needed in the upcoming winter.) Consolidated Gas Supply Corp. projects a surplus of 14 Bcf during the coming winter without LNG supplies and a surplus of 64 Bcf with LNG supplies. Northern Natural Gas Co. is currently declining to take from its supply sources 250 MMcf per day. Michigan-Wisconsin Pipe Line Co. is expecting to decline to take 24 Bcf of supplies from producer and pipeline suppliers during the upcoming winter.

[9] This current market circumstance is further complicated by take-or-pay obligations which interstate pipelines frequently accepted when attaching new long-term supplies. One indication of the severity of the problems posed by these obligations is the expense data submitted this year by major pipelines in rate proceedings pursuant to section 4 of the Natural Gas Act. For example, Transcontinental Gas Pipe Line Company projects the largest take-or-pay obligation, $157,197,443, for a 12-month test period in Docket RP80–121, followed by Northern Natural Gas Company with $61,940,580 in Docket No. RP80–88.

[10] The record of the conference was made an item by reference in this proceeding. June 16, 1980, transcript at 68.

[11] *See e.g.* April 2, 1980, transcript at 106–07, 109, 173–75.

[12] August 6, 1980 letter of Lynne H. Church, Director of Natural Gas Regulations Division of ERA.

effect upon the development of new long-term supplies.[13]

Over the next nine months, the demonstrably adequate supplies of pipeline system supply gas will most likely cause the actual volumes of direct purchases under this program to be minimal. This is because system supply gas reflects average pipeline acquisition costs, while direct sales are generally at higher prices associated with new or uncommitted gas. Nonetheless, the value of extending the Order No. 30 program should not be underestimated. The program provides a measure of enhanced certainty that users will be able to meet their gas requirements, and so should contribute to a greater willingness on the part of industry and electric utilities to restore natural gas burning capability.

B. Desirability of the Present Program

(1) *Detrimental Dependence on Imported Oil.* When the Order No. 30 program was first proposed by the Secretary of Energy, in March, 1979, the Secretary of the Treasury had just completed a study under section 232 of the Trade Expansion Act of 1962, 19 U.S.C. 1862. That study concluded that "the national dependence on foreign oil was so great as to threaten to impair the national security."[14] The Secretary's findings were based upon both uncertainty as to continuity of supplies and the detrimental effect upon the balance of payments. In March of 1979, the weighted average international price of crude oil was $14.59 per barrel. The current price is $32.00.[15] This recent dramatic price increase further magnifies the adverse effect of oil imports upon the nation's balance of payments. The Secretary of the Treasury found that $42 billion had been spent on oil imports in 1978. That figure has been projected to be $82 billion for 1980.[16] Aside from the balance of payment consequences of America's dependence on foreign oil, this dependence is not without its international strategic costs as well.

In addition to the direct dependence upon foreign oil imports, the nation's domestic refinery capacity has developed to reflect the historic availability of the "sweet" crude oil generally produced in the Middle East. However, new crude oil supplies, including the Alaskan North Slope heavy crude, require different adjustments in refinery operations to account for the changes in sulphur content and density.[17] Because the adjustment in domestic refinery capacity requires both time and available capital, corrective measures are necessary to prevent a detrimental dependence upon imported refined products during the transition. In this regard, the types of fuel oil predominantly displaced to date under the Order No. 30 program, middle distillates and low sulphur residual fuel oil, are the very forms of fuel oil which require the additional refinery equipment (e.g. desulphurizers and coking facilities).[18]

(2) *Effects on Refinery Runs.* Several comments, from fuel oil suppliers, suggested terminating the Order No. 30 program on the grounds that the program creates an oversupply of residual fuel oil which in turn causes a lower than normal crude oil refinery run. In other words, the comments predict that refiners would convert a reduced quantity of crude oil into gasoline, fuel oil and other products. Douglas G. Robinson, Deputy Administrator of ERA, testified that the ERA is aware of such an effect upon refinery runs, and that the ERA has been and will continue to monitor such effects.[19] However, recent Department of Energy statistics indicate that refinery runs and refined product stocks are adequate to meet national needs.[20]

Any impact of the Commission's fuel oil displacement program on refinery runs would be regional rather than natonwide and would be indistinguishable from the impact of the ERA special public interest exemption program under the PIFUA. Given the ERA's ongoing commitment to monitor such regional effects (an effort beyond this Commission's resources and expertise), the Commission will continue to defer to the ERA on assessing the program's impact on refinery runs.

Should the ERA's monitoring of the program's effect on refinery runs show that the Order No. 30 program was adversely affecting refinery utilization, the ERA has retained authority to withdraw the certification of eligible users and/or their PIFUA exemptions in an affected region.[21]

(3) *Criteria for Certification of End Users.* The Commission will continue the practice of requiring end-users to obtain certificates of eligible use from the ERA pursuant to 10 CFR Part 595 as a condition for the authorization of covered transportation under this program.

One of the factors considered by the ERA in certificating eligible uses is that the natural gas will displace fuel oil rather than coal. This restriction reflects both the legislative intent of the PIFUA as well as a recognition of the long-term need to shift both fuel oil and natural gas users on to more abundant or renewable energy resources.

Although the possibility of excluding high sulphur residual fuel oil users was raised, the Commission does not see the need to foreclose the ERA from exercising its discretion to certify such users. Given that high sulphur residual fuel oil is generally less expensive than the delivered cost of natural gas under this program; [22] the use of natural gas to

[13] The Commission has taken a number of steps to develop new short-term demand in order to absorb the excess deliverability created by the Natural Gas Policy Act of 1978, (NGPA), Pub. L. 95-621. These measures were designed to be compatible with the high priority that the Commission attributes to promoting the development of system supplies.

The Commission believes that the best method of displacing fuel oil is to increase system supplies of natural gas. As system supplies are increased, customers who use fuel oil when natural gas was in short supply return to the use of natural gas. Thus, the development of system supplies serves to displace fuel oil. Increasing system supplies also protects high priority customers by reducing the likelihood of curtailment.

However, the Commission has also expanded its direct sales program to permit schools, hospitals, essential agricultural users, and process and feedstock users to consume natural gas purchased from producers even if used as boiler fuel. Prior to these amendments, boiler fuel loads were not eligible for direct sale gas, and the participants in the direct sale programs were ineligible to take system supplies for boiler fuel uses.

All of the above initiatives address the ability of a boiler fuel user to obtain natural gas from either pipeline system suppliers or in a direct sale arrangement. The broader question of whether natural gas may be used as a primary fuel in a particular installation is governed by the Powerplant and Industrial Fuel Use Act of 1978 (PIFUA), Pub. L. 95-620, 92 Stat. 3291. Section 301 of PIFUA, 42 U.S.C. 8341, limits the natural gas used in powerplants to levels historically used during 1974 through 1976, (subject to certain exemptions granted by the ERA). However, the ERA, as part of its comprehensive fuels policy, grants temporary public interest exemptions from the PIFUA when consistent with the objectives of the Act and national policy. Although the Commission's exercise of its Natural Gas Act authority significantly affects the use of natural gas transported in interstate commerce, the Secretary of Energy's authority and responsibilities under the PIFUA are even broader.

[14] Report of the Secretary of Treasury dated March 14, 1979.

[15] Energy Information Administration Weekly Petroleum Status Report, issued August 1, 1980 (No. 0208(31)) at 38. *See* also June 16, 1980, transcript at 60.

[16] August 6, 1980 letter from Lynne H. Church.

[17] *See* written comments of Douglas G. Robinson, April 2, 1980, at 24-27.

[18] *Id.*

[19] April 2, 1980, Transcript at 61-62, 71, 83-84. See also 10 CFR 595.05.

[20] The Energy Information Administration Weekly Petroleum Status Report (No. 0208 (80-31)) issued August 1, 1980 indicates that primary stocks of motor gasoline is 11.1% above last year's level, residual fuel oil stocks are 3.0% below levels a year ago, and middle distillate stocks are 27.9% above levels a year ago. In addition, crude oil imports are 19.2% lower than last year, and the four-week average of distillate imports are 54.9% lower than the level one year ago.

[21] April 2, 1980 Transcript at 89.

[22] April 2, 1980, Transcript at 314-15, 330.

displace high sulphur residual fuel oil is unlikely to occur in current market conditions.

Fuel oil suppliers also suggested restricting the program to the displacement of fuels from offshore refineries. As the August 6 letter from Lynne H. Church, Director of the Natural Gas Regulations Division of ERA, indicates, 66% of the fuel oil displaced to date under the program was in East Coast markets [23] which rely heavily upon fuel oil refined offshore. Given this trend, and the regional nature of fuel oil spot markets, the Commission does not see the need to restrict the ERA's discretion by limiting the program to the displacement of fuel oil refined offshore.

One comment suggested expanding the program to include new powerplants which demonstrate an overall oil saving. Given the short-term nature of the Order No. 30 program and the overriding long-term need to switch powerplants from both fuel oil and gas onto coal and other more abundant energy sources, the Commission believes that suggestion is neither feasible nor desirable.

Another comment suggested that the program be extended to include interstate pipelines as purchasers who will in turn sell natural gas to fuel oil displacement users from the pipeline's system supplies. The Commission does not believe that such an amendment is necessary, for these categories of transactions are already authorized under Subparts B through E of Part 284. So long as natural gas will become a part of the interstate pipeline's system supply, the pipelines may purchase gas under section 311(b) or 312 of the NGPA and transport gas under section 311(a) of the NGPA. The deliveries to end-users authorized by Order No. 30 do not meet the system supply requirement imposed by other Part 284 authorizations.

One comment sought clarification of the role of the ERA certification program with respect to the review of the seller of the natural gas. The Commission views the provisions of both these and the ERA regulations as unambiguous on this point. The ERA examines and certifies the proposed participating end-user rather than the person who sells the natural gas. Although Subpart F of Part 284 does impose different eligibility criteria depending upon whether the seller is a producer, distributor, intrastate pipeline, or interstate pipeline, the responsibility for determining whether those eligibility criteria are met rests with the transporting pipeline, and ultimately with the Commission.

[23] The August 6 letter refers to Petroleum Allocation for Defense District (PADD) I, which includes all states on the Atlantic coast.

(4) *Self-implementation.* Order No. 30 sought to permit fuel oil displacement transactions which satisfy the eligibility criteria of § 284.202 to go forward with a minimum of regulatory delay. Accordingly, the Commission relied upon its authority under section 311(a) of the NGPA to authorize the transportation of natural gas on a categorical basis. The Commission also exercised its exemptive authority under section 7(c)(1)(B) of the Natural Gas Act, to exempt the construction of certain facilities (§ 284.204) and certain other transportation not otherwise eligible for section 311(a) authorization. Such actions were consistent with the Commission's determination that the original Order No. 30 program was premised on a perceived fuel oil emergency. Our extension of this program is not similarly grounded on the determination that an emergency in fuel oil supply today exists. The Commission therefore will withdraw the section 7(c)(1)(B) authority in Order No. 30 transactions, after August 31, 1980.

Transportation authorized pursuant to section 311(a) of the NGPA by § 284.202 may commence immediately upon the issuance of an ERA certificate of eligible use. The Commission takes this opportunity to emphasize that in the case of an intrastate pipeline selling natural gas to the eligible user, existing regulations require any application under § 284.123(b)(2) for Commission approval of a transportation rate allowance incorporated in the sales price to be filed by the selling pipeline as a condition to the commencement of the sale. Once such an application is filed, the sale may proceed without prior Commission approval, except that, the sales price will be subject to refund under § 284.2.

(5) *Direct Sales of Natural Gas.* Some comments contend that fuel oil displacement can be better achieved through the sales of interstate pipeline system supplies to traditional boiler fuel customers. As a result, the comments argue that a separate program for the transportation of natural gas outside the scope of pipeline system supplies (and interstate pipeline curtailment plans) is unnecessary and has a detrimental effect upon the acquisition of new pipeline supplies. One comment suggests that the eligible user be required to demonstrate that supplies are not available from its pipeline and distributor suppliers as a prerequisite to participation in the Order No. 30 program.

These concerns are not supported by our experience during the first year of the program. Although § 284.208 provides interstate pipelines with the opportunity to intervene and seek for their own system the natural gas supply proposed for sale to an eligible user, no pipeline has yet expressed such a need for the gas in any Order No. 30 proceeding. The pattern of actual sales occurring under the Order No. 30 program indicates that distributors and some interstate pipelines do not have a market among traditional customers for all natural gas presently under contract. Conversely, eligible users who were able to obtain natural gas from traditional suppliers did not consummate transactions under Order No. 30.[24]

Although the direct sale of natural gas is an effective means for targeting fuel oil displacement gas to specific end users, the Commission reaffirms its intent to give first priority to interstate pipeline system supplies. Interstate pipeline off-system sales to eligible users from general system supply will be subject to case-by-case scrutiny based upon an evidentiary record assembled by an Administrative Law Judge. One of the issues to be considered is the price charged and the treatment of the revenues by the interstate pipeline (§ 284.208(d)(2)). This inquiry will extend to whether the pipeline's other customers are disadvantaged by the sale to the eligible user. Should the transaction be priced in terms which effectively require subsidization by system supply customers (who may also be displacing fuel oil) a strong showing would have to be made to establish how such a circumstance would be consistent with the public interest. Moreover, when a transporting pipeline lacks sufficient capacity to transport both system supplies and Order No. 30 volumes, § 284.205(f) requires that the Order No. 30 volumes are first to be interrupted.

C. Long-Term Disposition of Supply Imbalances

As outlined above, the excess deliverability of natural gas supplies committed to pipelines and distributors is likely to recur. Although the Order No. 30 program is a valuable means of directing some of the excess deliverability to serve an important national interest in displacing imported oil, it is not necessarily the optimum program for fulfilling the Commission's regulatory objectives. In particular, although the program has proven successful in satisfying the short-term goal of rebuilding critically short fuel oil supplies, the Order No. 30 program does not advance the Commission's primary

[24] June 16, 1980 transcript at 12.

objective of developing a balanced load of end-users on the interstate pipeline systems. The original fuel oil displacement program proposed by ERA was to be limited to a year's duration subject to renewal for a second year.[25] Similarly, the current ERA proposed extension is confined to limit the total duration of the program to a two-year period.[26] Although this rule would extend the program to complete the full two years originally envisioned by ERA, the Commission wishes to emphasize that any further extension of the program would be well beyond the contemplation of this short-term structure. Accordingly, all participating end-users should plan to assure that alternative energy supplies will be available upon the final termination of the program in May 1981.

By that time, the Commission expects to implement more effective programs to dispose of excess natural gas deliverabilities. It is our objective to reassess current policies and programs and so develop a comprehensive long term policy prior to May 31, 1981.

III. Section-by-Section Analysis of Amendments

Section 284.201(e) has been amended to extend the Order No. 30 program until May 31, 1981.

Section 284.202(a) has been amended by authorizing covered transportation under section 311(a)(1) of the NGPA if such transportation is on behalf of an intrastate pipeline or local distribution company and the sale of such natural gas is a first sale. The term "first sale" is defined in section 2(21) of the NGPA. Natural gas eligible for this authorization cannot have been committed or dedicated to interstate commerce on November 8, 1978. The effect of this amendment is to implement producer sales of natural gas for fuel oil displacement either under section 311(a) of the NGPA (for transportation on behalf of an intrastate pipeline or local distribution company) or under the § 1.32 shortened hearing procedure for section 7(c) certificate authorization.

Section 284.204 is amended by withdrawing the exemption regulation promulgated under section 7 of the Natural Gas Act. Although the exemption rule ceases to apply on September 1, the amendment continues the requirement preventing any costs associated with the construction or operation of facilities by a natural gas company under this subpart from being included in the natural gas company's jurisdictional rates.

Section 284.205(c)(2)(ii) is amended by only requiring a recertification of eligible use by the Administrator pursuant to 10 CFR 595.03, if it is necessary.

Under the present § 284.206, volumes of natural gas purchased pursuant to Order No. 30 are not considered as either a natural gas supply or market in a determination of an interstate pipeline's customer requirements for present or future allocations of natural gas during periods of natural gas curtailment. Because such a provision may circumscribe the latitude of the Commission and the ERA in implementing Title IV of the NGPA, we do not view the extension of § 284.206 to cover any further volumes as desirable. Section 284.206 is amended to limit the effect of this existing provision to volumes of natural gas purchased prior to September 1, 1980.

Section 284.207 is amended by no longer requiring a certified copy of any currently effective determination by a jurisdictional agency under NGPA section 503 and Part 274 of this chapter and applicable to the natural gas to be transported. The affidavit formally requested is no longer required. An affidavit, that natural gas purchased in a first sale by an eligible user was not purchased at a price above the maximum lawful price, is required.

Section 284.208 has been amended to utilize the statutory hearing procedure for natural gas which is not committed or dedicated and is purchased by the eligible user in a first sale. The hearing shall be conducted in accordance with § 1.32 of this chapter. In all other Order No. 30 cases not eligible for self-implementing authorization under section 311(a) of the NGPA, an evidentiary hearing will be conducted before an administrative law judge.

IV. Effective Date

The Commission finds that the public interest is best served by the continuation of the fuel oil displacement program for an additional nine months. In order to avoid a disruption of on-going transactions authorized under Order No. 30, this rule must take effect before September 1, 1980. For this reason, the Commission finds good cause to waive the 30-day requirement set forth in 5 U.S.C. 553(d) and to make this rule effective on August 31, 1980.

(Natural Gas Act, 15 U.S.C. 717–717w, Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Department of Energy Organization Act, 42 U.S.C. 7101–7352, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 284 of Chapter I, Title 18, Code of Federal Regulations, is amended, as set forth below, effective August 31, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 284.201 is amended by revising paragraph (e) to read as follows.

§ 284.201 Definitions.

* * * * *

(e) "Fuel shortage emergency period" means the period starting May 17, 1979, and ending at 11:59 p.m. on May 31, 1981.

* * * * *

2. Section 284.202 is amended by revising paragraph (a) to read as follows.

§ 284.202 Interstate pipeline transportation authorization.

(a) *General Rule.* Subject to paragraph (b) and the conditions specified in § 284.203.

(1) Covered transportation is authorized under section 311(a)(1) of the NGPA if such transportation is on behalf of an intrastate pipeline or local distribution company and if the seller of such natural gas is:

(i) A local distribution company, with respect to volumes which are attributable to local supplies; or

(ii) An intrastate pipeline; or

(iii) (A) The sale of such natural gas is a first sale as defined in section 2(21) of the NGPA; and

(B) Such natural gas was not committed or dedicated to intrastate commerce on November 8, 1978.

(2) Covered transportation not described in paragraph (a)(1) of this section is authorized if a certificate of public convenience and necessity is issued under section 7(c) of the Natural Gas Act in accordance with § 284.208.

* * * * *

3. Section 284.202 is further amended in paragraph (b) by striking each reference to "paragraph (a)(2)" and inserting in lieu thereof "paragraph (a)(1)."

* * * * *

4. Section 284.204 is amended to read as follows:

§ 284.204 Construction of facilities.

No costs associated with the construction or operation of facilities by a natural gas company necessary for the transportation of natural gas under this subpart shall be included in the natural gas company's jurisdictional rates.

5. Section 284.205 is amended in paragraph (c)(2)(ii) to read as follows:

[25] Proposed 18 CFR 157.204 (c) and (d), 44 FR 17644 (March 22, 1979).

[26] 45 FR 34299.

§ 284.205 General conditions.

* * * * *

(c) *Duration.* * * *

(2) *Renewals.* * * *

(ii) The application for renewal shall include a recertification of eligible use by the Administrator pursuant to 10 CFR 595.03, if necessary.

* * * * *

6. Section 284.206 is amended to read as follows:

§ 284.206 Effect on curtailment plans.

All volumes of natural gas purchased prior to September 1, 1980, by an eligible user and transported by an interstate pipeline pursuant to this subpart shall not be considered as either a natural gas supply or market in a determination of an interstate pipeline's customers' requirements for present or future allocations of natural gas during periods of natural gas curtailment.

7. Section 284.207 is amended by revising paragraph (2)(c)(5) to read as follows:

§ 284.207 Reporting requirements.

* * * * *

(c) *Reports by eligible users.* * * *

(5) With respect to natural gas purchased by the eligible user in a first sale; an affidavit that the eligible user never paid a price above the maximum lawful price.

8. Section 284.208 is amended by revising paragraph (d) to read as follows:

§ 284.208 Certificate procedures.

* * * * *

(d) *Hearing.* (1) In the case of natural gas which is not committed or dedicated and is purchased by the eligible user in a first sale, the Commission shall conduct an expedited hearing in accordance with § 1.32 of this chapter.

(2) In all other cases, upon the issuance of a temporary certificate, the Chief Administrative Law Judge shall set the application for an expedited evidentiary hearing. The evidentiary hearing shall examine, among other issues prescribed by the Presiding Law Judge:

(i) Whether any other natural gas company seeks to purchase for system supply the natural gas to be transported;

(ii) The price charged for the natural gas and the revenues retained by the seller;

(iii) The disposition of the natural gas in the event that certificate authorization is not granted; and

(iv) The actual impact of the transaction upon both the seller's other customers as well as the customers of the seller's interstate pipeline supplies.

* * * * *

[FR Doc. 80-25854 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 79F-0210]

Glycerol Ester of Tall Oil Rosin; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations by changing the acid number specification of glycerol ester of tall oil rosin as a component of chewing gum base to read "2–12" rather than "5–12" as presently listed. American Cynamid Co. filed a petition requesting such use.

DATES: Effective August 22, 1980; objections by September 22, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of August 17, 1979 (44 FR 48351) announced that a food additive petition (FAP 7A3322) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that the specifications for glycerol ester of tall oil rosin, presently listed for use as a component of chewing gum base in § 172.615(a) (21 CFR 172.615(a)), be amended by changing the acid number specification to read "not to exceed 10" rather than "5–12" as presently stated.

A comment was received in response to the notice of filing, recommending that a minimum acid number specification be retained for the additive. The commentor stated that if there were no minimum number, an attempt could be made to obtain an acid number approaching zero, which, although difficult to accomplish, could result in a rosin that could be decarboxylated or degraded to such a degree that it would not be the same product as currently regulated. Likewise, the decarboxylated rosin could contribute a different taste to the chewing gum. Because of this, the commentor suggested that the minimum acid number specification be retained at 5 or as low as 3, if desired.

Subsequently, the petitioner amended his petition proposing that the acid number specification be changed to read "2–12". The Food and Drug Administration (FDA) has reviewed the comment and agrees that a minimum acid number specification should be retained. FDA concludes that a range of "2–12" would serve to accomplish the proposed objective, and is a suitable acid number specification for identifying the regulated additive.

FDA has evaluated data in the petition and other relevant material, and concludes that the food additive regulations should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.615(a) by changing the acid number specification in the item "Glycerol ester of tall oil rosin" to read as follows:

§ 172.615 Chewing gum base.

* * * * *

(a) * * *

Plasticizing Materials (Softeners)

* * * * *	
Glycerol ester of tall oil rosin.	Having an acid number of 2–12, a softening point (ring and ball) of 80°–86° C and a color of N or paler. The ester is purified by steam stripping.

Any person may at any time on or before September 22, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure

to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 22, 1980.

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

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25527 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 176 and 178

[Docket No. 80F-0126]

Indirect Food Additives; Dipropylene Glycol Dibenzoate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dipropylene glycol dibenzoate as a plasticizer in polymeric substances to be used as components of paper and paperboard in contact with dry food. Velsicol Chemical Corp. petitioned for this use.

DATES: Effective August 22, 1980; objections by September 22, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: FDA issued a notice in the Federal Register of April 29, 1980 (45 FR 28496) announcing that a food additive petition (FAP 4B3009) had been filed by Velsicol Chemical Corp., 341 E. Ohio St., Chicago, IL 60611, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) and § 178.3740 *Plasticizers in polymeric substances* (21 CFR 178.3740) be amended to provide for the safe use of dipropylene glycol dibenzoate as a plasticizer in polymeric substances to be used as components of paper and paperboard in contact with dry food.

FDA has evaluated data in the petition and other relevant material and concludes that §§ 176.180 and 178.3740 should be amended as set forth below to include the petitoned additive.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), chapter I of title 21 of the Code of Federal Regulations is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. Part 176 is amended in § 176.180(b)(2) by inserting a new entry alphabetically in the table, to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * * *	
Dipropylene glycol dibenzoate (CAS Registry No. 94-51-9).	For use only as plasticizer in polymeric substances.
* * * * *	

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

2. Part 178 is amended in § 178.3740(b) by inserting a new entry alphabetically in the table, to read as follows:

§ 178.3740 Plasticizers in polymeric substances.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Dipropylene glycol dibenzoate (CAS Registry No. 94-51-9).	For use only as provided in § 176.180 of this chapter.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 22, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 22, 1980.

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

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25528 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of the Amendments to the Utah Field Operations Manual

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice gives approval of amendments to the Utah Field Operations Manual. Modifications to the Utah Manual were made by the State to bring it into conformity with program and policy changes made by the Occupational Safety and Health Administration in its Field Operations Manual.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Boyd, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S.

Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210 (202) 523-8081.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved under Section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1978, notice was published in the Federal Register of the approval of the Utah plan and of the adoption of Subpart E of Part 1952 containing the decision (38 FR 1178). On August 23 and December 17, 1979, the State of Utah submitted supplements to the plan involving Federal program changes (see Subpart C of 29 CFR Part 1953).

Description of Plan Supplements

Field Operations Manual. The amendments to the Utah Field Operations Manual generally parallel the Federal Operations Manual. Minor revisions to several Chapters were made by the State in response to OSHA's Federal program changes. The amendments included the following: (1) the establishment of safety inspection priorities, (2) a change in the calculation and classification of penalties, (3) definitional changes, and (4) other minor administrative changes.

Location of the Plan and its Supplements for Inspection and Copying

A copy of the plan and the supplements may be inspected and copied during normal business hours at the following locations: Technical Data Center, Room S-6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; and the Utah Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah 84111.

Public Participation

Under § 1953.2(c) of this Chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Utah plan supplements described above are substantially identical to OSHA policies and procedures. Accordingly, it is found that further public comment is unnecessary.

Decision

After careful consideration, the Utah plan supplements are hereby approved under Subpart C of 29 CFR Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 15th day of August 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-25617 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1952

Approval of Supplements to Virgin Islands State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This notice announces the approval of the completion of two developmental steps and the approval of a state-initiated change under the Virgin Islands Occupational Safety and Health plan. The completed developmental steps include the public employee program and the Occupational Safety and Health Administrative Regulations. The state-initiated change is a clarification to the rules concerning the filing and publication of regulations.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: John Smith, Project Officer, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N-3613, Washington, D.C. 20210, (202) 523-8081.

SUPPLEMENTARY INFORMATION:

Background

The Virgin Islands Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and Part 1902 of this Chapter on September 11, 1973 (38 FR 24896). Part 1953 of this Chapter provides procedures for the review and approval of change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of the Supplements

1. *Public Employee Program.* The Virgin Islands public employee program was implemented in July 1975. The rules and regulations applicable to the Virgin Islands private sector also apply to the public sector in all areas, including where serious violation or imminent danger situations exist, with the exception that no penalty assessments are imposed in the public sector.

The Federal OSHA standards adopted by the Virgin Islands for enforcement in the private sector are also applicable in the public sector. Although the State plan excludes health coverage in the private sector, the State designee has expressed the intention to provide health coverage in the public sector when adequately trained personnel becomes available.

2. *Administrative Regulations.* On March 8, 1976, the Virgin Islands submitted its Occupational Safety and Health Administrative Regulations as a developmental supplement.

A notice was published in the Federal Register on October 1, 1976 (41 FR 43411), announcing the submission of the proposed supplement of the Virgin Islands Occupational Safety and Health Administrative Regulations, and requesting public comment on the supplement. The Administrative Regulations contain the basic provisions for implementing the Virgin Islands Occupational Safety and Health Act, including the following subject areas: promulgating, modifying or revoking OSHA standards; advisory committees; variances; inspections, citations, proposed penalties; recordkeeping and reporting; discrimination; and proceedings for hearing examiner.

3. *Filing and Publication of Regulations.* This change was submitted with additional language amending the Virgin Islands Code, Title 3, Chapter 35, to make it clear that this section applies to the promulgation of permanent as well as emergency standards by means of newspaper notice until publication in the Virgin Islands Register.

Location of the Plan and its Supplements for Inspection and Copying

A copy of these supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of State programs, Occupational Safety and Health

Administration, Room N3613, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Adminstration, Room 3445, 1515 Broadway, New York, New York 10036; Department of Labor, Occupational Safety and Health Division, Building No. 1, Second Floor, Government Complex, Room 207, Lagoon Street, Frederiksted, St. Croix, Virgin Islands 00840.

Public Participation

Interested persons were afforded thirty days to submit written comments or request a hearing concerning the Virgin Islands Occupational Safety and Health Adminstrative Regulations. No public comments were received.

With regard to the remaining changes, under § 1953.2(c) of this Chapter the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that these changes are consistent with Federal requirements and with commitments contained in the plan and previously were made available for public comment. Therefore, further public comment and notice would be unnecessary.

Decision

After careful consideration, the Virgin Islands plan supplements described above are hereby approved under 29 CFR Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart S of 29 CFR Part 1953 is hereby amended to reflect these approved changes by adding paragraphs (j) and (k) to § 1952.254 as follows:

§ 1952.254. Completed developmental steps.

* * * * *

(j) In accordance with § 1952.253(e), the Virgin Islands implemented the public employee program in July 1975.

(k) In accordance with § 1952.253(c), the Virgin Islands adopted the Administrative Regulations on March 11, 1974.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 15th day of August 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-25771 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Lake Mead National Recreation Area, Arizona and Nevada; Alcoholic Beverages

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to delete the regulation pertaining to the sale, gift or possession of alcoholic beverages at Lake Mead National Recreation Area presently codified in 36 CFR § 7.48(b). This special regulation duplicates the general regulation applying to all areas of the National Park Service (36 CFR § 2.16), and as such is no longer necessary.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Wagers, Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005, (702) 293-4041.

SUPPLEMENTARY INFORMATION:

Background

Special Regulation 36 CFR § 7.48(b) prohibits the sale, gift or possession of alcoholic beverages by any person under 21 years of age at Lake Mead National Recreation Area. The National Park Service's general regulations found in 36 CFR § 2.16 prohibit the sale, gift or possession of alcoholic beverages to any person under 21 years of age except where state laws prescribe a lower minimum age. In view of the fact that this special regulation duplicates the authority found in 36 CFR § 2.16, the Service has decided that it is no longer necessary. This review of rules was undertaken in accordance with 43 CFR Part 14.7 which establishes procedures for the periodic review of existing regulations to assure that they are needed, up-to-date and clear.

The National Park Service has determined that it is impractical and unnecessary to provide a notice of proposed rulemaking on this action. Therefore, in accordance with 5 U.S.C. 553(b)(B) and 43 CFR 14.5(b)(3)(i), this document is published as a final rule. However, interested persons who wish to make comments or suggestions on this rule may do so by writing to the address noted at the beginning of this rulemaking. All comments received will be reviewed to determine if further revision is necessary.

Drafting Information

The following individuals participated in the writing of this regulation: Joseph L. Orr, Former Chief Ranger, Western Region, National Park Service, San Francisco, California, and Maureen Finnerty, National Park Service, Washington, D.C.

Impact Analysis

The National Park Service has made a determination that the regulation contained in this rulemaking is not significant, as that term is defined in 43 CFR Part 14, nor does it require the preparation of a regulatory analysis pursuant to the provisions of this authority. In addition, the Service has determined that this regulation is not a major Federal action significantly affecting the quality of the human environment, which would require preparation of an environmental impact statement.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 245 DM 1 (44 FR 23384); and National Park Service Order No. 77 (38 FR 7478), as amended.

L. E. Surles,

Acting Associate Director, Management and Operations, National Park Service.

§ 7.48 [Amended]

In consideration of the foregoing, Part 7 of Title 36, Code of Federal Regulations, is amended as follows:

36 CFR § 7.48(b) is hereby deleted and reserved.

[FR Doc. 80-25719 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-70-M

POSTAL SERVICE

39 CFR Part 111

Handling of Mailable Matter Not Bearing Postage Placed in Private Mail Receptacles or in the Mails

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends postal regulations governing the manner in which the Postal Service handles mailable matter not bearing postage which is found (a) in collection boxes or other mail receptacles or processing facilities, or (b) in or on private mail delivery receptacles.

The primary purposes of the rule change is to establish uniform procedures to be followed by all offices when a distribution outside the mails of mailable matter not bearing postage is found in or on mail delivery receptacles.

Such distributions are violations of 18 U.S.C. 1725 or of postal regulations.[1] In the past there have been different administrative practices in different locations because of varying interpretations of current regulations. This change is intended to solve those problems by establishing more detailed instructions.

The final rule also specifies that the kinds of mailable matter covered by the regulation include parcels, newspapers and magazines, books, records, and other mailable material..

EFFECTIVE DATE: September 21, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas E. Harris, (202) 245-5757.

SUPPLEMENTARY INFORMATION: On October 25, 1979, the Postal Service published for comment in the Federal Register (44 FR 61383) proposed changes to 146.123 and 146.22 of the Domestic Mail Manual, as described above in the Summary. Interested persons were invited to submit written comments concerning the proposed changes by November 24, 1979.

Sixteen parties submitted comments. The major comments are discussed below.

A. Phraseology

1. The phrase "unpaid mail matter" in proposed 146.123 was said to be an inappropriate way to describe matter which is not intended for delivery by the Postal Service. In response to this comment, we revised the phrase to read "mailable matter not bearing postage." This is consistent with the usage in 146.2 and avoids any implication that the matter was intended to be mailed.

2. It was suggested that the phrases "found * * * in the mail" in proposed 146.123 and "private mail receptacles" in proposed 146.22 should be defined.

The final rule changes the phrase "found * * * in the mail" to "found in * * * other receptacles designated for the deposit of mail by the public or in any facilities or mail processing operations" of the Postal Service. The final rule also amends 151.1 to provide that door slots and non-lockable bins or troughs used in connection with apartment house mailboxes are not letter boxes within the meaning of 18 U.S.C. 1725 and not private mail receptacles within the meaning of 146.2.

B. Relationship to Private Express Statutes

1. It was contended that a requirement for the payment of postage on newspapers which are placed in mail receptacles would deprive them of their exemption from the Private Express Statutes. The contention betrays a misunderstanding of the Private Express Statutes, as well as these rules. Neither the existing nor the proposed rules are based on any requirement that the affected material be carried by mail instead of by private carriers. Rather, these rules deal with the attempted free use of collection boxes and other Postal Service facilities, and private receptacles established for the delivery of U.S. mail. Similarly, section 1725 of title 18, U.S. Code, which prohibits the deposit of "matter on which no postage has been paid, in any letter box established, approved or accepted by the Postal Service for the receipt or delivery of mail matter," does not turn upon whether such matter may or may not be carried outside the mails. While it may be true that some private deliveries could be effected more easily if access to mail delivery receptacles were permitted, such access would be inconsistent with the Federal policy of maintaining the integrity of mail receptacles, on which section 1725 and related regulations are based.

2. One comment maintained that the use of the phrase "selective distribution of pieces on a route" in proposed 146.221 conflicted with that part of the proposed Private Express rulemaking of December 28, 1978 (43 FR 60615), which proposed to explain that "selective delivery" is a form of addressing. The commenter urged that the present rulemaking be suspended until the proposed Private Express regulations are issued.[2] While the terms "selective delivery" and "selective distribution" were not used for the same purpose in these two proposed rulemakings, it is apparent that the accidental choice of similar phrasing can be confusing. To avoid such misunderstanding, we have replaced the term "selective distribution" in 146.221 with the phrase "distribution * * * to some, but not all, addresses on a route."

C. Due Process

A number of comments argued that the proposal permitted removal of the matter in question from a mail receptacle and assessment of postage against a private delivery carrier without opportunity for a defense. Mentioned as potential defenses were an erroneous interpretation by the mail carrier removing the material, or deposit of the material in the mail receptacle by someone other than the private carrier.

It is not our intent to deny the private carrier or the sender of the material the right to point out any mistake by the postal employee, at the time a request for postage is made.

If the regulations have been misapplied, the Postal Service will deliver the item without charging postage. We believe the final rule is clear enough that such mistakes should not be made. One comment suggested that consideration of such a defense be assigned to the Postal Service Judicial Officer under the Private Express Regulations (see 39 CFR 310.5), and another suggested the local postal inspector. We think the factual and interpretative questions involved are simple enough for quick resolution at the local level. The postmaster would have the services of the Inspection Service available if needed.

It is also not our intent to find anyone "guilty" or to "assess" postage based simply on the discovery of unpaid matter in a mail receptacle. Regardless of who put it there, its deposit in the receptacle is not lawful. While we believe that whoever put it there owes the appropriate postage, we do not propose to take any action against anyone in particular without notification and opportunity for investigation. We do not regard the removal of the material from the mail receptacle in an attempt to collect the lawful postage as an adjudication of the responsibility for putting the matter in the box or as a penalty against anyone. If a private delivery firm which delivered the item properly completed its job and did not put it in the mail receptacle, it should say so upon receiving a request for the postage and decline to pay. The Postal Service cannot compel payment of the postage or take punitive action without litigating the matter in court.

In order to allow time for a private delivery firm to investigate whether it is responsible for a particular improper deposit in a mail receptacle or whether the Postal Service may have made some mistake, 146.223a of the final rule provides that the Postal Service will

[1] In *Council of Greenburgh Civic Associations and The Saw Mill Valley Civic Association* v *U.S. Postal Service*, No. 77Civ. 483 (S.D.N.Y. April 24, 1980). (*Final Judgment* entered May 24, 1980), the U.S. District Court for the Southern District of New York held 18 U.S.C. 1725 to be unconstitutional as applied to certain civic associations in Westchester County, New York, which had placed their materials into letter boxes. The effect of the decision is limited to the associations named in the *Final Judgment*.

A Notice of Appeal was filed in behalf of the Postal Service on June 19, 1980. Pending further litigation, the Postal Service will not apply 18 U.S.C. 1725, or the regulations which implement that statute, to the distribution of non-commercial materials by the organizations in Westchester County, New York, which are listed in the *Final Judgment*.

[2] On January 7, 1980 the Postal Service published a revised notice of proposed rulemaking on this and other matters at 45 FR 1427. The comment period was subsequently extended to April 8, 1980. 45 FR 6801.

remain ready to deliver the item upon payment of postage within 5 days following the initial request for postage, or within 5 days following a renewed request if some objection is made.

D. Notification of Violations

It was suggested that firms be notified of violations within a seven day period. The final regulations specify, in 146.123, that mailable matter found in collection boxes or any facility of the Postal Service will be returned "as promptly as possible". Sections 146.223a and .223b use the same term in connection with items removed from a mail delivery receptacle.

E. Waiver for First Violations

Several parties contended that the first instance of a violation should not result in the removal of materials from a mail receptacle. We believe that giving official permission for a free "first bite" would only introduce an unnecessary complication. Moreover, we see no justification for treating a violation as an excused violation simply because it is the first time a mail carrier observes it happening.

F. Liability of Publishers

It was contended that a publisher should not be held liable for the acts or omissions of independent contractors who deliver its publication, when it has no knowledge of such acts or omissions. Yet, it would appear that a publisher typically exercises substantial control over the conduct of the firm which it uses to effect delivery of its materials, and it does not appear unreasonable to look to the publisher for the payment of postage when infractions occur. In any event, the regulations provide in 146.223a and b that the Postal Service will initially look to the apparent distributor in the event of an infraction.

G. Payment of Postage

A number of objections were raised about the manner in which postage would be computed on materials found in mail receptacles. Some parties argued that a flat fee should be charged; others argued that the postage should be based upon the bulk rates which would be charged on materials which qualify for such rates. We adhere to the view that bulk rates are applicable only to materials which are shipped through the Postal Service in accordance with applicable regulations, and that such rates are not applicable to situations involving the improper use of mail receptacles. Moreover, the establishment of a flat fee, rather than using the postage applicable to the item in question, would appear inconsistent with section 1725 of title 18, U.S. Code, which prohibits the deposit of matter in letter boxes with the intent to avoid payment of "lawful postage". In addition, we do not agree with the comment that the rates of postage charged under these regulations constitute new rates or penalties. The critical fact is that the regulations apply to materials which have not been tendered to the Postal Service under circumstances which warrant the application of bulk rates.

It was also suggested that no items be removed from mail receptacles except labels or addressing materials, or alternatively, that the letter carrier only document each improper delivery without removing the materials in question. We have adopted neither suggestion because each entails administrative burdens which would unduly interfere with the carrier's primary function of delivering the mail on time for the people on the route.

One party suggestd that private distributors be allowed to maintain accounts from which postage could be paid. We believe that this would add an unnecessary administrative overlay and, in addition, could imply that private distributors have a license to use the mail receptacles.

As in the past, postage due on items which are not removed from mail receptacles will be receipted by providing cancelled stamps or meter strips on sheets of paper to the person paying the postage. See 146.223c. A new sentence has been added to provide that postage due on items which are removed from receptacles must be receipted in the same way. See 146.223a.

H. Miscellaneous

The phrase "general distribution" in 146.222 has been changed for purposes of clarity to read "distribution of identical pieces * * * to all or substantially all addresses on a route". We have also made certain minor and editorial changes in the rule as adopted.

After careful consideration of all the comments, the Postal Service hereby adopts the following revisions of the Domestic Mail Manual, which is incorporated by reference in the Federal Register under 39 CFR 111.1.

Part 146—Prepayment and Postage Due

1. In 146.12, revise .123 to read as follows:

146.12 *Mailable Matter Not Bearing Postage Found in the Mail.*

* * * * *

.123 Except as provided in 146.123a or b, mailable matter not bearing postage (including but not limited to parcels, newspapers and magazines, books, and records) intended for delivery by a private delivery company but found in collection boxes or other receptacles designated for the deposit of mail by the public or in any facilities or mail processing operations of the Postal Service, will be returned as promptly as possible to the sender postage due, and not delivered to the addressee or returned to the private delivery company. Address correction service or forwarding service will not be provided. Postage due, rated according to 146.221c, will be determined by computing postage due from the point at which the unpaid mailable matter entered the mail to the sender's location. However, when the entry point of the unpaid mailable matter is unknown, postage due will be computed from the point where it was first found in the mail to the sender's location.

a. If the sender cannot be identified or if mailable matter is refused by sender, the procedures in 159.5 will be followed.

b. If it appears that mailable matter was inadvertently delivered to a post office, the private delivery company will be notified as promptly as possible to pick up the matter by the close of the company's next working day. If the company fails to do so, the matter will be returned to sender postage due.

2. In 146.2, revise .22 to read as follows:

146.2 *Mailable Matter Not Bearing Postage Found in or on Private Mail Receptacles.*

* * * * *

.22 *Collection of Postage.*

Except as permitted in 156.58, any mailable matter not bearing postage found in, upon, attached to, supported by, or hung from the private mail receptacles described in 151.1, is subject to the payment of the same postage as would be paid if carried by mail. For mailable matter not bearing postage found in the mail, see 146.12.

.221 *Distribution to less than complete route.*

When there is a distribution of pieces to some, but not all, addresses on a route, they will be handled as follows:

a. Each piece will be taken to the delivery unit.

b. The date and approximate time of finding will be recorded on the piece. If the address where the piece if found is different from the address, if any, on the label, the address where found will be recorded, as well as the approximate time and date.

c. Postage on each piece found will be computed as follows: (1) First-Class Matter. First-class rates will be applied to matter which would require first-class postage if mailed.

(2) Second Class Publications. The transient rate in 411.42 will be applied.

(3) Controlled Circulation Publications. The applicable single piece third-class or fourth-class rate in 611.11 or 711 will be applied.

(4) Books, Records, Circulars, Catalogs, and Merchandise. If the piece weighs less than 16 ounces, either the single piece third-class rate, or the applicable fourth-class rate, whichever is lower, will be applied. See 611.12. If the piece weighs 16 ounces or more, the applicable fourth-class rate will be applied.

.222 *Distribution to all or substantially all addresses on a route.*

If there is a distribution of identical pieces to all or substantially all addresses on a route, only two copies, each dated, initialed, and marked with the address where found, will be taken to the office along with a written notation of the total number of identical pieces observed on the route. The postmaster must prepare a memorandum showing the details to support the claim of postage, which will be computed in accordance with 146.221c.

.223 *Request for payment.*

a. If there is reason to believe that a private delivery firm or an individual within the delivery area of the post office is responsible for the delivery, the local postmaster will notify the firm or individual as promptly as possible concerning the number of pieces and the amount of postage due. The applicable provisions of this manual will be explained. If the firm or individual receiving a request for postage offers objection that these regulations have not been applied properly in the particular case, the facts will be investigated before any action is taken. If, within five days after receiving a request for the postage, or within five days after receiving a renewed request following investigation of an objection, the firm or individual agrees to pay the postage due, payment will be accepted and the articles will be delivered to the addressees. The firm or individual paying the postage may choose to redeliver the pieces rather than have the Postal Service deliver them. Receipt for payment will be handled in accordance with 146.223c. If the pieces are found to have been removed improperly, they will be delivered without postage charge.

b. If the firm or individual responsible for delivery is not known or if the firm presented with a request fails to pay the postage, the pieces will be returned as promptly as possible to the publisher or manufacturer, postage due, with each piece endorsed to show that the articles were found in or on the addressee's mailbox without postage. If a publisher or manufacturer provides the name and telephone number of a person to contact about pieces found in mailboxes and orally or in writing guarantees payment of postage, the pieces will not be returned but will be redelivered promptly to the addressees. If the pieces are refused by the publisher or manufacturer or if the publisher or manufacturer is unknown, the procedures in 159.5 will be followed.

c. An equivalent amount of postage due stamps affixed to a sheet of paper and properly canceled as a receipt for money collected will be given the person or firm paying postage. If payment is in the form of uncanceled stamps or meter stamps, they will be affixed to a sheet, canceled and return as a receipt for payment. No other receipt will be issued.

Part 151—Private Mail Receptacles

3. Amend 151.1 to read as follows:

151.1 Designation As authorized Depository.

Every letterbox or other receptacle intended or used for the receipt or delivery of mail on any city delivery route, rural delivery route, highway contract route, or other mail route is designated an authorized depository for mail within the meaning of 18 U.S.C. sections 1702, 1705, 1708, and 1725, except that door slots, and nonlockable bins or troughs used in connection with apartment house mailboxes are not letter boxes within the meaning of 18 U.S.C. 1725 and not private mail receptacles within the meaning of 146.2. The post is not part of the receptacle.

A transmittal letter making changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the Federal Register as provided in 39 CFR § 111.3.

(39 U.S.C. 401(2), 404(a)(2); 18 U.S.C. 1725)

W. Allen Sanders,

Associate General Counsel.

[FR Doc. 80-25852 Filed 8-21-80; 8:45 am]

BILLING CODE 7710-12-M

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39 CFR Part 111

Change of Address Orders, Dual Addresses, ZIP Code

AGENCY: Postal Service.

ACTION: Final rule

SUMMARY: The purposes of the final rule are (1) to provide a uniform time limit of one year for the honoring of all permanent change of address orders, (2) to establish a consistent procedure for delivery of mail showing two addresses (such as a street address and a post office box) and (3) to encourage the usage of correct ZIP Codes. These rule changes are intended to reduce mail processing expenses.

EFFECTIVE DATE: September 21, 1980.

FOR FURTHER INFORMATION CONTACT: Eugene R. McGill, (202) 245-4512.

SUPPLEMENTARY INFORMATION: On October 26, 1977, the Postal Service published for comment in the Federal Register proposed changes to various sections of the Postal Service Manual as described above (42 FR 56509). Interested persons were invited to submit written comments concerning the proposed changes by November 25, 1977.

Written comments were received from twenty-five businesses, associations and individuals. One commenter favored the rule as proposed and urged the Postal Service to put it into effect at the earliest date.

Several commenters mistakenly thought that under the proposal mail addressed to a street address after the one year forwarding period would not be delivered. If the addressee is physically located at or resides at the street address shown on the mail, the Postal Service will begin or resume delivery of mail addressed to a street address. To ensure delivery of mail so addressed, customers must install a mail receptacle or a door slot or be on hand to receive the mail when the carrier arrives. See Domestic Mail Manual, 155.41.

One commenter thought there would be not way for a mailer to learn the box number of an addressee after the one year forwarding period except through long distance telephone calls. If a mailer knows only the street address, the mail will be delivered to that address, unless the addressee does not maintain a mail receptacle or door slot, or office available to receive mail at that location. If an addressee is secretive about his post office box and maintains no street address delivery point, the commenter may be right. Telephone calls may be the last resort, assuming he can find the telephone number. However, we think the commenter describes an entirely hypothetical or at least infrequent situation. Mailers are generally aware of the need, and, if they are business mailers, are eager to provide correspondents with the address where they want their mail delivered. The post office has a form for this very purpose that may be filled in and mailed to one's correspondents.

Three commenters requested that the forwarding proposal be modified to permit postmasters to determine which boxholders should receive forwarding beyond one year and which should not, depending upon the amount of mail that would have to be forwarded and the effect on the particular post office. We think it would be unwise to permit exceptions quite this broad, with such built-in potential for unequal treatment of mailers and confusion of postal employees.

Two commenters, a mail order catalog firm and a missionary organization, indicated that the proposed one year forwarding limitation would have a severe adverse effect on them. Both organizations have physically moved to other cities and maintained post office boxes at their former post offices to receive mail orders, contributions, and legacies addressed to their former locations. In both cases, it is probably impossible for the organizations to contact all possible correspondents to notify them of the new addresses. Under the proposal, mail addressed to the former street addresses would be treated as undeliverable after one year. Each commenter requested that some flexibility be provided in the final rule to take such situations into account.

The Postal Service agrees that elimination of forwarding service after one year for such boxholders could have a serious and detrimental economic impact on them. To prevent such hardships the final rule provides for an exception to allow postmasters to extend the forwarding period for one additional year where mail is regularly being received addressed to the old address. However, the addressee must demonstrate that an economic or financial hardship will ensue if extended forwarding is not granted and that a reasonable effort is being made to notify correspondents of the new mailing address.

Two commenters requested that all third-class mail, not merely third-class mail of obvious value, be forwarded locally without additional postage being required. Since these comments go beyond the scope of the forwarding part of the proposed rule, which establishes a uniform time period for forwarding to a local post office box, they will not be adopted in this rulemaking.

One commenter suggested that the proposal be modified to limit the forwarding of mail to post office boxes to three years rather than the proposed one year. One of the purposes of the proposed change is to simplify the complex regulations regarding the forwarding of mail. Little simplification would result if the general period for forwarding mail to lockboxes was different from the period for forwarding other forwardable mail. Furthermore, if mail were forwarded to lockboxes for more than one year, the increased volume of misaddressed box mail could exceed manageable limits for machine distribution for box section mail.

To eliminate the additional sortations required to forward mail to post office boxes, one commenter suggested that a carrier caller service be provided so that addressees could pick up their street-addressed mail from the carrier sections of post offices. The Postal Service currently offers a caller service to firms and individuals meeting the criteria in Part 952, Domestic Mail Manual. Under caller service a customer picks up his mail from a call window or the loading dock. The mail is generally presented in sacks, pouches, trays or bundles.

One commenter said that it was unnecessary to warn mailers that failure to use a ZIP Code or the use of an incorrect ZIP Code would result in delayed or incorrect delivery, since errors in addressing may be logically assumed to have those results. He suggested that correct ZIP Code use would increase if any mail endorsed "Address Correction Requested" and bearing an incorrect ZIP Code were returned to the sender showing the correct ZIP Code.

The problem with this solution is that it would greatly delay mail delivery, since correctly addressed (except for the ZIP Code) deliverable mail would not be delivered, but returned to the sender. We believe that few mailers would like this solution. Moreover, the existing "Address Correction Requested" procedure does not contemplate return of the mail piece to a sender. During the one-year forwarding period, when a piece of mail endorsed "Address Correction Requested" bears an addressee's old address, the Postal Service generally forwards the mail to the addressee's new address, if known, and notifies the sender of the new address or the reason why the mail piece was undeliverable.

It would be possible to treat mail with a correct street address but an incorrect ZIP Code the same as "Address Correction Requested" forwardable mail. However, there are certain drawbacks. For example, this kind of mail would suffer a delay of at least one day, due to the work entailed in taking the mail piece from the mailstream and addressing a card to the sender with the addressee's name, address and correct ZIP Code on it. We anticipate, moreover, that the startup costs of any such system, which would require reprogramming of our computerized mail forwarding system, could be very significant and might well outweigh the expected benefits for a number of years. In any event, the commenter's suggestion is beyond the scope of this rulemaking but could be addressed in a future rulemaking if other mailers should show sufficient interest in the idea to make it worth pursuing.

When a piece of mail bears both a street address and a post office box number, the postal carrier under existing rules delivers the piece to the address shown on the line immediately preceding the city, State and ZIP Code, unless the addressee has issued contrary instructions. Under the proposed rule an addressee would lose the option of issuing instructions contrary to the usual rule. Following such contrary instructions in the past has required manual processing of the mail, which the Postal Service has, through mechanization, been steadily reducing.

Several commenters, however, reported that they have only limited control of the format and placement of their addresses on mail sent to them, and that, as a general rule, they prefer that their mail be delivered to the post office box, regardless of where the box number appears in the address.

In our opinion, a mail recipient has considerable control over the format and placement of his address. Most mail is addressed the way the recipient intends from the return address, letterhead, order blank, etc. Moreover, the commenters' suggestion to require delivery to the box regardless of its position in the address would significantly add to the responsibility of the carrier in that the carrier would have to look throughout the address for a box number when casing the mail for his delivery route.

For the above reasons, and after careful consideration of all the comments, the Postal Service hereby adopts, with the modifications discussed above, the following amendments to the Domestic Mail Manual, which replaced Chapter 1 of the Postal Service Manual on July 30, 1979 (44 FR 39742), and which is incorporated in the Federal Register by reference. See 39 CFR 111.1.

Part 122—Addresses

1. In 122.1 revise .16 to read as follows:

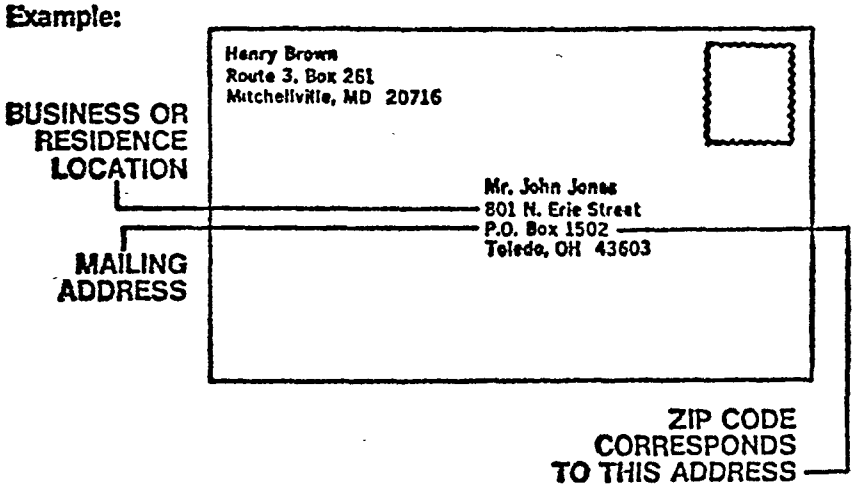
122.1 General information

* * * * *

.16 Mail should be specifically addressed to the place where the post

office is to deliver it. Mail bearing both a street address and a post office box number will be distributed for delivery in accordance with the address shown on the line immediately preceding the city and State of destination. The ZIP Code must correspond with the unit (box location or street address) through which delivery is to be effected. The requirements of this paragraph are also applicable to return addresses on mail matter.

Example:



Note: Mail bearing the names of more than one post office in either the return address or recipient's address is not acceptable for mailing.

2. In 122.6 revise .62 to read as follows:

122.6 ZIP Code System

* * * * *

.62 Purpose. The purpose of the ZIP Code is to achieve greater accuracy and speed in the dispatch and delivery of mail. Lack of a ZIP Code on mail, or a ZIP Code which does not correspond with the delivery address, could result in delayed or incorrect delivery.

Part 159—Undeliverable Mail

3. In 159.2 revise .213b and .241 to read as follows:

159.2 Forwarding

* * * * *

.213 Time Limit of Change of Address Order

* * * * *

b. *Time Limit Not Specified by Addressee.*

Records of permanent change of address orders (other than those subject to 159.213d) are held one year for forwarding purposes from the end of the month in which the change becomes effective. An address change to a post office box at the same post office filed before October 1, 1980, will expire on September 30, 1981.

Exception: When a boxholder has notified the post office of a permanent change in mailing address, or the Postal Service has administratively changed a customer's mailing address, the postmaster may extend the forwarding period for one additional year providing mail is being regularly received addressed to the old address. To qualify, the addressee must demonstrate that an economic or financial hardship will ensue if extended forwarding is not granted and that a reasonable effort is being made to notify correspondents of the new mailing address.

* * * * *

.241 Change in Local Address

All mail, other than third-class mail of no obvious value, will be delivered as directed if the old and the new addresses are served by the same post office. If a change of address order to a post office box at the same post office as the old address was filed before October 1, 1980, *all* mail will be forwarded to the box in accordance with the instructions shown on Form 1093, through September 30, 1981. Additional postage is not required.

Part 951—Post Office Lockbox Service

4. In 951.1 revise .122 to read as follows:

951.1 Purpose and Definition

* * * * *

.122 Lockboxes are located only in postal facilities. Customers receive their mail in these boxes and may open the boxes by means of a key or combination. A number is assigned to each box. Mail intended for delivery through a box must show the assigned post office box number in the address immediately above the city, State, and ZIP Code. Lack of a ZIP Code on mail, or use of a ZIP Code other than that assigned to the box section, could result in delayed or incorrect delivery. Mail without a box number will be delivered to the street address if shown in the address. If no street address is shown, the mail may be treated as undeliverable as addressed. Mail bearing both a street address and box number will be delivered in accordance with 122.16.

Part 952—Caller Service

5. In 952.1 revise .125 to read as follows:

952.1 Purpose and Definition

* * * * *

.125 A caller number is assigned to the caller for each separation used, and the caller must use the term *Box Number* and the assigned number in the mailing address immediately above the city, State, and ZIP Code. Lack of a ZIP Code on mail, or use of a ZIP Code other than that assigned to the box section which provides the caller service, could result in delayed or incorrect delivery. Mail without a box number will be delivered to the street address if shown in the address. If no street address is shown, the mail may be treated as undeliverable as addressed. Mail bearing both a street address and a box number will be delivered in accordance with 122.16.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers

automatically. These changes will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401(2))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 80-25707 Filed 8-21-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1578-4]

Approval and Revision of the Pennsylvania Implementation Plan: Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: The Environmental Protection Agency is correcting the preamble to amendments to the Pennsylvania State Implementation Plan in FR Document 79-38510 published December 17, 1979, at 44 FR 73031.

EFFECTIVE DATE: August 22, 1980. This notice clarifies information which appeared in a previous Federal Register notice and does not alter the intent or substance of that rulemaking.

FOR FURTHER INFORMATION CONTACT:

Patricia Sheridan (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8176.

SUPPLEMENTARY INFORMATION: This notice clarifies a paragraph by changing a referenced Section number from 121.2 to 121.8 as contained in the preamble to EPA's approval of a revision to Pennsylvania's State Implementation Plan (SIP), published in the Federal Register on December 17, 1979, 44 FR 73031. Paragraph (2) on page 73031 should read as follows:

"(2) Clarification of the intent of Section 121.8 of the regulations, relating to compliance and enforcement responsibilities, namely, that unless explicit reference is made to another section of the regulations, each section shall be constructed and enforced according to its own terms."

Authority: 42 U.S.C. 7401-642.

Dated: July 31, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25679 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1578-2]

Approval and Revision of the West Virginia Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: The Environmental Protection Agency is correcting amendments to the West Virginia State Implementation Plan made by FR Doc. 78-31604 published November 9, 1978, at 43 FR 52239.

EFFECTIVE DATE: August 22, 1980. This notice clarifies information which appeared in a previous Federal Register notice and does not alter the intent or substance of that rulemaking.

FOR FURTHER INFORMATION CONTACT:

Hank Sokolowski (3AH12), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106 (215) 597-8991.

SUPPLEMENTARY INFORMATION: This notice clarifies a paragraph by adding Sections 2.11 through 2.16 and Section 3.01 which was inadvertently left out as contained in the preamble to EPA's approval of a revision to West Virginia's State Implementation Plan (SIP), published in the Federal Register on November 9, 1978, 43 FR 52239.

Section 52.2520(c)(9) on page 52240 should read as follows:

"(9) Amendments to regulation X (to prevent and control air pollution from the emission of sulfur oxides) §§ (2.07 added), 2.08 (former section 2.07), 2.09 (former section 2.08), 2.10 (former section 2.09), 2.11 (former section 2.10), 2.12 (former section 2.11), 2.13 (former section 2.12), 2.14 (former section 2.13), 2.15 (former section 2.14), 2.16 (former section 2.15), § 3.01 is superseded by new 3.01 except 3.01(1) Kammer Power Station which retains the old 3.01(a), § 3.02 is replaced by new § 3.02, § 3.03 is superseded by new 3.03 except for 3.03(2) Rivesville Power Station, which retains the old 3.03(a) and 3.01(b), § 3.03(1) (Harrison Power Plant) is approved as an interim emission limitation only, §§ 3.05, 3.06, and 3.07 (added), § 3.08 (former section 3.05), § 6.01 is superseded by new § 6.01, new § 10 is added, § 11 (replaces former section 10) of the West Virginia Administrative Regulations submitted on January 25, 1978 (as amended September 13, 1978), by the Governor."

Authority: 42 U.S.C. §§ 7401-642.

Dated: July 31, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25680 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Reimbursement for Radiological Services Furnished to a Hospital Inpatient by a Physician in the Field of Radiology

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations define "radiological services" for which the Medicare program provides for payment at 100 percent of reasonable charges. Section 1833(a)(1)(B) of the Act provides for the 100 percent reimbursement for "radiological services" when furnished to hospital inpatients by physicians in the field of radiology. Current administrative guidelines restrict the 100 percent reimbursement to services in which X-rays or rays from radioactive substances are used.

Proposed regulations published on January 25, 1979 (44 FR 5162) would have extended the 100 percent reimbursement to other diagnostic imaging services such as ultrasound. On the basis of information acquired through public comments on the proposed regulations, we have concluded that there is not sufficient reason at this time to extend the 100 percent reimbursement to services not already so reimbursed. Accordingly, these regulations follow current operating instructions and define "radiological services" as those in which ionizing radiation is used for diagnostic or therapeutic purposes.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION, CONTACT:

Henry J. Hehir, 301-594-8561.

SUPPLEMENTARY INFORMATION:

Background

Section 131 of the Social Security Amendments of 1967 (Pub. L. 90-248) provided, in part, for 100 percent payment of the applicable reasonable charge for radiological services furnished to a hospital inpatient by a physician in the field of radiology (Section 1833(a)(1)(B) of the Social Security Act). This amendment to the Medicare law was enacted to simplify

reimbursement procedures and to facilitate claims processing by hospitals and Medicare carriers and intermediaries for inpatient radiological services.

Prior to the 1967 amendments, many hospitals submitted bills containing a single combined charge both for physicians' services for a hospital inpatient and for the supporting hospital services. This is known as "combined billing." However, it was difficult to process those bills. Physicians' services are reimbursable under Part B of Medicare on a reasonable charge basis, while supporting hospital services are reimbursable under Part A of Medicare on a reasonable cost basis. In addition, the deductible and coinsurance amounts for Part A and Part B are different. The 1967 amendments simplified reimbursement procedures and claims processing for radiological services by removing the Part B deductible for those services and by providing for 100 percent payment of reasonable charges.

The 1967 amendments were not developed because Congress believed that the coverage of radiological services needed to be expanded, or because they deserved more favorable reimbursement than other physicians' services. The amendments were merely intended to simplify reimbursement procedures, improve beneficiary understanding, and streamline claims processing in combined billing situations. See H.R. Rep. No. 544, 90th Cong., 1st Sess. 39f. (1967), and S. Rep. No. 744, 90th Cong., 1st Sess. 66ff. (1967). However, the amendments were not limited to combined billing situations. All radiological services to hospital inpatients furnished by physicians in the field of radiology were included in the 100 percent reimbursement provision, whether or not combined billing was involved.

At the time of enactment of the amendments, the only generally accepted and widely available radiological services were those in which X-rays or rays from other radioactive substances were used for diagnostic or therapeutic purposes. The use of ultrasound and other forms of radiant energy as diagnostic tools was in an incipient stage of development and was not a generally accepted and available diagnostic imaging modality.

Ultrasound or ultrasonography is a noninvasive diagnostic technique that utilizes, by machinery, high frequency sound waves to image deep organs of the body—liver, kidneys, pancreas—as well as the heart, eyes and and brain. Echocardiography refers to the application of ultrasound techniques to diagnose anatomic and functional impairment of the heart. As such, it is one separate and distinct application of diagnostic ultrasound methods. The ultrasound instrumentation approaches or systems used for abdominal and pelvic imaging, for cardiac imaging, for brain imaging, and for eye imaging all differ from one another and are suitable only for those particular uses.

Current Medicare administrative guidelines limit 100 percent payment for radiological services to the traditional services described above, in which X-rays or rays from radioactive substances are used for diagnostic or therapeutic purposes. This was how the term "radiological services" was understood when Congress enacted section 1833(a)(1)(B), and Congress has never questioned our continued use of this interpretation. The Medicare guidelines do not allow 100 percent payment for new procedures that use other forms of radiant energy, such as light, heat, or sound, to produce images for diagnosis. (See Sec. 3146 of the Medicare Part A Intermediary Manual (HIM-13-3) and Sec. 2020.9 of the Medicare Carriers Manual (HIM-14-3).)

In reviewing the development of new procedures, we initially believed that their continued exclusion from the 100 percent payment provision would subject both hospitals and radiologists to the same billing complexities and administrative burdens which the 1967 amendments were intended to alleviate. Therefore, we published a Notice of Proposed Rulemaking (NPRM) on January 25, 1979 (44 FR 5162). The NPRM would have defined "radiological services" in such a way that all diagnostic imaging services furnished to hospital inpatients by physicians in the field of radiology would be reimbursed at 100 percent of reasonable charges.

It is now apparent that ultrasound and other new procedures are in widespread use by a number of medical specialities, not just radiology. It is clear that the term "radiological services" in section 1833(a)(1)(B) was understood, when it was enacted, to refer solely to techniques using ionizing radiation; and we have consistently interpreted this term in this fashion ever since. Moreover, there is no consensus within the medical profession about how ultrasound or other diagnostic imaging techniques should be categorized, and we believe there is now no compelling reason for us to change the current definition of "radiological services".

It should be emphasized that we are not attempting to affect the medical profession's definition of the elements or limits of the specialty of radiology or any other medical specialty. We are merely interpreting section 1833(a)(1)(B) of the Act for purposes of determining the amount of Medicare payment.

Discussion of Comments

Public response to the NPRM focused on whether ultrasound should be identified as a radiological service.

1. Comments from Radiologists. Radiologists supported the proposed regulations. They maintained that most ultrasound services furnished to hospital inpatients are performed in the radiology departments. However, because section 1833(a)(1)(B) of the Act is not being applied to those services, hospitals which use combined billing for those services do not receive the benefit of simplified Medicare claims processing procedures intended by that provision of the Act. Hospitals may use simplified billing procedures for services using X-rays or rays from radioactive substances, but they must continue to follow the complicated billing procedures for ultrasound services, even though all of these services might be furnished by the same radiologist.

These commenters also emphasized that the proposed regulations would protect Medicare patients from liability for the deductible and coinsurance amounts for ultrasound services that they receive as hospital inpatients. The proposed regulations would have provided for Medicare payment of 100 percent of reasonable charges for these services, and patients would not have been liable for deductible and coinsurance amounts.

The radiologist group agreed, however, that certain ultrasound techniques, that is, echocardiography and ophthalmological ultrasound, could be excluded from the definition of radiological services since these are performed mainly by cardiologists and ophthalmologists.

2. Comments from Physicians Other than Radiologists. The majority of comments came from other physician specialists, mainly cardiologists, ophthalmologists, gynecologists, and internists who opposed the NPRM because they believed it would have a detrimental impact on health care and advances in medical technology. Their comments included the following:

a. Hospital administrators would be encouraged to assign responsibility for all ultrasound services to the radiology departments in order to obtain the greater reimbursement. This action could discourage other specialties from improving their ultrasound techniques.

b. Some of the commenters argued that the original purpose of section 1833(a)(1)(B) of the Act, namely, to simplify Medicare claims processing where combined billing is used, is no

longer applicable. They maintain that only 30–40 percent of hospital-based radiologists now bill for their services to inpatients through the hospitals.

c. These specialty groups emphasized that costs to the Medicare program would increase substantially by eliminating the deductible and coinsurance requirements for ultrasound services if they were included as "radiological services".

Response

As indicated above, the comments received on this proposal represented strongly opposing views on the part of the professional groups affected. In light of the lack of a professional consensus and our own further consideration of the issues, we have decided not to expand the current definition of "radiological services" to include other diagnostic imaging services, specifically ultrasound. We do not wish to promulgate regulations that represent a premature judgement on the development of ultrasound technology. As noted, Congress has never questioned our continued use of the original definition. Therefore, there is no need to create exceptions for echocardiography and ophthalmological ultrasound.

We have also considered the comment that, although the intent of section 1833(a)(1)(B) of the Act is to simplify billing procedures, currently only 30–40 percent of hospital-based radiologists take advantage of that provision. Our own research disclosed that most hospital-based radiologists do not now use the combined billing method contemplated by section 1833(a)(1)(B), although we do not have exact figures. We do not believe that more radiologists would bill for their services to inpatients through the hospitals if ultrasound were included among "radiological services". Thus, it is likely that a major objective in our proposal, that is, to increase use of combined billing, would not be achieved in actual practice.

Several commenters suggested that promulgation of the regulations as proposed might discourage further advancement of ultrasound diagnostic techniques by cardiologists and other specialists. This is based on the commenters' belief that the hospital administrators might be inclined to assign ultrasound services to the radiology department in order to realize the greater revenues. We did not contemplate any adverse effect on the development of these techniques when we proposed to change the existing rules. However, we believe that our decision not to include ultrasound in the definition of "radiological services" will avoid this unintended result. We are, therefore, maintaining the current reimbursement policies regarding "radiological services" and codifying them in our regulations.

Finally, our principal concern in these regulations is the proper classification of ultrasound and other new diagnostic imaging techniques as either included in or excluded from the definition of "radiological services". Nevertheless, we recognize that the way we classify these new techniques will determine whether or not beneficiaries will be liable for the 20 percent coinsurance amounts for these techniques. Coinsurance provisions follow automatically from the definition. Because we have concluded that it would be inappropriate to change the long-standing definition of "radiological services", beneficiaries will continue to be liable for coinsurance amounts for the new techniques only to the same extent as in the past.

42 CFR 405.240 is amended by revising paragraph (a)(2) to read as follows:

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

In the case of an individual who incurs expenses during his coverage period under the supplementary medical insurance plan, payment with respect to the total amount of such expenses incurred during a calendar year shall, subject to the provisions of §§ 405.243–405.246, be made as follows:

(a)(1) * * *

(2) With respect to radiological and pathological services, 100 percent of the reasonable charges for such services furnished to an inpatient of a hospital by a physician in the field of radiology or pathology (see § 405.232 (f) and (g)).

For purposes of this paragraph, "radiological services" means services in which ionizing radiation is used for diagnostic or therapeutic purposes (for example, X-ray and the use of radioisotopes).

* * * * *

(Secs. 1102, 1833, and 1871 of the Social Security Act; (42 U.S.C. 1302, 13951, and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare-Hospital Insurance and No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: June 27, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: August 8, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-25405 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

Correction

In FR Doc. 80-23500, appearing on page 51789 in the issue of Tuesday, August 5, 1980, make the following corrections:

1. On page 51790, in the right hand column "#Depth in feet above ground. Elevation in feet (NGVD)", the ninth figure down reading "666" should have read "664". Immediately below that the figure "666'" was inadvertently omitted.

BILLING CODE 1505-01-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

Correction

In FR Doc. 80-23299, appearing on page 51796 in the issue of Tuesday, August 5, 1980, make the following corrections:

1. On page 51799, in the "Source of flooding" column, the 16th entry reading "Yellow Fork" should have read "Yellow Fork Buck Creek". The 17th entry reading "Buck Creek" should be deleted.

2. On page 51803, in the column reading "#Depth in feet above ground. Elevation in feet (NGVD)", the thirteenth entry reading "1,000" should read "1,001".

The twenty-fourth entry reading "791" should have appeared one line lower across from "Just upstream of Third Street".

The thirtieth entry reading "1,374" should have read "1,347".

3. On page 51805, in the "Location" column, under "Grant River", in the entry reading "City of Painesville corporate limits, approximately 1,800 feet upstream of Walnut Avenue." The figure "1,800" should have read "1,180".

4. On page 51806, the Zip Code for Painesville, Ohio should have read "44077".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; National Wildlife Refuges in Colorado, Utah, and Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of certain national wildlife refuges to migratory game bird and resident game hunting in Colorado, Utah, and Wyoming is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below.

Robert H. Shields, Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, 125 S. State Street, Salt Lake City, Utah 84138. Telephone: 801/524–5630.

Melvin T. Nail, Refuge Manager, Alamosa-Monte Vista National Wildlife Refuge, P.O. Box 1148, Alamosa, Colorado 81101. Telephone: 303/589–4021.

Eugene C. Patten, Refuge Manager, Arapaho/Pathfinder National Wildlife Refuge, P.O. Box 457, Walden, Colorado 80480. Telephone: 303/723–4717.

James A. Creasy, Refuge Manager, Browns Park National Wildlife Refuge, Maybell, Colorado 81640. Telephone: 303/365–3695.

Ned I. Peabody, Refuge Manager, Bear River Migratory Bird Refuge, P.O. Box 459, Brigham City, Utah 84302. Telephone: 801/744–2488.

Glenn W. Elison, Refuge Manager, Fish Springs National Wildlife Refuge, Dugway, Utah 84022. Telephone: 801/522–3663.

Herbert G. Troester, Refuge Manager, Ouray National Wildlife Refuge, 477 East Main Street, Suite 4, Vernal, Utah 84078. Telephone: 801/789–0351.

Joe B. Rodriguez, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Kemmerer, Wyoming 83101. Telephone: 307/877–6334.

SUPPLEMENTARY INFORMATION:

General

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System, published in November 1976.

Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual refuge areas.

Colorado

Alamosa-Monte Vista National Wildlife Refuge

Effective Dates: To run concurrently with the open waterfowl season as established by the Colorado Division of Wildlife for 1980.

Hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe is permitted on Alamosa-Monte Vista National Wildlife Refuge, Colorado, but only on the areas designated by signs as being open to hunting. The Alamosa Refuge area comprising 3,946 acres, and the Monte Vista Refuge area comprised of 5,314 acres, are delineated on maps available at refuge headquarters, Alamosa, Colorado or from the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal Regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe subject to the following special conditions:

(1) The refuge will be open to hunting of mourning doves and Wilson's snipe only during the open waterfowl seasons as established by the Colorado Division of Wildlife for 1980.

(2) Admittance—Entrance to the area open to hunting, and parking of vehicles will be restricted to designated parking areas.

Browns Park National Wildlife Refuge

Effective Dates: To run concurrently with the open waterfowl season as established by the Colorado Division of Wildlife for 1980.

Hunting of duck, coot, and merganser will be permitted on the Browns Park National Wildlife Refuge on approximately 10,000 acres as posted, during the regular Colorado waterfowl season.

Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special condition.

(1) Hunting of Canada geese shall be only from November 3, 1980 through December 7, 1980 inclusive and the bag limit shall be one goose per day and one in possession.

Utah

Bear River Migratory Bird Refuge

Effective Dates: To run concurrently with the open waterfowl seasons as established by the Utah Division of Wildlife Resources for 1980.

Public hunting of ducks, geese, coots, mergansers, and whistling swans is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to hunting. Those areas comprising 12,855 acres, are delineated on maps available at the refuge headquarters, Brigham City, and from the Area Office, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, mergansers, and whistling swans subject to the following special regulations:

(1) *Steel Shot.* The exclusive use of steel shot is required in all guns on all days in all hunting areas. Possession of lead shot is prohibited in all hunting areas. The possession of lead shot shells within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same.

(2) *Hunting Areas.* No hunting is permitted from roadways or within 100 yards of any roadway in Area "A". No hunting is permitted from roadway or adjacent area as posted by signs in Area "B". Permanent blinds such as sink boxes may not be erected in either area.

(3) *Boat Use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in Units 1 and 3 of Hunting Area "A". Airboats may be launched only from designated boat ramps. Boats may be left at designated sites one week prior to and during the hunting season. All boats and trailers must be removed within two weeks after close of the hunting season.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Hunter Check Station.* All hunters entering Area "A" are required to self register at the check station and check out before leaving the refuge. All hunters entering the Perry gate entrance to Area "B" are required to register and check out at the self registration counter provided.

(6) *Routes of Travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between Units 1 and 2 and Units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads. Travel by boat is permitted from headquarters area boat ramps down canals between Units 1 and 2 and Units 2 and 3, and the main river channel into Unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

(7) *Hours of Entry.* There is no admittance beyond refuge headquarters earlier than 1 hour before shooting time. All hunters must check out of hunting areas no later the 1½ hours after the close of official shooting hours.

Fish Springs National Wildlife Refuge

Effective Dates: To run concurrently with the open duck season as established by the Utah Division of Wildlife Resources for 1980.

Hunting for ducks, coots, and mergansers only is permitted on Fish Springs National Wildlife Refuge on areas designated by signs as being open to hunting comprising 6,773 acres, is delineated on maps available at the refuge headquarters, 66 miles southwest of Dugway, Utah, and from the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all State and Federal regulations applicable to the hunting of ducks, coots, and mergansers, subject to the following conditions:

(1) Hunting of geese and swans is prohibited.

(2) All hunters must register at the Visitor Information Station prior to hunting each day and must check out at the end of each day.

(3) Shooting from, upon, or across dikes or roads, open to vehicular traffic is prohibited.

(4) The use of small boats, canoes, etc. is permitted, but outboard motors or air thrust boats are prohibited.

(5) Dogs may be used for hunting, but must be kept under control at all times.

Ouray National Wildlife Refuge

Effective Dates: To run concurrently with the open duck season as established by the Utah Division of Wildlife Resources for 1980.

Migratory game bird hunting is permitted on the Ouray National Wildlife Refuge, Utah, only on the areas designated by signs as being open to hunting. These areas, comprising 1,375 acres, are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, Salt Lake City, Utah. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Ducks, mergansers and coots only may be hunted. Goose hunting is not permitted.

(2) Vehicle travel within the refuge will be restricted to designated routes and parking areas.

Wyoming

Pathfinder National Wildlife Refuge

Effective Dates: As established by Wyoming Game and Fish Commission for Calendar Year 1980.

Hunting of ducks, geese, coots, and mergansers is permitted on Pathfinder National Wildlife Refuge, Wyoming in accordance with dates established by Wyoming Game and Fish Commission, but only on areas of Pathfinder Refuge known as Goose Bay, DeWeese Creek, and Sage Creek-Platte Units. This open area, comprising 3,760 acres, is delineated on maps available at refuge headquarters in Walden, Colorado and from the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers subject to the following special condition:

(1) Blinds—The construction of permanent blinds or pits is not permitted. Portable blinds may be used but not left on the refuge.

Seedskadee National Wildlife Refuge

Effective Dates: As established by Wyoming Game and Fish Commission for the Calendar Year 1980.

Public hunting of ducks, geese, coot and mourning doves is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting and shall be in accordance with all applicable State regulations governing the hunting of migratory game birds.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Colorado

Alamosa-Monte Vista National Wildlife Refuge

Hunting for pheasants, cottontail rabbits, white and black-tailed jack rabbits is permitted on the Alamosa-Monte Vista Refuge, Colorado, but only on the areas designated by signs as being open to hunting. These areas, comprising 9,260 acres, are delineated on maps available at refuge headquarters, Alamosa, Colorado or from the Office of the Area Manager, Salt Lake City, Utah.

Hunting shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The refuge will be open to hunting of cottontail rabbits and white and black-tailed jack rabbits only during the established waterfowl hunting season.

(2) Pheasant hunting will be permitted in accordance with State seasons and regulations for the San Luis Valley.

(3) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

(4) Hunting with rifles and hand guns is prohibited.

Arapaho National Wildlife Refuge

Hunting of sage and sharp-tailed grouse is permitted on Arapaho National

Wildlife Refuge, Colorado in accordance with dates and areas designated in regulations published by Colorado Division of Wildlife. Arapaho National Wildlife Refuge is comprised of three separate areas totaling 13,943 acres. Maps delineating these areas are available at the refuge headquarters in Walden, Colorado. All portions of the refuge are open except within 300 yards of residences. Hunting shall be in accordance with all applicable State regulations covering the hunting of sage and sharp-tailed grouse.

Browns Park National Wildlife Refuge

Hunting of cottontail rabbits and white and black-tailed jack rabbits will be permitted on Browns Park National Wildlife Refuge only during the open waterfowl season as established by the Colorado Division of Wildlife. Approximately 10,000 acres will be posted as open with maps available from the refuge office or the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State regulations covering the hunting of cottontail rabbits, white and black-tailed jack rabbits.

Wyoming

Pathfinder National Wildlife Refuge

Effective Dates: As established by the Wyoming Game and Fish Commission for the Calendar Year 1980.

Public hunting of cottontail rabbits is permitted on Pathfinder National Wildlife Refuge, Wyoming. All of the refuge area, comprising 16,807 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, and the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State regulations governing the hunting of cottontail rabbits.

Seedskadee National Wildlife Refuge

Effective Dates: As established by the Wyoming Game and Fish Commission for the Calendar Year 1980.

Public hunting of sage grouse and cottontail rabbits is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting and shall be in accordance with all applicable State regulations governing the hunting of sage grouse and cottontail rabbits.

Utah

Bear River Migatory Bird Refuge

Effective Dates: As established by the Utah Division of Wildlife Resources for Calendar Year 1980.

Public hunting of pheasants is permitted on Bear River Migratory Bird Refuge, Utah only on the areas designated by signs as being open to hunting. Those areas comprising 12,855 acres, are delineated on maps available at the refuge headquarters, Brigham City, or from the Area Office, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of pheasants subject to the following special conditions:

(1) *Steel Shot.* The exclusive use of steel shot is required in all guns on all days in all hunting areas. Possession of lead shot is prohibited in all hunting areas. The possession of lead shot shells within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same.

(2) *Hunting Areas.* No hunting is permitted from roadways or within 100 yards of any roadway in Area "A". No hunting is permitted from roadway or adjacent area as posted by signs in Area "B". Permanent blinds such as sink boxes may not be erected in either area.

(3) *Boat Use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in Units 1 and 3 of Hunting Area "A". Airboats may be launched only from designated boat ramps. Boats may be left at designated sites one week prior to and during the hunting season. All boats and trailers must be removed within two weeks after close of the hunting season.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Hunter Check Station.* All hunters entering Area "A" are required to self register at the check station and check out before leaving the refuge. All hunters entering the Perry gate entrance to Area "B" are required to register and check out at the self registration counter provided.

(6) *Routes of Travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between Units 1 and 2 and Units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads. Travel by boat is permitted from headquarters area boat ramps down canals between Units 1 and 2 and Units 2 and 3, and the main river channel into Unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

(7) *Hours of Entry.* There is no admittance beyond refuge headquarters earlier than 1 hour before shooting time. All hunters must check out of hunting areas no later than 1½ hours after the close of official shooting hours.

Ouray National Wildlife Refuge

Effective Dates: As established by the Utah Division of Wildlife Resources for Calendar Year 1980.

Upland game hunting is permitted on the Ouray National Wildlife Refuge, Utah, except in the areas designated by signs as being closed. The open areas, comprising 7,500 acres, are delineated on maps at the refuge headquarters. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Male pheasants only may be hunted.

(2) Sheppard Bottom is closed to hunting.

(3) Vehicles will be restricted to designated travel routes and parking lots.

(4) Lands leased from the Ute Indian Tribe may be hunted with a Tribal Hunting License only through November 14, 1980.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Colorado

Arapaho National Wildlife Refuge

Hunting of antelope is permitted on Arapaho National Wildlife Refuge, Colorado in accordance with dates and areas designated in regulations published by Colorado Division of Wildlife. Arapaho National Wildlife Refuge is comprised of three separate areas totaling 13,943 acres. Maps delineating these areas are available at the refuge headquarters in Walden, Colorado. All portions of the refuge are open except areas within 300 yards of residences. Hunting shall be in accordance with all applicable State regulations covering the hunting of antelope.

Wyoming

Pathfinder National Wildlife Refuge

Hunting of deer and antelope is permitted on Pathfinder National Wildlife Refuge, Wyoming in accordance with dates and areas designated in the Wyoming 1980 Orders regulating deer and antelope hunting. These areas, comprising 16,807 acres, are composed of four separate units and are delineated on maps available at

refuge headquarters in Walden, Colorado and from the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer and antelope.

Seedskadee National Wildlife Refuge

EFFECTIVE DATES: As established by Wyoming Game and Fish Commission for the Calendar Year 1980.

Public hunting of antelope and mule deer is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and as designated by signs, is open to hunting. Hunting shall be in accordance with all applicable State regulations governing the hunting of antelope.

The provisions of these special regulations supplement the regulations which govern hunting in wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

Assistant Area Manager Jimmie L. Tisdale, 801/524–5630, is the primary author of these special regulations.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: August 15, 1980.

William C White,

Acting Area Manager, Area 5.

[FR Doc. 80–25710 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 45, No. 165
Friday, August 22, 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

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Tobacco (Burley); Marketing Quotas and Acreage Allotments; Reporting and Recordkeeping Requirements

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture is considering amending the regulations governing the reporting and recordkeeping requirements pertaining to warehousemen, dealers, and producers. Experience gained in past marketing seasons indicates a need to clarify and strengthen existing reporting and recordkeeping requirments as a means of discouraging warehousemen and dealers from substituting good quality "excess" tobacco for inferior tobacco so as to avoid payment of marketing quota penalties, and to obtain from producers a report of their estimated burley acreage planted so as to insure the proper issuance of marketing cards and to prevent and monitor violations. Most of the proposed changes are the result of recommendations by the Department's Office of the Inspector General (OIG) which has conducted recent investigations of warehouse and dealer marketing operations.

The proposed rule would:

1. Define the phrase "tobacco in the form not normally marketed by producers."

2. Expand the exspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season.

3. Strengthen the reporting requirements and expand the inspection requirements for tobacco purchased by dealers and warehousemen from processors or manufacturers.

4. Require dealers to report their gross receipts for each lot of tobacco purchased and resold.

5. Require dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ–79 for tobacco purchased from processors or manufacturers in the form not normally marketed by producers.

6. Provide for producers to report the estimated planted acreage of burely tobacco.

DATE: Comments must be received before September 22, 1980, in order to be sure of consideration.

ADDRESS: Mail comments to the Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, 3630 South-Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, Agricultural Stabilization and Conservation Service, Washington, D.C. 20013, (202) 447–7935. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Thomas R. Burgess.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". Jeffress A. Wells, Director, Production Adjustment Division has determined that an emergency exists which warrants less than a 60-day comment period on this proposed action because dealers, warehousemen and producers are making preparations for the 1980–81 marketing season and they need to know as soon as possible these proposed changes in their recordkeeping and reporting requirements. Accordingly, the Agricultural Stabilization and Conservation Service is considering amendments to the burley tobacco regulations (7 CFR Part 726), as follows:

1. Section 726.51 would be amended by adding a definition of "tobacco in the form not normally marketed by producers".

2. Section 726.81 would be amended to provide for the producer to report the estimated planted acreage of burley tobacco on Form MQ–38, Certification of Use or Nonuse of Pesticides on Tobacco, before the marketing card is issued.

3. Section 726.93 would be amended to provide for the reinspection of warehouse carryover tobacco before the beginning of the next marketing season.

4. Section 726.94 would be amended to: (1) Provide for the reinspection of dealer carryover tobacco by an ASCS representative before the next marketing year begins; (2) Provide for the keeping of such records as will enable a dealer to enter on Form MQ–79 the gross amount of money for each lot of tobacco purchased and the gross amount of money for each lot of tobacco sold at resale; (3) Provide for a separate accounting on Form MQ–79 of all marketing transactions relating to acquisitions by dealers and warehousemen of tobacco in the form not normally marketed by producers; (4) Require dealers, warehousemen, or other persons who purchase from processors or manufacturers tobacco in the form not normally marketed by producers to obtain inspection by an ASCS representative when this tobacco is marketed, disposed of by any other means or blended with other tobacco. The failure to arrange for this inspection would be cause for the tobacco to be deemed to have been substituted for excess tobacco and penalty at the full rate would be due; and (5) Provide that tobacco purchased for resale by a dealer, warehouseman, or other person before such plans are reported to the State ASCS office issuing Form MQ–79, Dealer's Record Book, and such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

5. Section 726.104 would be amended to provide for the operator or producer to report the estimated planted acreage of burley tobacco on Form MQ–38, Certification of Use or Nonuse of Pesticides on Tobacco. Current rules do not provide for adequate inspection by ASCS representatives of warehouse and dealer tobacco on hand at the end of the marketing season. The proposed changes are needed to prevent dealers and warehousemen from substituting low quality, low price tobacco for good quality "excess" producer tobacco (tobacco produced in excessd of 110 percent of the farms' marketing quota) to avoid the payment of marketing quota penalties.

Prior to making any determinations, the Department will consider comments, views, and recommendations timely

submitted in writing to the Director, Production Adjustment Division. All written submissions made pursuant to the notice will be made available for public inspection from the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday in Room 3630—South Building, 14th and Independence Avenue, S.W., Washington, D.C.

Proposed Rule

It is proposed that 7 CFR Part 726 be amended as follows:

1. In § 726.51, paragraphs (nn), (oo), and (pp) are revised and a new paragraph (qq) is added to read as follows:

§ 726.51 Definitions.

* * * * *

(nn) *Tobacco in form not normally marketed by producers.* Tobacco leaves, stems, strips, scrap or parts thereof that are the result of green tobacco having been redried, green prized, stemmed, tipped, threshed or otherwise processed.

(oo) *Trucker.* A person who trucks or otherwise hauls tobacco for a producer, or any other person.

(pp) *Undermarketings* (1) *Actual.* The pounds by which the effective farm marketing quota is more than the pounds marketed.

(2) *Effective.* The smaller of actual undermarketings or the sum of the previous year's farm marketing quota plus pounds leased to the farm for the previous year.

(qq) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

2. Section 726.81, paragraph (a)(1) introductory text, is amended by revising the first sentence to read as follows:

§ 726.81 Issuance of marketing cards.

(a) *General.* (1) A marketing card (MQ–76) shall be issued for the current marketing year for each farm having tobacco available for marketing. The operator or producer's estimated planted acreage as reported on MQ–38 shall be considered in determining whether or not tobacco is available for marketing. * * *

* * * * *

3. Section 726.93 is amended by adding a new paragraph (g)(17) to read as follows:

§ 726.93 Warehouseman's records and reports.

* * * * *

(g) * * *

(17) Before the next marketing season begins, carryover tobacco reported by the warehouseman as provided in (g)(16) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the warehouseman shall provide for the reweighing of such tobacco which shall be witnessed by an ASCS representative. The warehouseman shall furnish to ASCS at the time of weighing a certification as to the actual weight of such tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight together with the reweighted quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in (g)(16) of this section shall be used for the purpose of determining the amount of penalty, if penalty is due. Penalty will be assessed, after the initial certification and reconciliation, when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover tobacco.

4. In § 726.94, paragraph (a) is revised; paragraph (c) is amended by adding a new subparagraph (6); paragraph (e) (1) and (2) are revised and a new paragraph (e)(3) is added; and a new paragrph (h) is added.

§ 726.94 Dealer's records and reports.

* * * * *

(a) *Record of marketing.* Each dealer shall keep such records as will enable the dealer to furnish the State ASCS office for each lot of tobacco purchased by the dealer the following information:

(1)(i) The name of the warehouse through which the tobacco was purchased if the tobacco was purchased by the dealer at a warehouse sale, (ii) the name of the operator of the farm on which the tobacco was produced and the name of the seller if the tobacco was purchased by the dealer at a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller if the tobacco was purchased by the dealer at a nonaucton sale from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deducton on account of penalty from the price paid the producer, and as to each lot of tobacco sold by the dealer the following information:

(i) Name of the warehouse through which the tobacco was sold if the tobacco was sold at a warehouse sale, and the name of the purchaser if the tobacco was sold at other than an auction warehouse sale.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) If tobacco bought by the dealer and carried over from a crop, which was produced before the current crop is resold, the fact that such tobacco was bought and carried over.

* * * * *

(c) *Record and report of purchases and resales.*

* * * * *

(6) Before the next marketing season begins, carryover tobacco reported by the dealer as provided in paragraph (c)(4) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the dealer shall provide for the weighing of such tobacco which shall be witnessed by an ASCS representative. The dealer shall furnish to ASCS at the time of weighing a certification as to the actual weight of such tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in (c)(4) of this section shall be used for the purpose of determining penalty, if penalty is due. Penalty shall be assessed, after the initial certification and reconciliation, when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover.

* * * * *

(e) *Damaged tobacco or tobacco purchased from processor or manufacturer.—*

(1) *Damaged tobacco.* Any dealer, warehouseman, or other person who plans to purchase tobacco that was damaged by fire, water, or any other cause shall prior to purchase report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that an ASCS representative can determine the marketable value of such damaged tobacco, and so that the weighing and removal of such tobacco can be

witnessed by an ASCS representative. Any damaged tobacco purchased by the dealer before such plans are reported to the State ASCS office and before such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

(2) *Purchase from processor or manufacturer.* Any dealer, warehouseman, or other person who plans to purchase tobacco from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that an ASCS representative can determine the marketable value of the tobacco, and whether the tobacco is in the form normally marketed by producers. The weighing and removal of the tobacco shall be witnessed by an ASCS representative. Any tobacco purchased from processors or manufacturers before such plans are reported to the State ASCS office and before the tobacco is inspected by an ASCS representative shall be deemed to be excess tobacco and penalty at the full rate shall be due.

(3) Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers which is determined by an ASCS representative to be in the form not normally marketed by producers shall, before such tobacco is disposed of or blended with other tobacco in the form normally marketed by producers, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so as to allow an ASCS representative to witness the disposition of or the blending of such tobacco. Any such tobacco purchased by a dealer, warehouseman, or other person and marketed, disposed of by any means, or blended with other tobacco before the State ASCS office has been timely notified, shall be deemed to have been substituted for excess tobacco, and penalty at the full rate shall be due on each pound of tobacco.

* * * * *

(h) *Reporting of tobacco in the form not normally marketed by producers.* Any dealer, warehouseman, or any other person who purchases tobacco from processors or manufacturers under conditions provided in § 726.94(e)(3) shall maintain on a separate Form MQ–79 a record of all such purchases and resales.

5. In § 726.104 paragraph (b) is amended to read as follows:

§ 726.104 Determination of use of DDT, TDE, toxaphene, or endrin.

* * * * *

(b) *Producer's report.* The operator, or any producer, on each farm producing burley tobacco shall file a report on MQ–38 (Burley) showing the estimated acres of tobacco planted and whether or not toxaphene, endrin, DDT, or TDE was used on the tobacco in the field or after being harvested. If the operator refuses to file a report on MQ–38 (Burley) showing whether or not toxaphene, endrin, DDT, or TDE was used on the tobacco in the field or after being harvested, all burley tobacco produced on each farm shall be considered by the county committee to have been treated with such a pesticide.

(Secs. 301, 312, 313, 314, 316, 318, 319, 363, 372–375, 377 378, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 80 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 85 Stat. 23; 7 U.S.C. 1301, 1312, 1313, 1314, 1314b, 1314d, 1314e, 1363, 1372–1375, 1377, 1378, Pub. L. 92–10)

Signed at Washington, D.C. on August 15, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Sevice.

[FR Doc. 80-25300 Filed 8-15-80; 3:30 pm]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 926

Tokay Grapes Grown in San Joaquin County, Calif.; Proposed Grade and Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through November 30, 1980, minimum grade and container marking requirements currently in effect for fresh shipments of Tokay grapes grown in San Joaquin Country, California. The current regulation requires that fresh shipments of Tokay grapes meet the specification of the U.S. No. 1 Table Grape grade and that the container be marked with the Federal-State Inspection Service lot stamp number. These requirements are designed to assure shipment of satisfactory quality Tokay grapes in the interest of producers and consumers.

DATES: Written comments must be received by September 15, 1980. Proposed effective dates: October 1, 1980, through November 30, 1980.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Draft Impact Analysis relative to this proposed rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act.

Tokay Grape Regulation 16 (§ 926.317; 45 FR 52772) specifies grade and container marking requirements for the period August 14, 1980, through September 30, 1980. The proposed regulation would continue these requirements through November 30, 1980. This notice is issued under the marketing agreement, as amended, an Order No. 926, as amended, (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Industry Committee, established under the order.

The committee has estimated that 1980 production of Tokay grapes will be about 119,140 tons, and fresh shipments are estimated at 17,250 tons. The grade and container marking requirements are designed to prevent the shipment of fresh Tokay grapes of a lower quality than specified and to provide ample supplies of good quality fruit in the interest of producers and consumers. The requirements would specify that such grapes meet the grade and size specifications of U.S. No. 1 Table Grapes and that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. the requirement for more even distribution of color is included to assure the availability to consumers of Tokay grapes of satisfactory quality. Each container of such grapes must bear a

Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. Compliance with the container marking requirement will verify inspection, thus assuring compliance with the quality requirements specified herein.

The proposal is that Section 926.317 Tokay Grape Regulation 16 (45 FR 52772) be amended to read as follows:

§ 926.317 Tokay Grape Reguation 16.

(a) During the period October 1, 1980, through November 30, 1980, no handler shall ship:

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

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

(b) *Defintions.* As used herein, the terms "handler," "ship," and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 2851.880–912).

Dated: August 18, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-25650 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-51]

Applications for Assignment, Adjustment and Other Agency Actions; Notice to Aggrieved Persons

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Termination of Rulemaking Proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that its rulemaking proceeding on a proposed rule to revise its notice to aggrieved persons procedures (44 FR 67338, November 23, 1979) has been terminated and that no final rule will be issued on this proposal. The proposed rule would have required applicants for assignments, adjustments and certain other agency actions, instead of DOE, to give notice of their applications to aggrieved persons in order to expedite DOE's handling of applications and to ensure that notice is given to all aggrieved parties. However, DOE has determined that this increased burden on applicants would not necessarily relieve the burden on the regional offices or expedite the processing of applications.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Office of Public Hearing Management), Economic Regulatory Administration, Room B-210, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3971.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 653-4055.

William E. Caldwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3256.

William Funk or Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6736 or 252-6744.

Issued at Washington, D.C., on August 18, 1980.

Hazel R. Rollings,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-25681 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 444

Credit Practices; Publication of Staff Report on Proposed Trade Regulation Rule and Announcement of Public Comment Period

AGENCY: Federal Trade Commission.

ACTION: Publication of staff report.

SUMMARY: On October 13, 1978, the notice of publication of the Presiding Officer's report on the proposed trade regulation rule on credit practices was published in the Federal Register, 43 FR 47197.

The Bureau of Consumer Protection staff report, which summarizes and analyzes the evidence in the rulemaking proceeding on credit practices and makes recommendations for final Commission action, has now been made public and placed on Public Record 215-42. The publication of the staff report commences a final 60-day public comment period on both the staff report and the Presiding Officer's report.

EFFECTIVE DATE: Comments will be accepted for the public record if received on or before October 21, 1980.

ADDRESSES: Comments should be sent to: Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

Requests for copies of the report should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: David H. Williams, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1100; or Martin B. White, (202) 724-1157.

SUPPLEMENTARY INFORMATION: Pursuant to Section 1.13(g) of the Commission's Rules of Practice, the staff has submitted its report, containing its summary and analysis of the record and its recommendations for a final rule. The report is now available for public comment, as provided by § 1.13(h) of the Commission's Rules of Practice.

To focus discussion of the evidentiary record in this proceeding, a memorandum from Albert H. Kramer, Director of the Bureau of Consumer Protection, which discusses the staff report and solicits comment on particular issues, is attached to the staff report as Appendix D. Commenters are not limited to the issues raised in Mr. Kramer's memorandum but may discuss all aspects of the staff report and Presiding Officer's report. A memorandum commenting on the staff report, prepared by the FTC Bureau of Economics, has also been placed on the rulemaking record and is available to persons who would like to consider it in preparing their comments on the two reports. Commentary must be limited to evidence already on the rulemaking record; no new evidence may be submitted.

The rulemaking record and a computer index to the record are available for use by the public at the Public Reference Branch, Room 130 of the Federal Trade Commission Building,

in Washington, D.C. Copying of these materials is permitted, upon payment of the appropriate fees.

Requests for copies of the staff report and the Presiding Officer's report should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. Comments on these reports will be accepted on or before October 21, 1980. Comments should be identified as "Credit Practices TRR Comments," and addressed to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. When possible, five copies of comments should be submitted. Copies of the Bureau of Economics memorandum can also be obtained from the Public Reference Branch at the above address.

After the comment period is over the Commission may, pursuant to § 1.13(i) of its Rules of Practice, allow persons who have previously participated in the rulemaking to make oral presentations before the Commission, unless it determines that such presentations would not significantly assist it in its deliberations. Such presentations shall be confined to information already in the rulemaking record. Requests to participate in an oral presentation should be received by the Commission no later than October 21, 1980 and should be sent to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

The Commission's final determination in this matter will be based on the entire rulemaking record, including the staff and Presiding Officer's reports, comments received on them, and any oral presentations that may be scheduled. The staff report has not been reviewed or adopted by the Commission, and its publication should not be interpreted as reflecting the present views of the Commission or any individual member thereof.

Approved:

Albert H. Kramer,

Director, Bureau of Consumer Protection.

[FR Doc. 80-25307 Filed 8-21-80; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Monthly and Confirmation Statements; Proposed Rules

Correction

In FR Doc. 80-23359, appearing at page 51598 in the issue of Monday, August 4, 1980, the following changes should be made:

1. On page 51599, first column, the seventeenth line of the first complete paragraph should read, "FR 1918, 1922 (January 8, 1979). Under".

2. Also on page 51599, second column, the third line of the second complete paragraph should read, "2(a)(1), 4b, 4c, 4*l*, 4m, 4n, 4*o*, 8a and 19" and the fourth word in the twelfth line of § 1.33(a)(1) should read, "other".

BILLING CODE 1505-01-M

17 CFR Part 4

Revisions of Commodity Pool Operator and Commodity Trading Advisor Regulations; Proposed Rules

Correction

In FR Doc. 80-23381, appearing at page 51600 in the issue of Monday, August 4, 1980, the following changes should be made:

1. On page 51601, third column, the third line of the second complete paragraph should read, "exemption from registration specified".

2. On page 51602, first column, fourth complete paragraph, the eighth line should read, "for CPOs and § 4.31(a)(5), (6), and (7)", the eleventh line should be deleted, and the twelfth line should read, "under § 4.31(a)(5) would have to state".

3. Also on page 51602, the seventh line from the bottom of the first column should read, "and (13) for CPOs and § 4.31(a)(1) for" and the fifth line of the third complete paragraph in the second column should read, "Beginning net asset value; (2) all".

4. On page 51603, second column, the fourteenth line of the first complete paragraph should read, "material inaccuracy or inadequacy in" and a comma should appear at the end of the second line of the paragraph designated "3."

5. Also on page 51603, third column, the fifth and fourteenth lines of the paragraph designated "5." should read, "qualifications or abilities have been" and "behalf of CPOs and CTAs. (Proposed," respectively).

6. On page 51604, the ninth and fifteenth lines in the first column should read, "permitted. (Proposed § 4.42.) [10] these" and "comments on and alternatives to these" respectively.

7. Also on page 51604, first column, the seventh and ninth lines of the first complete paragraph should read, "pool in a CPO's name and the" and "resulted in abuses of customers' funds." respectively.

8. Also on page 51604, first column, the third line of the last complete paragraph should read, "sections 2(a)(1), 4b, 4c 4*l*, 4m, 4n, 4*o*, 8a".

9. Also on page 51604, second column, the eighth entry in the table of sections should read, "4.14 Exemption from registration as a commodity trading advisor.", the third line of the authority citation should read, "U.S.C. 2, 6b, 6c, 6*l*, 6m, 6n, 6*o*, 12a and 23, as" and the last word in the second line of § 4.1(a)(1) should read, "paper".

10. On page 51605, first column, the last word in the last line of § 4.11 should read, "registration" and the third word in the heading of § 4.13 should read, "registration".

11. On page 51605, second column, the second word in the tenth line of § 4.13(c) should read, "accounting" and the first word in the eighth line of § 4.13(d) should read, "registration".

12. Also on page 51605, the first word in the third line of § 4.14(a)(2) should read "organization".

13. On page 51606, second column, the second sentence appearing in § 4.21(a)(3)(i)(F) should appear by itself as the closing text of paragraph (a)(3)(i).

14. On page 51607, first column, a semi-colon rather than a colon should appear between the words "principals" and "*Provided*" in the twenty-third line of § 4.21 (a)(4)(ii)(C).

15. On page 51608, second column, the fourth line from the bottom should read, "RISK DISCLOSURE STATEMENT".

16. Also on page 51608, third column, the fourth line from the bottom should read, "LIABILITY OF A PARTICIPANT IN THIS".

17. On page 51609, first column, the third word in the last line of § 4.21(b)(1)(ii) should read, "Document".

18. Also on page 51609, second column, a period should appear at the end of § 4.21(g) and the first word in the eighth line of § 4.21(h)(1)(i) should read "prospective".

19. Also on page 51609, third column, the last word in the first line of § 4.22(a)(1) should read, "Account" and the second line of that paragraph should read, "Statement which must be presented in the form".

20. Also on page 51609, third column, the first word in the second line of § 4.22(a)(1)(iii) should read, "loss" and the colon at the end of the paragraph should be a semi-colon.

21. Also on page 51609, third column, § 4.22(a)(1)(vi) should end with a semi-colon rather than a period and the introductory text of § 4.22(a)(2) should end with a colon rather than a period.

22. On page 51610, first column, the third word in the third line of § 4.22(b)(4)(ii) should read, "Income".

23. Also on page 51610, second column, the third and fourth words in the tenth line of § 4.22(f)(1) should read, "Annual Report" and the paragraph designated as "(f)2." should be designated as "(f)(2)".

24. On page 51611, first column, a space should appear between the words "gain" and "or" in the tenth line of § 4.23(a)(1).

25. On page 51612, second column, the second sentence appearing in § 4.31(a)(5)(i)(D) should appear by itself as the closing text of paragraph (a)(5)(i).

26. On page 51613, third column, the second line of the introductory text of § 4.32 should read, "registered or required to be registered under the Act must make and keep the following books and records in".

27. On page 51614, first column, the next to last word in the fifth line § 4.42 should read, "texts".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76; Texas—1]

High-Cost Gas Produced From Tight Formations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final rule designating natural gas produced from tight formations as high-cost gas subject to a higher ceiling price (18 CFR 271.705). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking contains the recommendation of the Texas Railroad Commission that Cotton Valley Sand Formation, Cotton Valley Lime Formation, and Bossier Shale Formation be designated as tight formations pursuant to section 271.705.

COMMENT DATE: Comment period expires on September 29, 1980.

ADDRESS: comments to this Notice should be addressed to the Office of Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should reference Docket No. RM79-76.

FOR FURTHER INFORMATION CONTACT:
Leslie J. Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. NE., Washington, D.C. 20426, (202) 357-8027.
Teresa Ponder, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. NE., Washington, DC 20426, (202) 357-8151.

SUPPLEMENTARY INFORMATION:

Issued: August 15, 1980.

I. Background

On July 11, 1980, the Texas Railroad Commission (Texas) submitted to the Commision a recommendation, in accordance with § 271.705 of the Commission's regulations (18 CFR § 271.705), that the Cotton Valley Sandstone Formation, the Cotton Valley Lime Formation and the Bossier Shale Formation be designated as tight formations in the Commission's regulations. Pursuant to § 271.705(d) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Cotton Valley Sandstone, Cotton Valley Lime and Bossier Shale Formations be designated as tight formations, should be adopted. Texas' recommendations and supporting data are on file with the Commission and are available to the public for inspection.

The recommended formations are found in the northeastern part of the State of Texas, encompassing parts of Railroad Commission Districts 1, 3, 5 and 6. Northern limits of the recommended formations lie immediately south of the Texas-Oklahoma border through Fannin, Lamar, and Red River Counties, and the eastern border extends to the Arkansas and Louisiana borders. The southern boundary is determined by the Angelina-Caldwell flexture from Sabine through San Augustine, Angelina, and Trinity Counties. The western boundary is determined by the Mexia-Talco fault zone through Limestone, Navarro, and Kaufman Counties.

The recommended formations are described by Texas, in pertinent part as follows: The Cotton Valley Sand lies above the Bossier Shale, and the Bossier Shale lies above the Cotton Valley Lime. These three formations are referred to, collectively, as the Cotton Valley Group. The average depth at which the Cotton Valley Sand can be encountered is approximately 7000' to the north, 8000' to the east, between 10,000' to 11,000' to the south, and 5000' to the west. Thickness of the Cotton Valley Sand reaches a maximum of 1600'. The top of the Bossier Shale is located at approximately 7700' to the north, 10,720' to the east, 12,600' to the south, and 5340' to the west. Formation thickness of the Bossier Shale ranges from 110' to 580'. Within this formation, laminated sand bodies are present which range up to 90' in thickness. The Cotton Valley Lime is encountered at depths of approximately 8000' to the north, 11,400' to the east, 13,200' to the south, and 5500' to the west.

Texas asserts that its recommendations meet all the requirements set forth in § 271.705(b)(1) of the Commission's regulations which must be satisfied in order for a formation to receive a formal designation as a tight formation. Under § 271.705(b)(1), the three requirements which must be met are:

(1) The estimated average *in situ* gas permeability throughout the pay section of the formation is expected to be 0.1 millidarcy or less;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed production levels determined by reference to well depth, as found in the table in § 271.705(b)(1)(ii); and

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

II. Discussion of the Proposal

In its submission, Texas presents a geographical and geological description of the recommended formations. Calculations were presented, demonstrating that the estimated *in situ* gas permeability throughout the pay section of each recommended formation is expected to be 0.1 millidarcy or less. Texas' filing shows that the stabilized production rates of wells completed for production, without stimulation, are within the limits of the table set forth in § 271.705(b)(1)(ii). It is also asserted by Texas that production history establishes that no well drilled into the Cotton Valley Group is expected to produce more than five barrels of crude oil per day. A list of wells which have produced natural gas from the recommended formations was submitted. Texas stated that existing state and federal regulations will assure that development of the recommended formations will not adversely affect any fresh water aquifers that are or are

expected to be used as domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated by Commission Order No. 97, issued August 1, 1980, in Docket No. RM80-68, it is proposed that the Cotton Valley Sandstone, Cotton Valley Lime and Bossier Shale Formations, as they are described and delineated in Texas's recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.705.

III. Public Comment Procedures

Interested persons are invited to submit written comments on the proposed regulation to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. Comments should reference Docket No. RM79-76 (Texas-1). All comments and information received by the Commission prior to September 29, 1980 will be considered prior to the issuance of the rule.

Dates and locations of any hearings held on this rulemaking will be announced in the near future.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342)

In consideration of the foregoing the following amendments to Part 271, Chapter I, Title 18, Code of Federal Regulations, are proposed, as set forth below.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

1. The Table of Contents for Subpart G of Part 271 is changed by adding a new § 271.706 to read as follows:

* * * * *

271.706 Designated tight formations.

2. Part 271 is amended by adding a new § 271.706 to read as follows:

§ 271.706 Designated tight formations.

(a) The following formations are designated as tight formations:

(1) *The Cotton Valley Group in Texas.* Cotton Valley Sandstone, Cotton Valley Lime and Bossier Shale Formations, comprising the Cotton Valley Group.

(i) *Delineation of Formations.* The northern boundary of the Cotton Valley Group is the Texas-Oklahoma border extending through Fannin, Lamar and Red River Counties; the eastern boundary is formed by the Texas-Arkansas and Texas-Louisiana borders; the southern boundary is along the Angelina-Caldwell flexture running through Sabine, San Augustine, Angelina and Trinity Counties; the western boundary is set by the Mexia-Talco fault zone through Limestone, Navarro and Kaufman Counties.

(ii) *Depth.* Cotton Valley Sand is encountered at an average depth of approximately 7,000' to the north, 8,000' to the east, between 10,000'and 11,000' to the south, and 5,000' to the west; Bossier Shale is encountered at 7,700' to the north, 10,720' to the east, 12,600' to the south, and 5340' to the west; Cotton Valley Lime is encountered at 8000' to the north, 11,400' to the east, 13,200' to the south, and 5500' to the west.

(2) [Reserved]

(b) A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, and is also located in the official files of the jurisdictional agency which submitted the recommendation.

[FR Doc. 80-25662 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-85-M

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18 CFR Part 286

[Docket No. RM79-42]

Procedures Governing the Assessment of Civil Penalties Under the Natural Gas Policy Act; Withdrawal of a Proposed Rulemaking and Termination of a Docket

August 11, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of withdrawal of a proposed rulemaking and termination of Docket No. RM79-42.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby gives notice of the withdrawal of the proposed rulemaking in Docket No. RM79-42 and the termination of that docket. In Docket No. RM79-42, the Commission issued on May 15, 1979 (44 FR 29101, May 18, 1979) a Notice of Proposed Rulemaking entitled "Procedures Governing the Assessment of Civil Penalties Under the NGPA." In withdrawing the proposed rule the Commission has determined that it will follow the procedures required by the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. §§ 3311-3432) and will not establish any rules which are not required by law.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Meyer, Office of Enforcement, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-5293.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission hereby gives notice of the withdrawal of the NOTICE OF PROPOSED RULEMAKING issued May 15, 1979 in Docket No. RM79-42 and the termination of Docket No. RM79-42 because the proposed rulemaking is unnecessary.

The Commission had proposed the adoption of certain rules to govern the assessment of civil penalties under the Natural Gas Policy Act of 1978 (NGPA). In withdrawing the proposed rules, the Commission has determined that in assessing civil penalties under the NGPA it will follow the procedures required by the statute and not establish any rules which are not required by law.

A number of the comments suggested that the Commission afford a hearing prior to assessing a civil penalty. The Commission does not believe that such a trial-type hearing at that stage is either required or desirable. There is no statutory requirement in the NGPA or Administrative Procedure Act ("APA") that the Commission afford a violator a hearing prior to assessing a civil penalty. In fact, section 504(b)(6) of the NGPA provides that in any action by the Commission to enforce its assessment of a civil penalty, the "* * * court shall have authority to review de novo the law and the facts involved * * *" In light of that provision, any disputes of fact or law involved in a particular assessment would be best resolved in a hearing before a court after the Commission has assessed a penalty following notice to the person involved. Further legal authority in support of this proposition is provided by the legislative history of section 504(b) of the NGPA. Although the House provision required a hearing on the record prior to the Commission's assessment, the subsequent conference agreement eliminated this language of the House provision and provided instead that a review of the Commission's assessment may be obtained by a trial *de novo* in federal district court. Accordingly, due process requirements are met when an opportunity for a *de novo* trial is afforded the violator prior to judicial enforcement of the civil penalty. *Accord, United States* v. *International Harvester Co.*, 387 F. Supp. 1338, 1340-41 (D.D.C. 1974); 2 K. Davis, *Administrative Law Treatise* section 12:13, at 459-62 (2d ed. 1979) (administrative hearing unnecessary where *de novo* review). The APA expressly recognizes that its adjudicatory requirements are inapplicable to situations where a *de novo* review of the facts and law is provided in a subsequent proceeding. *See* 5 U.S.C. 554(a)(1). Therefore, no hearing will be held by the Commission before assessing the penalty. The notice of the proposed penalties will, of course,

be provided by the Commission. However, the only opportunity for a hearing will take place in court.

If the Commission decides at some future time to establish a program for assessing civil penalties in specified amounts as part of a general program for assessing such penalties, the Commission may propose appropriate rules at that time.

In consideration of the foregoing, the NOTICE OF PROPOSED RULEMAKING issued May 15, 1979 in Docket No. RM79-42 is hereby withdrawn and Docket No. RM79-42 is hereby terminated.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25559 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 410

[Regulations No. 10]

Federal Coal Mine Health and Safety Act of 1969, Title IV, as amended, Recovery of Black Lung Overpayments From Benefits Due Survivors

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The proposed regulations correct an unjustified inconsistency between our treatment of overpayments of social security benefits and black lung benefits. They also clarify how we adjust or recover a black lung overpayment made to a black lung beneficiary during his or her lifetime, when the beneficiary dies before adjustment or recovery of the overpayment. The proposed regulations will provide that when an overpayment of black lung benefits is made to a black lung beneficiary, we may recover the overpayment from subsequent black lung benefits payable to the decedent's survivors. This revision is designed to bring § 410.560(d) of Regulations No. 10, which applies to adjusting overpayments of black lung benefits made to a deceased black lung beneficiary, into conformity with § 404.502 of SSA Regulations No. 4, which permits recoupment from a worker's survivors of an overpayment of social security benefits made to a worker. The authority for both regulations comes from section 204 of the Social Security Act.

DATES: We will consider your comments if we receive them on or before October 21, 1980.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

You may see copies of all comments we receive during regular business hours at the Washington Inquiries Section, Office of Governmental Affairs, Social Security Administration, Department of Health and Human Services, North Building, Room 1169, 330 Independence avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Mr. Marval Cazer, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7463.

SUPPLEMENTARY INFORMATION: Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended, provides for black lung overpayments to be recovered as provided by section 204 of the Social Security Act, "as if [black lung] benefits . . . were . . . [social security] benefits." Section 204(a) provides authority to recover overpayments under regulations issued by the Secretary. Those regulations could provide for a deceased individual's overpayment to be recovered from the decedent's estate (i.e., repayment by the decedents estate or by withholding amounts due the estate) and from benefits payable to other individuals because of the decedent's death. These provisions are reflected in § 404.502 (20 CFR 404.502). However, § 410.560(d) of the black lung regulations (20 CFR 410.560(d)) provides that a deceased black lung beneficiary's overpayment is recoverable only from the black lung beneficiary's estate (i.e., repayment by the decedent's estate or by withholding amounts due the estate). Since § 410.560(d) does not currently provide for recovery of a black lung overpayment from subsequent black lung benefits payable to the decedent's survivors, this method of recovering a deceased black lung beneficiary's overpayment is currently barred, and we have an unjustified inconsistency in administering the two acts.

Accordingly, we are amending § 410.560(d) to provide that when an overpayment of black lung benefits is made to a black lung beneficiary during his or her lifetime, we can recover the overpayment from subsequent black lung benefits payable to the decedent's survivors. Thus, the proposed regulations will provide the same means of recovering black lung overpayments as are provided for under title II of the Social Security Act.

(Catalog of Federal Domestic Assistance Programs No. 13.802—Special Benefits for Disabled Coal Miners)

Dated: May 14, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: August 18, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Part 410 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Section 410.560 is amended by revising paragraph (d) to read as follows:

§ 410.560 Overpayments.

* * * * *

(d) *Overpaid beneficiary dies before adjustment.* If an overpaid beneficiary dies before adjustment is completed under the provisions of paragraph (b) of this section, the overpayment may be recovered through—

(1) Repayment by the estate of the deceased overpaid beneficiary;

(2) Withholding benefit amounts due the estate of the deceased overpaid beneficiary;

(3) Withholding benefit amounts due any other individual because of the black lung disease of the miner; or

(4) Any combination of the methods described in this paragraph.

(Sec. 413(b) of the Federal Coal Mine Health and Safety Act of 1969, as amended, and secs. 204 and 1102 of the Social Security Act; 83 Stat. 793, 30 U.S.C. 921; 49 Stat. 624, 647, as amended, 42 U.S.C. 404 and 1302)

[FR Doc. 80-25557 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Requirements as to the Provision of Meals

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rulemaking.

SUMMARY: The Employment and Training Administration of the Department of Labor proposes to revise its regulation which requires employers to provide meals to alien workers to

clarify the requirements of that regulation. The proposed revision would require the employer to provide the workers with three meals a day, except - where, under prevailing practice or long-standing arrangements the workers prepare the meals, employers need only provide free cooking and kitchen facilities and free transportation to purchase food.

DATES: Interested persons are invited to submit written comments on this proposed rulemaking on or before September 22, 1980.

ADDRESS: Send written comments to: Mr. David O. Williams, Administrator, United States Employment Service, Employment and Training Administration, United States Department of Labor, Suite 8000—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Bell, United States Employment Service, Employment and Training Administration, United States Department of Labor, Suite 8410—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213. Telephone: 202-376-6297.

SUPPLEMENTARY INFORMATION: The Employment Service regulations at 20 CFR 655.202 require employers requesting temporary alien labor certifications to include, as part of their application, a job offer containing specified minimal benefits, wages, and working conditions. As one benefit, § 655.202(b)(4) now states that:

> The employer will provide the worker with three meals a day. The job offer shall state the cost to the worker for such meals. The cost shall be no more than $4.00 per day unless the RA has approved a higher cost pursuant to § 655.211 of this Part.

The requirement that the employer provide the worker with three meals a day originated in the March 10, 1978, amendments to the regulations on the Labor Certification Process for the Temporary Employment of Alien Agricultural and Logging Workers in the United States (43 FR 10306).

The Department of Labor proposes to clarify this requirement to reflect the Department's application of the meals provision. Under this application, the employer is required to provide meals except where prevailing practice or long-standing arrangement at the establishment is to provide cooking and kitchen facilities where the workers can prepare meals. Prior to the 1978 amendments, the meals provision (then at 20 CFR 602.10a(f)) did not specifically require employers to provide workers with meals; the provision merely set a ceiling on the amount employers could charge workers for meals. The Department's policy was to accept job offers that followed the prevailing practice in the area of employment as to furnishing of meals. Since the issuance of the current meals provision on March 10, 1978, the Department has continued to accept job orders which offer the prevailing practice as to meals. This application of the meals provision is reflected in the Employment and Training Administration's General Administrative Letters Nos. 24-79 (March 16, 1979) and 24-80 (March 26, 1980).

It should also be noted that employers seeking agricultural workers through intrastate and interstate clearance in the Employment Service System are required to offer prevailing working conditions under 20 CFR 653.501(d)(4) and (e)(1) (45 FR 39467, June 10, 1980). This requirement was previously found at 20 CFR 653.108(c)(4) and (d)(1). Intrastate and interstate clearance requirements are applicable under § 655.201(c) to employers filing applications for temporary alien agricultural labor certifications.

Some question has arisen as to whether the current meals provision imposes an absolute requirement on employers to furnish meals to workers notwithstanding prevailing practice. The Department, therefore, proposes to clarify the language of § 655.202(b)(4) to conform it to the Department's practice in accepting job offers. The proposed rule would provide that where, under prevailing practice or long-standing arrangements at the establishment the agricultural workers prepare their meals, the employer need furnish only free cooking and kitchen facilities and free transportation to purchase food.

This proposed clarification does not change the requirement that employers, in areas where the provision of cooking facilities is not the prevailing practice, must provide each worker with three meals a day.

Since the proposed revision would merely conform the meals provision to current practice, it would not impose any additional cost on employers. Accordingly, the financial and other impact of this proposed rulemaking does not require a regulatory analysis. See 44 FR 5576 (January 26, 1979).

The comment period for this proposal is 30 days rather than 60 days since the problem which the proposed revision seeks to resolve is generally known to the affected parties and there is a strong need to eliminate the confusion surrounding the meals provision.

Accordingly, it is proposed to revise § 655.202(b)(4) of Part 655 of Title 20, Code of Federal Regulations, to read as follows:

§ 655.202 Contents of job offers.

* * * * *

(b) * * *

* * * * *

(4) The employer will provide the worker with three meals a day, except that where under prevailing practice or long-standing arrangement at the establishment workers prepare their meals, employers need furnish only: free cooking and kitchen facilities and free transportation to purchase food. Where the employer provides the meals, the job offer shall state the cost to the worker for such meals. The cost shall not be more than $4.00 per day unless the RA has approved a higher cost pursuant to § 655.211 of this Part.

(Immigration and Nationality Act, (8 U.S.C. 1101, 1184(c)); 8 CFR 214.2(b)(3)(i); (5 U.S.C. 301); Wagner-Peyser Act of 1933, as amended (29 U.S.C. 49 *et seq.*))

Signed at Washington, D.C., this 14th day of August, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-25723 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 320

[Docket No. 80N-0235]

Sulfones; Bioequivalence Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration proposes to establish bioequivalence requirements for dapsone and sodium sulfoxone oral drug products, categorized as sulfones, used for treating leprosy. This action is taken because available data suggest that the various marketed brands of the sulfones may not have comparable therapeutic effects. The proposed regulations would ensure the bioequivalence of different brands of these sulfone drug products and batch-to-batch uniformity of the same drug product by each manufacturer.

DATES: Comments by October 21, 1980. It is proposed that the final regulation based on this proposal be effective 30 days after its date of publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and

Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry J. Malinowski, Bureau of Drugs (HFD–522), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1640.

SUPPLEMENTARY INFORMATION: Under 21 CFR Part 320, the Commissioner of Food and Drugs, on his own initiative or in response to a petition from an interested person, may propose and 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 if there is a known or potential bioequivalence problem with the drug products. This authority to establish bioequivalence regulations for drug products for human use is delegated to the Director and Deputy Director of FDA's Bureau of Drug by § 5.79 (21 CFR 5.79).

Data available to FDA show, based on the criteria in §320.52 (21 CFR 320.52), that there is evidence of potential bioequivalence differences in oral formulations of sulfones among currently marketed brands of the same drug product produced by various manufacturers. Therefore, the Director of the Bureau of Drugs, on his own initiative, tentatively concludes that a bioequivalence requirement involving in vivo and in vitro dissolution testing should be established for the oral sulfones dapsone and sodium sulfoxone. The evidence on which the Director bases his tentative conclusion and the proposed bioequivalence requirement are discussed below.

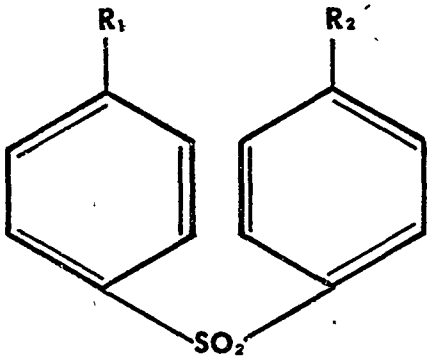
Background

The sulfones are derivatives of 4, 4'-diaminodiphenyl-sulfone (dapsone, DDS) and have certain pharmacological properties in common. Despite the development of a large variety of sulfones, the parent compound dapsone remains the most useful clinically (Ref. 2).

The sulfones are bacteriostatic against human and avian tubercle bacilli and mycobacterium leprae. They are considered drugs of choice in the treatment of all forms of leprosy and are clinically useful in controlling the symptoms of dermatitis herpetiformis (Refs. 2 and 5).

The sulfonamides and the sulfones probably act in a like fashion since they approximate each other in the range of their antibacterial activity and both are inhibited by paraminobenzoic acid (Refs. 2 and 5).

The general structural formula of dapsone and sodium sulfoxone is shown below.



Substitutents R_1 and R_2 are shown in Table 1.

Table 1 [1]

Drug	R_1	R_2
Dapsone (DDS)	NH_2	NH_2
Sodium sulfoxone	$NHCH_2SO_2Na$	$NHCH_2SO_2Na$

[1] Source—Ref. 2.

The structure-activity relationship studies indicate that:

a. Nuclear substitution results in a reduction of tuberculostatic activity.

b. Substitution in both amino($-NH_2$) groups destroys the antibacterial activity unless the substituents can be easily removed in the body to yield dapsone.

c. A stable substituent in one amino group is retained.

d. Heterocyclic analogs of dapsone retain antibacterial activity provided they are isosteric (identical external electron arrangement) with dapsone.

The antibacterial activity and the toxicity of the disubstituted sulfones are thought to be due chiefly to the formation of dapsone in vivo. Hydrolysis of disubstituted derivatives to the parent sulfone apparently occurs readily in the acid medium of the stomach, but only to a very limited extent following parenteral administration. Mono-substituted and nuclear-substituted derivatives are believed to act as entire molecules (Refs. 4 and 5). Therefore, sodium sulfoxone, a disubstituted derivative, is hydrolyzed and absorbed chiefly in the form of the active parent compound dapsone.

Sodium sulfoxone occurs as a white to pale yellow powder with a characteristic odor and should be protected from light (Refs. 4 and 5). It is very soluble in water, slightly soluble in alcohol and has a pKa_1 of 11.51 and pKa_2 of 12.70 (Refs. 6 and 7). pK is defined as the negative logarithm of dissociation constant.

Dapsone is an odorless, white crystalline powder and should be protected from light because the presence of traces of impurities makes it photosensitive (Refs. 4 and 5). It is very slightly soluble in water (about 1 milligram per milliliter (mg/mL)), freely soluble in alcohol, soluble in dilute mineral acids, and has a pKb of 13.0 (Refs. 6, 7, and 8).

Dapsone is slowly absorbed after oral administration, reaching peak plasma concentrations in 1 to 3 hours (Ref. 2). Peak plasma levels of 1.1 to 1.5 micrograms per milliliter (mcg/mL) in 2 to 4 hours occur following a single 100-mg oral dose of dapsone (Ref. 9). Orally administered dapsone is absorbed mainly from the upper part of the small intestine (Ref. 5) and is detectable for 8 to 12 days (Refs. 2 and 9). A dose of 100 mg of dapsone per day yields a plasma concentration in the range of 10 to 20 mcg/mL. About 50 percent of the drug is bound to plasma protein (Ref. 2). Dapsone has a half-life of 17.0 to 21.0 hours (Refs. 9 and 10).

Following oral administration, sodium sulfoxone undergoes hydrolysis and is about 50 percent absorbed, chiefly in the form of the parent compound dapsone (Refs. 5 and 11). Peak plasma levels occur between 5.5 and 8 hours suggesting relatively slow hydrolysis of sulfoxone (Ref. 12). Steady-state plasma concentrations following conventional doses of sodium sulfoxone are 10 to 15 mcg/mL. These values fall relatively rapidly with appreciable quantities still present at 8 hours (Ref. 2).

The sulfones are distributed throughout the total body water and are present in all tissues. Skin, muscle, liver, and kidney tend to retain sulfones, with traces still present up to 3 weeks after therapy is stopped. The sulfones are retained in the circulation for a long time because of intestinal reabsorption from the bile (Refs. 2 and 5). Dapsone is acetylated in the liver, and the degree of acetylation is genetically determined (Ref. 2).

The urinary excretion of sulfones varies with the type of drug; about 70 to 80 percent of a dose of dapsone and 50 percent of the dose of sodium sulfoxone is excreted in the urine (Refs. 2, 5, and 12). Two dapsone metabolites are present in the urine with mono-*N*-glucuronide as the major metabolite (Refs. 2, 5, and 8). A very small percentage of the dose of dapsone (11 percent) and approximately 44 percent of sodium sulfoxone is excreted in the feces (Refs. 5, 8, and 11).

Adverse reactions induced by various sulfones are quite similar. The most common untoward effect is anemia. Less frequently occurring adverse reactions are methemoglobinemia, leukopenia, agranulocytosis, allergic dermatitis, hepatic inflammation, and muscular weakness. The erythema nodosum leprosum type of "lepra reaction" is a common occurrence during sulfone treatment of lepromatous leprosy (Refs. 2, 5, and 11).

Treatment with the sulfones should be initiated at a low dosage level with gradual increments, depending upon the response of the patient, until an optimal level is reached. Administration of larger than recommended doses does not appear to increase the speed of clinical or bacteriological improvement. Because of the cumulative effect of the sulfones, rest periods from drug therapy are included in sulfone dosage schedules (Refs. 2 and 5).

On the basis of the similarity of structure, physicochemical and pharmacologic properties, the sulfone drug products are considered as a class in establishing bioequivalence requirements.

Evidence To Establish a Bioequivalence Requirement

The Director considered the following criteria as set forth in § 320.52. *Criteria and evidence to establish a bioequivalence requirement* (21 CFR 320.52) in tentatively concluding that bioequivalence requirements should be established for dapsone and sodium sulfoxone oral drug products.

1. *Evidence that the drug products exhibit a narrow therapeutic ratio, e.g., have less than a two-fold difference in the minimum toxic concentrations and minimum effective concentrations in the blood, and safe and effective use of the drug products requires careful dosage titration and patient monitoring.* A safe and effective dosage of dapsone is reflected in blood levels of 2 to 10 mcg/mL (Ref. 13). Plasma concentrations following conventional doses of sodium sulfoxone are 10 to 15 mcg/mL (5 to 7 mcg/mL of free dapsone). Blood levels above 20 mcg/mL of dapsone result in severe toxic reactions such as acute hemolysis and liver damage (Ref. 13). Hematological side effects, such as methemoglobinemie and Heinz-body formation, are related to the plasma dapsone concentrations (Ref. 14).

Treatment with sulfones requires careful dosage titration and constant laboratory and clinical supervision for optimum therapeutic effect and to avoid toxic reactions (Refs. 2 and 5).

2. *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 patient on sulfone drug therapy is stabilized on a certain drug product used to treat leprosy. Substitution of a poorly bioavailable drug product in the regimen of a patient controlled on an available drug product would result in failure of the patient to respond to sulfone therapy in treatment of the disease. If a patient is switched to a fully available drug product, the patient is subject to the toxic effects of the drug including lepra reactions and hematological side effects (Refs. 11, 12, 13, and 14).

3. *Physicochemical evidence that the active drug ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter.* Dapsone is very slightly soluble in water (Refs. 6 and 7). At 37° C in water the solubility of dapsone is about 1 mg/mL (Ref. 8). As used here, the term "very slightly soluble" refers to a solubility from 0.05 mg/mL to 1.0 mg/mL (Ref. 6).

4. *Physicochemical evidence that specific inactive ingredients, e.g., hydrophilic or hydrophobic excipients and lubricants, either may be required for absorption of the active drug ingredient or therapeutic moiety or, alternatively if present, may interfere with such absorption.* Sodium sulfoxone is marketed as an enteric-coated tablet. Enteric coatings are hydrophobic, and some have been shown to interfere with the absorption of the active drug ingredient or therapeutic moiety (Ref. 15).

For sodium sulfoxone approximately 50 percent of the orally administered drug is absorbed (Refs. 2, 5, 11, and 12).

The disubstituted sulfones such as sodium sulfoxone are incompletely absorbed when administered orally, and large amounts are found in the feces.

The Bioequivalence Requirement

On the basis of this data, the Director tentatively concludes that the evidence meets one or more of the criteria in § 320.52. He therefore proposes to establish a bioequivalence requirement for single active ingredient oral dosage form drug products containing the following sulfones: dapsone and sodium sulfoxone.

The proposed bioequivalence requirement would apply to all manufacturers of these drug products. It would require each manufacturer, except the manufacturers of the reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirement of this section, to conduct an in vitro dissolution test comparing its drug product to a specified reference material, and to conduct an in vivo bioavailability study comparing the same lot of its drug product to a specified reference material.

The Director advises that whenever possible, the reference material listed in the guideline is a drug product subject to an approved full new drug application (NDA) which 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 requirement. In exceptional cases, for example where no approved full NDA holder has conducted an acceptable bioavailability study, other factors may be considered appropriate by the agency. The selection of a drug product as the reference material does not imply superiority in any way, but is intended only to provide for a common standard for the determination of bioequivalence.

Under this proposed requirement, test drug products would be considered to meet the in vitro portion of the bioequivalence requirement if, in the case of uncoated dosage formulations, the in vitro data show that the dissolution rate for the test drug product is not less than 75 percent of the labeled amount of sulfone in 60 minutes and, in the case of enteric-coated dosage formulations, if after placement in 900 mL of simulated gastric juice (minus enzymes) for 1 hour without dissolving the dissolution rate for the test drug product in 900 mL of simulated intestinal juice (minus enzymes) is not less than 75 percent in 60 minutes. The test for uncoated dosage formulations is to be conducted in 900 mL of 0.1N HCl using U.S.P. apparatus 1 at a speed of 100 rpm. The test for enteric-coated dosage formulations is to be conducted using U.S.P. apparatus 1 at a speed of 100 rpm. The number of dosage units to be tested in all instances is to be determined by reference to the official U.S.P. acceptance table for dissolution testing.

Samples of the reference material 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, test additional lots of reference material, up to a total of three lots until a lot of reference material which meets the applicable dissolution specification is tested. If none of the three lots of reference material tested meets the applicable dissolution specifications, notify the Director, Division of Biopharmaceutics, Bureau of Drugs,

Food and Drug Administration, before conducting any in vivo studies. Because of the manner of selecting the reference material, manufacturers would normally not have to test more than one lot of the 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, rate of absorption (measured by time to peak plasma levels (Tmax) or the absorption constant (Ka)), peak plasma levels (Cmax), and area under the plasma concentration-time curves (AUC).

2. 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, i.e., administering both the reference material and the test drug product to each subject using a crossover procedure.

In addition, analytical and statistical techniques used must be sensitive enough to detect those differences in rate and extent of absorption that are not attributable to subject variability.

Methodology specifications are in the text of the proposed bioequivalence requirements that appear later in this document, and in guidelines on file in the office of the Hearing Clerk.

The Director also proposes that a manufacturer of a drug product selected by FDA as the reference material shall conduct an in vitro test on one batch of the reference material. In addition, if the manufacturer of the reference material has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section, the manufacturer would be required to conduct an in vivo bioavailability study in humans comparing the reference material with an oral solution or oral suspension of an equivalent amount of sulfone contained in the reference material.

A manufacturer of a sulfone drug product subject to this proposed section who has previously conduced in vivo bioavailability/bioequivalence studies, e.g., to meet requirements for approval of an ANDA for a drug product covered by a Drug Efficancy Study Implementation notice, may request FDA to evaluate these 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. If they are found acceptable, the manufacturer would be required to conduct an in vitro test on one batch of the product.

To correlate in vivo data with in vitro dissolution data, where in vivo testing is required, the Director proposes that the same batch of the test product and the same batch of the reference material used in the vitro tests be used in the in vivo test, unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavilability/bioequivalence before the effective date of these proposed requirements. If more than one batch of the reference material had to be used in the in vitro testing because some batches of the reference material did not meet the applicable dissolution specifications, the batch which meets the applicable dissolution specifications must be used in the in vivo test.

General guidelines for in vivo testing are in § 320.25 (21 CFR 320.25). Specific draft guidelines for in vivo testing and for in vitro dissolution testing of sulfone drug products are on file in the Office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and are available on request. The reference material to be used in conducting the in vivo and in vitro tests of each drug product subject to this proposed section is named in the guidelines for in vivo bioavailability studies for sulfone drug products.

The proposed effective date of the final regulation is 30 days after its date of publication in the Federal Register. 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 Director believes this will allow sufficient 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 for the manufacturer to meet an in vivo bioavialability requirement for some sulfone drug products, FDA may recommend that a manufacturer conduct a pilot study in certain instances, e.g., when an analytical assay method has not been used previously in an in vivo bioavailability/bioequivalence study, or where optimal sampling times have not been determined. The recommendation that a pilot study be conducted will appear in the "Guidelines for In Vivo Bioavailability Studies."

An extension of up 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. FDA encourages the submission of protocols for conducting in vivo bioavailability studies. If a manufacturer submits a protocol for FDA to evalaute, the Director will grant an extension of time necessary for the initial review of the protocol.

The Director advises that any drug product subject to this proposal is regarded as a new drug 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 the lawful marketing of the product. Marketing of such a drug product must be in accordance with the requirements of § 320.58 (21 CFR 320.58).

After the effective date of a final regulation establishing a bioequivalence requirement, each manufacturer would be required uner § 320.56 (21 CFR 320.56) to conduct the in vitro dissolution test on a sample of each batch of the oral sulfone drug products to ensure batch to batch uniformity. The Director further proposes to require that the dissolution test be incorporated into a manufacturer's stability testing program. A batch of drug product whose dissolution falls below the specifications 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 (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

(1) Skelly, J. P., et al., Antilepra Agent Bioavailability Monograph with collaborator Shewsbury, R.

(2) Weinstein, L., "Antimicrobial Agents, Drugs Used in the Chemotherapy of Tuberculosis and Leprosy," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S. and A. Gilman, The MacMillan Co., New York, pp. 1216–1220, 1975.

(3) Weinstein, L., "Drugs Used in the Chemotherapy of Leprosy and Tuberculosis," *in* "The Pharmacological Basis of Therapeutics," Edited by Goodman, L. S. and A. Gilman, The MacMillan Co., New York, 4th Ed., pp. 1311–1315, 1970.

(4) Wilson, C. O., et al., "Textbook of Organic Medicinal and Pharmaceutical Chemistry," 7th Ed., J. B. Lippincott Co., Philadelphia, pp. 218–221, 1977.

(5) Reilly, Mary Jo (Ed.), "American Hospital Formulary Service," American

Society of Hospital Pharmacists, Washington, DC, pp. 8–26, 1976.

(6) Harvey, S. C., "Antimicrobial Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., Mack Publishing Co., Easton, Pa., pp. 1150–1154, 1975.

(7) Windholz, M. (Ed.), "The Merck Index," 9th Ed., Merck & Co., Inc., Rahway, NJ, pp. 370, 1162, 1976.

(8) Israili, Z. H., et al., "Studies of the Metabolism of Dapsone in Man and Experimental Animals: Formation of *N*-Hydroxy Metabolites," *Journal of Pharmacology and Experimental Therapeutics*, 187(1): 138–151, 1973.

(9) Glazko, A. J., et al., "A New Analytical Procedure for Dapsone. Application to Blood-Level and Urinary-Excretion Studies in Normal Man," *American Journal of Tropical Medicine and Hygiene*, 17(3): 465–473, 1968.

(10) Paglaro, L. A., and L. Z. Benet, "Pharmacokinetic Data. Critical Complication of Terminal Half-Lives, Percent Excreted Unchanged, and Changes of Half-Life in Rental and Hepatic Dysfunction of Studies in Humans with References," *Journal of Pharmacokinetics and Biopharmaceutics*, 3(5): 333, 1975.

(11) *Modren Drug Encyclopedia and Therapeutic Index*, 14th Ed., Edited by A. J. Lewis, Dun-Donnelley, New York, pp. 323, 842–843, 1977.

(12) Peters, J. H., et al., "The Disposition of Sulfoxone and Solasulfone in Leprosy Patients," *Leprosy Rev.*, 6: 171–180, 1975.

(13) Lowe, J., "Studies in Sulphone Therapy," *Leprosy Rev.*, 23: 4–29, 1952.

(14) Ellard, G. A., et al., "Dapsone Acetylation in Dermatitis Herpetiformis," *British Journal of Dermatology*, 90: 441–444, 1974.

(15) "Biopharmaceutics and Relevant Pharmacokinetics", 1st Ed., J. G. Wagner, Drug Intelligence Publications, Hamilton, Illinois, p. 170, 1971.

The agency has carefully considered the potential environmental impacts of this proposal and has concluded that the action will not have a significant effect on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the office of the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 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 in Subpart D by adding new § 320.245 to read as follows:

§ 320.245 Sulfone oral drug products.

(a) *Applicability.* The requirements of this section apply to all single-active-ingredient oral dosage form drug products containing the following sulfone products: dapsone and sodium sulfoxone.

(b) *In vitro test requirements*—(1) *General.* Each manufacturer of a drug product that is subject to this section, except for the manufacturer of the reference material who is subject to paragraph (b)(3) of this section and manufacturers of products previously tested in vivo which are subject to paragraph (b)(4) 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. 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 specifications is tested. If none of the three lots of reference material tested meets the applicable dissolution specifications, notify the Director, Division of Biopharmaceutics, Bureau of Drugs, Food and Drug Administration, before any in vivo testing.

(2) *Specific requirements for test drug products*—(i) *For uncoated dosage formulations.* (*a*) The test is to be conducted using 900 milliliters of 0.1N HCl, U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute.

(*b*) The test drug product and reference material meet the in vitro portion of the bioequivalence requirement if each has a dissolution of not less than 75 percent in 60 minutes.

(ii) *For enteric-coated dosage formulations.* (*a*) The test is to be conducted by first using 900 milliliters of simulated gastric juice (minus enzymes), U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute for 60 minutes and then using 900 milliliters of simulated intestinal juice (minus enzymes), U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute for another 60 minutes.

(*b*) The test drug product and reference material meet the in vitro portion of the bioequivalence requirement if each does not dissolve in 900 milliliters of simulated gastric juice (minus enzymes) for 1 hour, and when placed in 900 milliliters of simulated intestinal juice (minus enzymes) the dissolution rate is not less than 75 percent in 60 minutes.

(3) *Specific requirement for manufacturer of reference material.* Each manufacturer of a 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 the U.S.P. dissolution acceptance table in determining the number of samples to be tested. In addition, the applicable requirements of paragraph (b)(2) of this section must be met.

(4) *Specific requirements for products tested in vivo to demonstrate bioavailability/bioequivalence.* If a manufacturer of a drug product subject to this section has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of its drug product and the product has been found acceptable by the Food and Drug Administration under paragraph (d)(5) of this section, the manufacturer 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 applicable 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 section 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 this section).

(c) *In vitro testing of each batch.* An in vitro dissolution test must be performed on each batch of drug product 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)(1) and (2) 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 who is subject to paragraph (d)(3) of this section and a manufacturer who has conducted in vivo bioavailability/bioequivalence studies in humans before the effective date of this section, which have been found acceptable under paragraph (d)(5) of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product to the reference material.

(2) The test drug product meets the in vivo portion of the bioequivalence requirement in humans 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 (Cmax), rate of absorption (measured by time to peak plasma level (Tmax) or the absorption constant (Ka)), 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 crossover procedure.

(iii) Analytical and statistical techniques used are sensitive enough to detect 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 who 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 the sulfone 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 may grant an extension of up to 180 days upon request when a manufacturer can document the need for an extension, for example, by 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 who has conducted one or more in vivo bioavailability/bioequivalence studies in humans before the effective date of this section may request an evaluation of these 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 drug 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 who holds an approved or pending full new drug application for the drug product shall submit the request for evaluation to the Division of Anti-Infective Drug Products (HFD-140), 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 the request for 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 that is 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 requirement.* Any 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 use in the in vivo and in vitro tests is specified in the "Guidelines for In Vivo Bioavailability Studies for Sulfones." The same batch of the test drug product and of the reference material used in the in vitro test are to be used in the in vivo test, unless a manufacturer conducted adequate in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this section. If more than one batch of the reference material has to be used in the in vitro test because some batches of the reference material do not meet the applicable dissolution specifications, the batch which meets the applicable dissolution specifications must be used in the in vivo test.

(2) Guidelines for the conduct of in vivo and in vitro tests of oral sulfone drug products are on file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and are available on request to that office.

(h) *Modifications.* Alternative methods for conducting the in vitro or in vivo testing required in this section may be used if evidence is submitted that demonstrates that the method will ensure the bioequivalence of the drug to an extent equal to or greater than the methods in this section. The justification data should be submitted to the Director, Division of Biopharmaceutics (HFD–520), Food and Drug Administration, and must be approved before they are used. Any approved modification will be incorporated into the appropriate guidelines for the drug.

Interested persons may, on or before October 21, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 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: August 13, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80-25563 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 220, 221, 231, and 236

[R-80-859]

Mortgage and Loan Insurance Programs Under the National Housing Act; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This rule would amend 24 CFR Parts 220, 221, 231 and 236 by prohibiting the prepayment of a mortgage which is assisted by a Housing Assistance Payments Contract during the term of the mortgage without the prior consent of the Commissioner.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Parts 220, 221, 231 and 236—Subchapter B—Mortgage and Loan Insurance Programs Under the National Housing Act

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. August 15, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-25556 Filed 8-21-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Parts 221, 234, and 235

[R-80-858]

Existing Multifamily Housing Demonstration; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review. This interim rule would amend 24 CFR Parts 221, 234 and 235 to set up a demonstration program to test new ways to preserve existing, conventionally financed, multifamily housing, particularly for current low- to middle-income tenants.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Parts 221, 234 and 235—Existing Multifamiy Housing Demonstration

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. August 18, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-25555 Filed 8-21-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 211

Coal Mining Operating Rules on Federal Lands; Public Hearing and Reopening of Comment Period

AGENCY: Geological Survey (GS), Department of the Interior.

ACTION: Notice of public hearing and reopening of comment period for proposed rulemaking.

SUMMARY: The Geological Survey is scheduling a public hearing and reopening the public comment period on proposed rules published in the Federal Register on May 19, 1980 (45 FR 32715) which govern coal mining operations on federally owned coal under the Mineral Leasing Act of 1920 (MLA), as amended, and which recodify the regulations in 30 CFR Part 211 relating to the initial Federal lands program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

DATES: A public hearing to review the substance of the proposed and recodified rules will be held in Washington, D.C., at the address below on September 22, 1980, beginning at 9:30 a.m. until 12:00 noon and from 1:30 p.m. to 4:00 p.m., or until all persons desiring to speak have been heard.

Written comments, data, or other relevant information on the proposed rules may be submitted as a supplement to, or in lieu of, an oral presentation at the hearing. Written comments on the proposed rules may be submitted during the reopened comment period from September 15 until September 29, 1980.

ADDRESSES: Written comments should be addressed to the Chief, Conservation Division, U.S. Geological Survey, Mail Stop 650, National Center, Reston, Virginia 22092. Copies of comments will be available for public review at the above address from 7:45 a.m. to 4:15 p.m. on regular working days.

The public hearing will be held in Washington, D.C., at the main auditorium of the Department of the Interior, 18th and C Streets, N.W., Washington, D.C., 20240. Access to the auditorium is available at the C Street entrance of the building.

FOR FURTHER INFORMATION CONTACT: Wright Sheldon or Tom Leshendok, Branch of Coal Management, Conservation Division, U.S. Geological Survey, National Center, Reston, Virginia 22092, at (703) 860-7136.

SUPPLEMENTARY INFORMATION: The initial Federal lands program under SMCRA was incorporated into 30 CFR 211 by rulemaking of August 22, 1978 (43 FR 37181). The permanent Federal lands program, 30 CFR Chapter VII, Subchapter D, was published on March 13, 1979 (44 FR 15332 to 15341). The implementation schedule for the permanent phase of the Federal Lands Program was postponed by amendments to the permanent program regulations on December 31, 1979 (44 FR 77440).

The proposed GS rules, which were published in the Federal Register (45 FR 32715-32743) on May 19, 1980, delineate in §§ 211.1 to 211.80 the functions and responsibilities of the GS for coal mining operations on federally-owned coal and govern coal mining operations for production, development, mineral resource recovery and protection, royalties, diligent development, and maximum economic recovery (MER) on Federal coal under the MLA, as amended. They also recodify, in §§ 211.81 to 211.99, rules in 30 CFR Part 211 relating to the initial Federal lands program under SMCRA.

On July 16, 1980, the comment period on the proposed rules was extended for 3 weeks until July 24, 1980 (45 FR 47712). Several commenters have requested a public hearing on the proposed and recodified rules.

This notice sets forth the times and locations of a public hearing and reopens the comment period from September 15 until September 29, 1980. The public hearing will be held in Washington, D.C., on September 22, 1980.

At the public hearing, all persons wishing to comment on the proposed regulations will, again, have the opportunity to do so. The hearing shall be informal. Individual testimony at the hearing may be limited as the schedule permits. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled and wish to do so will be heard following the schedued speakers.

Dated: August 19, 1980.

Doyle G. Frederick,

Acting Director.

[FR Doc. 80-25696 Filed 8-21-80; 8:45 am]
BILLING CODE 4310-31-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 221

Timber Management Planning

AGENCY: Forest Service, USDA.

ACTION: Review of Regulation Under E.O. 12044.

SUMMARY: Regulation 36 CFR Part 221, Timber Management Planning, is scheduled for review under provisions of Executive Order 12044 dated March 23, 1978. The regulation requires National Forest timber to be disposed of according to Timber Management plans. The Forest Service invites comments on its intention to review Regulations 36 CFR Part 221 to determine whether it should be (a) abolished, (b) modified, or (c) retained in its present form.

DATES: Comments must be received on or before September 30, 1980.

ADDRESSES: Written comments should be sent to: R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert C. Van Aken, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202) 447-8709.

SUPPLEMENTARY INFORMATION: The National Forest System Land and Resource Management Planning recent regulations 36 CFR Part 219 requires the integration of planning for all National Forest System lands and resources. The final environmental impact statement on September 17, 1979, already assessed the impact of adopting the new rules. These rules also provide limitations on timber removal.

The Forest Service intends to review Regulation 36 CFR 221 to determine whether it should be (a) abolished, (b) modified, or (c) retained in its present form.

Dated: July 30, 1980.

R. Max Peterson,

Chief, Forest Service.

[The existing regulation follows.]

PART 221—TIMBER MANAGEMENT PLANNING

§ 221.3 Disposal of national forest timber according to management plans.

(a) Management plans for national forest timber resources shall be prepared and revised, as needed, for working circles or other practicable units of national forest. Such plans shall:

(1) Be designed to aid in providing a continuous supply of national forest timber for the use and necessities of the citizens of the United States.

(2) Be based on the principle of sustained yield, with due consideration to the condition of the area and the timber stands covered by the plan.

(3) Provide, so far as feasible, an even flow of national forest timber in order to facilitate the stabilization of communities and of opportunities for employment.

(4) Provide for coordination of timber production and harvesting with other uses of national forest land in accordance with the principles of multiple use management.

(5) Establish the allowable cutting rate which is the maximum amount of timber which may be cut from the national forest lands within the unit by years or other periods.

(6) Be approved by the Chief, Forest Service, unless authority for such approval shall be delegated to subordinates by the Chief.

(b) When necessary to promote better utilization of national forest timber or to facilitate protection and management of the national forests, a management plan may include provisions for requirements of purchasers for processing the timber to at least a stated degree within the working circle, or within a stated area, and, when appropriate, by machinery of a stated type; and agreements for cutting in accordance with the plan may so require.

(30 Stat. 34, 44 Stat. 242; 16 U.S.C. 475, 616)

[FR Doc. 80-23808 Filed 8-21-80; 8:45 am]
BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 1

Confidentiality of Certain Medical Records; Proposed Regulatory Development

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The following additions to Veterans Administration regulations are proposed to implement specific provisions of the Veterans Omnibus Health Care Act of 1976 concerning the confidentiality of certain medical records. These proposed regulations protect the confidentiality of Veterans Administration records pertaining to drug abuse, alcoholism and sickle cell anemia treatment, rehabilitation, education, training, evaluation and research information.

The Veterans Administration is mandated by this Act to publish its own regulations relative to the confidentiality of alcohol, drug abuse and sickle cell anemia medical records. The Veterans Administration, generally, has been following the Department of Health, Education, and Welfare's regulations which were published in the Federal Register, July 1, 1975. The Department of Health, Education, and Welfare regulations (sections 2.1-2.67 of Title 42, Code of Federal Regulations) were promulgated with the enactment of legislation specific to alcohol and drug abuse programs and confidentiality of records. The proposed regulations take into consideration the existing Department of Health, Education, and Welfare's regulations in implementing the confidentiality section of the Veterans Omnibus Health Care Act of 1976. For convenience in comparing specific sections of the Department of Health, Education and Welfare Regulations with these proposed VA Regulations a cross index has been prepared which is set forth below.

DATES: Comments must be received on or before October 21, 1980. All comments received on or before 60 days following publication of this notice will be considered before final action is taken on these regulations, which may be changed in light of the comments received.

It is proposed to make these regulations effective on the date of their republication in the Federal Register.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs

(271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Linda Nugent, Medical Administration Specialist, Policies and Procedures Division, Medical Administration Service, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–2143).

SUPPLEMENTARY INFORMATION: Pub. L. 93–282 cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974" provided that the Administrator of Veterans Affairs, through the Chief Medical Director, consistent with responsibilities under title 38, United States Code, prescribe regulations applicable to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care and medical services under title 38 to veterans suffering from alcohol abuse, alcoholism, and drug abuse. In prescribing and implementing these regulations, the Administrator is to consult with the Secretary of the Department of Health, Education, and Welfare (HEW) in order to achieve the maximum possible coordination of the regulations. In addition, the Administrator of Veterans Affairs will submit to the appropriate committees of the House of Representatives and the Senate a full report on the regulations prescribed, and explain the basis for any inconsistencies and the results of consultations with the Secretary of the Department of Health, Education, and Welfare.

Congress, recognizing that the particular problems of confidentiality of records in the Veterans Administration health care system would best be handled by placing applicable provisions in title 38, United States Code, added a new section 4132 to title 38, United States Code, with the enactment of Pub. L. 94–581, Veterans Omnibus Health Care Act of 1976. The intent of this legislation was to insure confidentiality of certain medical records by establishing civil sanctions for unauthorized disclosure of information, at the same time, meeting the legitimate needs for disclosure under certain conditions. As part of this legislation, Congress imposed upon the Veterans Administration requirements similar to those of Pub. L. 93–282 noted above (38 U.S.C. 4134). The Veterans Administration, in response to this mandate, has consulted with HEW on numberous occasions during the development of these regulations and will submit a comprehensive report to Congress explaining any differences between these proposed regulations and HEW's existing regulations. Such report will also be submitted for publication in the Federal Register.

Section 111 of Pub. L. 94–581 replaced for Veterans Administration purposes, the provisions of sections 122(a) and 303 of Pub. L. 93–282 (21 U.S.C. 1175, for drug records; 42 U.S.C. 4582, for alcohol records) as the statutory base for confidentiality of drug and alcohol abuse records for those patients treated by Veterans Administration medical facilities. Additionally, it replaced section 109 of Public Law 93–82 (38 U.S.C. 653(b)) which provided for confidentiality of sickle cell anemia records and required the Veterans Administration to promulgate regulations. Thus, Pub. L. 94–581, Veterans Omnibus Health Care Act of 1976, addressed all three subjects—drug abuse, alcoholism and sickle cell anemia records—in its confidentiality mandate. Accordingly, sickle cell anemia as well as drug/alcohol records are included in these proposed regulations.

The Veterans Administration has applied regulations on the confidentiality of patients' records as prescribed by the Secretary of the Department of Health, Education, and Welfare, through an agencywide memorandum. However, certain provisions of the Department of Health, Education, and Welfare regulations are inconsistent with the Veterans Administration requirements. These proposed regulations address those inconsistencies. Some of the inconsistencies follow. The Department of Health, Education, and Welfare regulations separate alcohol and drug abuse programs from other activities of an agency. As a consequence, under the HEW regulations an agency official who is not assigned to an alcohol treatment or drug abuse program, could have to obtain written consent even if the record is to be used within the agency. The concept of "program" as used in the Department of Health, Education, and Welfare regulations does not have applicability to the Veterans Administration because, in the Veterans Administration, provision of medical care and treatment is considered to be an integral part of the Veterans Administration's medical and benefits functions rather than a separate program isolated from other agency functions. Since the Veterans Administration considers any treatment program to be an integral part of the agency's medical and benefits functions, a patient's written consent is not needed if the records are to be used within the Veterans Administration. Under these proposed regulations, the Veterans Administration allows recognized veterans' service organizations direct access to patient records if they have a power of attorney. The Department of Health, Education, and Welfare does not address a power of attorney as including patient consent for access to his/her own records.

The Department of Health, Education, and Welfare regulations leave the determination to destroy patient records to officials of an individual program. The Veterans Administration has an agencywide policy regarding record retention.

The drafting of these proposed regulations has necessarily involved minor clarifying and editorial changes in the Department of Health, Education, and Welfare regulations to more speifically use VA terminology and already established requirements. These changes have addressed the above-mentioned pre-existing inconsistencies of the Department of Health, Education, and Welfare and VA procedures under the earlier applicable confidentiality statutes as well as inconsistencies generated by Pub. L. 94–581. For example, whereas the Department of Health, Education, and Welfare regulations do not qualify the conditions under which disclosure of information from the records of deceased patients may be made, section 4132 of title 38, only allows this disclosure with consent of the patient's next-of-kin or personal representative when the purpose has been determined by the chief Medical Director or designee to be necessary to obtain Veterans Administration or other survivorship benefits.

The Department of Health, Education, and Welfare regulations as well as section 4132 of title 38 allow for disclosure by an appropriate court order after the court determines the need for disclosure and imposes appropriate safeguards against unauthorized disclosure. These proposed regulations clarify the court order process and restrict mandatory disclosure to a Federal court. A Veterans Administration facility in these regulations, as part of the Federal government, is not bound by an order from a State court as in the Department of Health, Education, and Welfare regulations, but may, in its discretion, honor a State court order. However, it is contemplated that the Veterans

Administration will cooperate with State courts to the fullest extent appropriate.

Finally, these regulations are not intended to direct the manner in which substantive functions, such as research, treatment, and evaluation, should be carried out, but rather to define the minimum requirements for the protection of confidentiality of patient records which must be satisfied in connection with the conduct of those functions in order to carry out the purposes of the authorizing legislation.

Approved: August 18, 1980.
By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

Cross Index

VA Regulations governing release of information from Veterans Administration records containing drug abuse, alcoholism or alcohol abuse or sickle cell anemia information.

Department of Health, Education and Welfare Regulations Title 42, Code of Federal Regulations (Section Number) and VA Regulations Title 38, Code of Federal Regulations Section Number.

Subpart A—Introductory Statement

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Subpart B—General Provisions

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Subpart C—Disclosures with Patient's Consent

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2.62	1.496(b).
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PART 1—GENERAL PROVISIONS

1. Sections 1.460 through 1.499 are added as follows:

Release of Information From VA Records Containing Drug Abuse, Alcoholism or Alcohol Abuse, or Sickle Cell Anemia Information

General Provisions

Sec.
1.460 Definitions for §§ 1.460 through 1.499.
1.461 Applicability.
1.462 General rules regarding confidentiality.
1.463 Penalty for violations.
1.464 Minor patients.
1.465 Incompetent and deceased patients.
1.466 Security precautions.
1.467 Extent of disclosure.
1.468 Undercover agents and informants.
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Disclosures With Patient's Consent

1.475 Disclosures with patient's consent.
1.476 Prohibition of redisclosure.
1.477 Disclosure for Diagnosis, Treatment, and Rehabilitation.
1.478 Emergency disclosure for traveling, incarcerated, or hospital patients on medication.
1.479 Prevention of certain multiple enrollments; not applicable to sickle cell anemia records.
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1.481 Patient's family and others.
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1.490 Medical emergencies.
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1.494 Prohibition on disclosure of patient identities for research, audit, or evaluation records.
1.495 [Reserved]

Court Orders

1.496 Court orders.
1.497 Investigation and prosecution of patients.
1.498 Undercover agents and informants.
1.499 [Reserved]

Release of Information From Veterans Administration Records Containing Drug Abuse, Alcoholism or Alcohol Abuse, or Sickle Cell Anemia Information

Introductory Statement

Sections 1.460 through 1.499 concern the confidentiality of drug abuse, alcoholism or alcohol abuse, or sickle cell anemia information from Veterans Administration records and are applicable in addition to other regulations pertaining to the release of information from Veterans Administration records. Sections 1.500 through 1.527 implement the provisions of 38 U.S.C. 3301 and 3302. Sections 1.550 through 1.559 implement the provisions of 5 U.S.C. 552 (The Freedom of Information Act). Sections 1.575 through 1.584 implement the provisions of 5 U.S.C. 552a (The Privacy Act of 1974).

Authority: The provisions of §§ 1.460 through 1.499 pertain to any program or activity, including education, training, evaluation, treatment, rehabilitation or research, which relates to drug abuse, alcoholism or alcohol abuse or sickle cell anemia. The statutory authority for the drug abuse provisions is section 408 of Pub. L. 92–255, the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175), as amended by section 303 of Pub. L. 93–282 (88 Stat. 137); the authority for the alcoholism or alcohol abuse provisions is section 333 of Pub. L. 91–616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4582), as amended by section 122(a) of Pub. L. 93–282, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act amendments of 1974 (88 Stat. 131); the authority for the sickle cell anemia provisions is section 109 of Pub. L. 93–82 the Veterans Health Care Expansion Act of 1973 (38 U.S.C. 651–654); additional statutory authority for § 1.460 through 1.499 is section 111 of Pub. L. 94–581, the Veterans Omnibus Health Care Act of 1976 (38 U.S.C. 4131 through 4134).

General Provisions

§ 1.460 Definitions for §§ 1.460 through 1.499.

(a) *Alcohol abuse.* The term "alcohol abuse" includes alcoholism and connotes dysfunctional use of alcoholic beverages.

(b) *Drug abuse.* The term "drug abuse" includes drug addiction and connotes dysfunctional use of drugs other than alcohol.

(c) *Sickle cell anemia.* The term "sickle cell anemia" includes any activities relating to testing, diagnosis,

treatment, or any other procedure relating to the disease.

(d) *Diagnosis and treatment.* The terms "diagnosis" and "treatment" includes interviewing, counseling, and other services or activities carried on for the purpose of or as an incident to diagnosis, treatment, or rehabilitation with respect to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia whether or not conducted by a member of the medical profession. See also paragraph (h) of this section.

(e) *Patient.* The term "patient" means any individual (whether referred to as a patient, client, or otherwise) who has applied for or been given diagnosis or treatment for drug abuse, alcoholism or alcohol abuse, or sickle cell anemia and includes any individual who, after arrest on a criminal charge, is interviewed and/or tested in connection with drug abuse, alcoholism or alcohol abuse or sickle cell anemia preliminary to a determination as to eligibility to participate in a treatment or rehabilitation program. The term "patient," for the purpose of sickle cell anemia, includes one tested for the disease.

(f) *Person.* The term "person" means an individual, a partnership, a corporation, a trust, a Federal or State governmental agency, or any other legally cognizable entity.

(g) *Contractor.* The term "contractor" means a person who provides services to the Veterans Administration such as data processing, dosage preparation, laboratory analyses or medical or other professional services. Each contractor shall be required to enter into a written agreement subjecting such contractor to the provisions of §§ 1.460 through 1.499.

(h) *Records.* The term "records" includes any information received, obtained or maintained (whether recorded or not) by an employee or contractor of the Veterans Administration, for the purpose of performing Veterans Administration drug abuse, alcoholism, or sickle cell anemia program or activity functions regarding an identifiable patient. A drug abuse, alcoholism, or sickle cell anemia program or activity function includes treatment, education, training, rehabilitation, research, or referral for one of these conditions. Sections 1.460 through 1.499 apply to a primary or other diagnosis, or other information which identifies, or could reasonably be expected to identify, a patient as having a drug abuse, alcoholism, or sickle cell anemia condition (e.g., alcoholic psychosis, drug dependence), but only if such diagnosis or information is received, obtained or maintained for the purpose of performing one of the above program or activity functions. Sections 1.460 through 1.499 do not apply if such diagnosis or other information is not received, obtained or maintained for the purpose of performing a drug abuse, alcoholism or sickle cell anemia function or activity for the patient in question. Whenever such diagnosis or other information, not originally received or obtained for the purpose of providing one of the above program or activity functions, is subsequently used in connection with such program or activity function, those original entries become a "record" and §§ 1.460 through 1.499 thereafter apply to those entries. Segregability: these regulations do not apply to records or information contained therein, the disclosure of which (the circumstances surrounding the disclosure having been considered) could not reasonably be expected to disclose the fact that a patient had been connected with a Veterans Administration drug abuse, alcoholism or sickle cell anemia program or activity function.

(i) *Communications not constituting disclosure.* The following types of communication do not constitute disclosures of records:

(1) Communication of information within the Veterans Administration between or among personnel of Veterans Administration components having a need for such information in connection with their duties. When information is exchanged between Veterans Administration health care providers, including medical facility administrative personnel, and Veterans Administration nonhealth care providers, the Veterans Administration nonhealth care provider shall receive the confidential record on loan from the Veterans Administration health care provider, shall make no copies of subject records, and shall, after adjudication or other proceedings have taken place, return the confidential records to the Veterans Administration health care provider source of origin.

(2) Communication between the Veterans Administration and a contractor of information needed by the contractor to perform his or her services.

(3) Communications of information which include neither patient identifying information nor identifying numbers assigned to patients.

(j) *Third party payer.* The term "third party payer" means any organization (or person acting as agent or trustee for an organization or fund) which pays or agrees to pay for diagnosis or treatment furnished or to be furnished to a particular individual, where such payment or agreement to pay is on the basis of an individual relationship between the payer and the patient (or a member of the patient's family in the case of self-and-family insurance coverage or similar arrangements) evidenced by a contract, an insurance policy, a certificate of membership or participation or similar documentation. (38 U.S.C. 210(c), 4132, 4134)

§ 1.461 Applicability.

(a) *General.* Except as provided in paragraph (b) of this section, §§ 1.460 through 1.499 apply to any communications and to all records which are maintained in connection with the performance of any Veterans Administration drug abuse, alcoholism, or sickle cell anemia program or activity, and they apply to all communications between any person within the components of the Veterans Administration and to any person outside of the components.

(b) *Veterans Administration and Armed Forces.* The provision of §§ 1.460 through 1.499 do not apply to any interchange, between or among those components of the Veterans Administration who have a need for the information in the performance of their duties, except as limited to § 1.460(i)(1), or between such components and the Armed Forces, of records pertaining to a person relating to a period when such person is or was subject to the Uniform Code of Military Justice.

(c) *Period covered as affecting applicability.* The provisions of §§ 1.460 through 1.499 apply to records of identity, diagnosis, prognosis, or treatment pertaining to any given individual maintained over any period of time which, irrespective of when it begins, does not end before March 21, 1972, in the case of diagnosis or treatment for drug abuse, or before May 14, 1974, in the case of diagnosis or treatment for alcoholsim or alcohol abuse, or before September 1, 1973, in the case of testing, diagnosis or treatment of sickle cell anemia. (38 U.S.C. 210(c), 4132, 4134, sec. 408, Pub. L. 92-255; sec. 109, Pub. L. 93-82, 38 U.S.C. 651-654; secs. 122(a), 303, Pub. L. 93-282)

§ 1.462 General rules regarding confidentiality.

(a) *General.* Records to which §§ 1.460 through 1.499 apply shall be confidential and, 38 U.S.C. 3301 to the contrary notwithstanding, may be disclosed only as authorized by those regulations, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding conducted by any Federal, State, or local authority whether such proceeding is commenced before or after the effective date of these regulations.

(b) *Crimes on Veterans Administration premises or against Veterans Administration personnel.* Where a patient commits or threatens to commit a crime on the premises of the facility or against personnel of the Veterans Administration, nothing in §§ 1.460 through 1.499 shall be construed as prohibiting personnel of the Veterans Administration from seeking the assistance of, or reporting such crime to, a law enforcement agency, but such report shall not identify the suspect as a drug abuse, alcoholism or alcohol abuse, or sickle cell anemia patient. In any such situation, immediate consideration should be given to seeking an order under §§ 1.496 through 1.498 to permit the disclosure of such limited information about the patient as may be necessary under the circumstances.

(c) *Implicit and negative disclosures prohibited.* The disclosure that a person (whether actual or fictitious) answering to a particular description, name or other identification is not or has not been receiving treatment, whether over a period of time or on a particular occasion, is fully as much subject to the prohibitions and conditions of §§ 1.460 through 1.499 as a disclosure that such a person is or has been receiving such treatment. Any improper or unauthorized request for any disclosure of records or information subject to §§ 1.460 through 1.499 must be met by a non-committal response.

(d) *Inpatients and residents.* The presence of any inpatient in a medical facility or resident in a residential facility for the treatment of drug abuse, alcoholism or alcohol abuse, or sickle cell anemia may be acknowledged to callers and visitors with the patient's written consent. Without such consent, the presence of any inpatient or resident in a facility for the treatment of a variety of conditions may be acknowledged if done in such a way as not to indicate that the patient is being treated for drug abuse, alcoholism or alcohol abuse, or sickle cell anemia. (38 U.S.C. 210(c), 4132, 4134)

§ 1.463 Penalty for violations.

(a) *Penalty provided by law.* Any person who violates any provision of §§ 1.460 through 1.499 shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense, consistent with 38 U.S.C. 4132(f).

(b) *Application to subsequent offenses.* Where a defendant has committed one offense under any section of §§ 1.460 through 1.499, any offense thereafter committed under the same section or any other section of such regulations shall be treated as a subsequent offense. (38 U.S.C. 210(c), 4132, 4134)

§ 1.464 Minor patients.

(a) *Definition of minor.* The term "minor" means a person who has not attained the age of 18 years or, in a State where a different age is expressly provided by State law as the age at which a person ceases to be minor, the age prescribed by the law of such State.

(b) *Consent of disclosure in general.* Except as provided in paragraph (c) of this section, where consent is required for any disclosure under §§ 1.460 through 1.499, such consent in the case of a minor must be given by both the minor and his or her parent, guardian, or other person authorized under State law to act in the minor's behalf, but any disclosure made after the patient has ceased to be a minor may be consented to only by the patient.

(c) *Rule when State law authorizes treatment without parental consent.* Whenever a patient, acting alone, has the legal capacity under the applicable State law to apply for and obtain such diagnosis, counseling, adminstration of medication, or other services as actually are or were provided to him or her by the Veterans Administration with respect to which such person is or was a patient, any consent required for disclosure under these regulations may be given only by the patient, notwithstanding the fact that the patient may be a minor.

(d) *Initial contacts.* When a minor applies for services under circumstances other than those described in paragraph (c) of this section, the fact of such application may not be disclosed except as an incident to a communication authorized under paragraph (f) of this section, without consent of the applicant, to the applicant's parent, guardian, or other person authorized under State law to act on behalf of the applicant. When such an applicant refuses consent, it must be explained to the applicant that while he or she has the right (subject to the provisions of paragraph (f) of this section) to withhold such consent, the services applied for cannot be provided without it.

(e) *Communications regarding services.* Where State law authorizes the furnishing of services to a minor without the consent of the minor's parent or guardian, no communication may be made to the parent or guardian, either directly or indirectly, with respect to such services without the express written consent of the patient. Such consent may not be made a condition of the furnishing of services.

(f) *Applicant lacking capacity for rational choice.* When, in the judgment of the appropriate Veterans Administration facility director, a minor applicant for services, because of extreme youth or mental or physical condition, lacks the capacity to make a rational decision on whether to consent to the notification of a parent or guardian, and the situation of the applicant poses a substantial threat to the life or physical well-being of the applicant or any other individual, and such threat might be reduced by communicating the relevant facts to a parent or guardian of the applicant, such facts may be so communicated by the facility director or by personnel authorized by the director to do so. (38 U.S.C. 210(c), 4132, 4134)

§ 1.465 Incompetent and deceased patients.

(a) *Incompetent patients other than minors.* Where consent is required for any disclosure under §§ 1.460 through 1.499, such consent in the case of a patient who has been adjudicated as lacking the capacity, for any reason other than insufficient age, to manage his or her own affairs may be given by the guardian or other person authorized under State law to act in the patient's behalf.

(b) *Deceased patients*—(1) *General.* Except as provided in paragraph (b)(2) of this section, where the patient whose records are subject to §§ 1.460 through 1.499 is deceased, the Chief Medical Director or designee may, upon the prior written request of the next of kin, executor/executrix, administrator/administratrix, or other personal representative of such deceased patient, disclose the contents of such records, only if the Chief Medical Director or designee determines such disclosure is necessary to obtain survivorship benefits for the deceased patient's survivor. This would include not only Veterans Administration benefits, but also payments by the Social Security Administration, Worker's Compensation Boards or Commissions, or other Federal, State, or local government agencies, or nongovernment entities, such as life insurance companies.

(2) *Vital statistics.* In the case of a deceased patient, disclosures required under Federal or State laws involving the collection of death and other vital statistics may be made without consent. (38 U.S.C. 210(c), 4132, 4134)

§ 1.467 Security precautions.

Appropriate precautions must be taken for the security of records to which §§ 1.460 through 1.499 apply. Records containing any information pertaining to patients shall be kept in a secure room or in a locked file cabinet,

safe, or other similar container, when not in use. These security precautions shall be consistent with the Privacy Act of 1974 (5 U.S.C. 552a) and the Veterans Administration confidentiality statute (38 U.S.C. 3301). (38 U.S.C. 210(c), 3301, 4132, 4134, 5 U.S.C. 552a)

§ 1.466 Extent of disclosure.

Any disclosure made under §§ 1.460 through 1.499, whether with or without the patient's consent, shall be limited to information necessary in the light of the need or purpose for the disclosure. (38 U.S.C. 210(c), 4132, 4134)

§ 1.468 Undercover agents and informants.

(a) *Definitions.* As used in this section and § 1.498—(1) The term "undercover agent" means a member of any Federal, State, or local law enforcement or investigative agency whose identity as such is concealed from either the patients or personnel of a facility in which he or she enrolls or attempts to enroll.

(2) The term "informant" means a person who, at the request of a Federal, State, or local law enforcement or investigative agency or officer, carries on observation of one or more persons enrolled in or employed by a facility in which he or she is enrolled or employed, for the purpose of reporting to such agency or officer information concerning such persons which he or she obtains as a result of such observation subsequent to such request.

(b) *General prohibition.* Except as otherwise provided in paragraph (c) of this section, or as specifically authorized by a Federal court order granted under §§ 1.496 through 1.498:

(1) No undercover agent or informant may be employed by or enrolled in any Veterans Administration drug abuse, alcoholism or alcohol abuse treatment unit;

(2) No supervisor or other person having authority over an undercover agent may knowingly permit such agent to be or remain employed by or enrolled in any such unit; and

(3) No law enforcement or investigative officer may recruit or retain an informant with respect to such a unit.

(c) *Exceptions.* The enrollment of a law enforcement officer in a treatment unit shall not be deemed a violation of this section if (1) such enrollment is solely for the purpose of enabling the officer to obtain treatment for his or her own alcoholism, alcohol abuse or drug abuse, and (2) such person's status as a law enforcement officer is known to the facility director. (38 U.S.C. 210(c), 4132, 4134)

§ 1.469 Identification cards.

(a) *Required use prohibited.* No facility may require or request any patient to carry in his or her possession, while away from the facility premises, an identification card or other form of identification which is issued by the facility and which would tend to identify the bearer as a participant in any Veterans Administration drug abuse, alcoholism, or alcohol abuse treatment program, or as a sickle cell anemia patient.

(b) *Conditions of voluntary use.* Nothing in this section prohibits a facility from issuing an identification card to a patient if the patient's counselor or other authorized member of the facility staff has explained to the patient that acceptance and use of the card is entirely voluntary and that neither an initial rejection nor a subsequent discontinuation of its use will in any way prejudice his or her record or standing with the Veterans Administration. In the case of any patient to whom an identification card or similar device was issued prior to the implementation of §§ 1.460 through 1.499, or subsequent thereto in violation of such regulations, a counselor, or other authorized member of the facility staff shall explain to the patient his or her right to turn it in without prejudice at any time.

(c) *On-premises exemption.* A facility is not prohibited from maintaining and using on its premises cards, photographs, tickets, or other devices, or using passwords or other information to assure positive identification of patients, correct recording of attendance or medication, or for other proper purposes, as long as no pressure is brought on any patient to carry any such device when away from the facility. (38 U.S.C. 210(c), 4132, 4134)

§ 1.470 Relationship to section 502(c) of Controlled Substances Act.

(a) *Research privilege description.* In some instances there may be concurrent coverage of a Veterans Administration activity by the provisions of §§ 1.460 through 1.499 and by a regulation or other administrative action under section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)). This provision of law, referred to hereinafter in this section as the research privilege section, confers on the Attorney General the power to authorize researchers to withhold from all persons not connected with the research, the names and other identifying information concerning individuals who are the subject of such research. The Attorney General's power is conferred as part of a section authorizing research related to enforcement of laws under the jurisdiction of the Attorney General concerning substances which are or may be subject to control under the Controlled Substances Act, but is not expressly limited to such research. It is expressly provided that persons who obtain a grant of research privilege "may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify" the subjects of research for which the privilege was obtained.

(b) *Comparison with authority for §§ 1.460 through 1.499.* Although it deals, in a sense, with the same subject matter, and may on occasion concurrently cover the same transactions, it is important to note the differences between the research privilege section (21 U.S.C. 872(c)) and the provisions of law (21 U.S.C. 1175, 38 U.S.C. 4134, and 42 U.S.C. 4582) which authorize §§ 1.460 through 1.499. Briefly, these differences are as follows:

(1) Although it contains a broad grant of express rulemaking authority, the provisions of law by which §§ 1.460 through 1.499 are authorized are self-executing in the sense that they are operative irrespective of whether the rulemaking authority is exercised. The protection afforded by the research privilege section, on the other hand, can only come into existence as a result of affirmative administrative action.

(2) The provisions of law authorizing §§ 1.460 through 1.499, as well as the provisions of these regulations themselves, impose affirmative duties with respect to the records to which they apply, and the violation of such duties is subject to criminal penalties. To the extent that a privilege is thereby created, it grows out of the duties thus imposed. The research privilege section, by contrast, imposes no duties by its own terms, and if any duties are implied from its existence, they would have to be enforced on the basis of an implicit civil liability for damages or by equitable relief, as there are no criminal or administrative sanctions available.

(3) The exercise of the authority conferred by the research privilege section is subject to administrative discretion, whereas in the case of the duties imposed under these regulations there is judicial discretion, within the limits and subject to procedures and criteria prescribed by statute and regulations, to grant relief in particular cases.

(c) *Grant of research privilege not affected by § 1.496 order.* The issuance of an order under § 1.496 based on the sections authorizing §§ 1.460 through 1.499 (21 U.S.C. 1175, 38 U.S.C. 4134, and

42 U.S.C. 4582) in no way affects the continuing effectiveness of any exercise of the authority of the Attorney General under section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)). (38 U.S.C. 210(c), 4132, 4134).

§§ 1.471–1.474 [Reserved]

Disclosures With Patient's Consent

§ 1.475 Disclosure with patient's consent.

(a) *Written consent required.* Except as otherwise provided, a consent for a disclosure under §§ 1.460 through 1.499 must be in writing and must contain the following:

(1) The name of the facility which is to make the disclosure.

(2) The name or title of the person or organization to which disclosure is to be made.

(3) The name of the patient.

(4) The purpose or need for the disclosure.

(5) The extent or nature of information to be disclosed.

(6) A statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance thereon and a specification of the date, event, or condition upon which it will expire without express revocation.

(7) The date on which the consent is signed.

(8) The signature of the patient; or the signature of the minor and the person authorized to act in his or her behalf, when required by § 1.464; or the signature of the person authorized to give consent in lieu of the patient, when required under § 1.465.

(b) *Duration of consent.* Any consent given under §§ 1.475 through 1.485 shall have a duration no longer then that reasonably necessary to effectuate the purpose for which it is given.

(c) *Disclosure prohibited with deficient consent.* The Veterans Administration will not disclose any information on the basis of a consent form—

(1) Which on its face substantially fails to conform to any of the requirements set forth in paragraph (a) of this section, or

(2) Which is known, or in the exercise of reasonable care should be known, to the responsible personnel of the Veterans Administration to be materially false with respect to any item required to be contained therein pursuant to paragraph (a) of this section.

(d) *Falsification prohibited.* No person may knowingly make, sign, or furnish to the Veterans Administration any consent form which is materially false with respect to any item required to be contained therein pursuant to paragraph (a) of this section. (38 U.S.C. 210(c), 4132, 4134)

§ 1.476 Prohibition of redisclosure.

(a) *Notice to accompany disclosure.* Whenever a written disclosure is made under authority of § 1.475 through 1.485, except a disclosure to a facility or other person whose records pertaining to the patient are otherwise subject to these regulations, the disclosure shall be accompanied by a written statement substantially as follows: "This information has been disclosed to you from records whose confidentiality is protected by Federal law. Federal regulations (38 CFR 1.460 through 1.499) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or except as otherwise permitted by §§ 1.460 through 1.499. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure will be accompanied or followed by such a notice.

(b) *Consent required for redisclosure.* A person who receives information from patient records and has been notified substantially in accordance with paragraph (a) of this section is prohibited from making any disclosure of such information except with the specific written consent of the person to whom it pertains, or as otherwise permitted under §§ 1.460 through 1.499.

(c) *Restriction on redisclosure.* Whenever information from patient records is needed by any person, such information must be obtained directly from the facility maintaining such records and not from another person to whom disclosure was intentionally and expressly made for the purpose of redisclosure (as for example in the case of an employment agency). (38 U.S.C. 210(c), 4132, 4134)

§ 1.477 Disclosure for diagnosis, treatment, and rehabilitation.

Where consent is given in accordance with § 1.475, disclosure of information subject to §§ 1.460 through 1.499 may be made to non-veterans Administration medical personnel or to a treatment or rehabilitation program where such disclosure is needed in order to better enable them to furnish services to the patient to whom the information pertains. (38 U.S.C. 210(c), 4132, 4134)

§ 1.478 Emergency disclosure for traveling, incarcerated, or hospitalized patients on medication.

Where a patient on medication is at a distance from his or her normal residence or treatment facility or is incarcerated or hospitalized, or is otherwise unable to deliver a written consent to his or her treatment facility at the time the disclosure is needed, confirmation of the patient's status and information necessary to appropriately continue or modify the patient's medication may be given to non-Veterans Administration personnel in a position to provide services to the patient upon the oral representation of such personnel that the patient has requested medication and consented to such disclosure. Any person making a disclosure in accordance with this section shall make an accounting of the disclosure. The accounting will consist of the patient's name and Veterans Administration file number, the date and time the disclosure was made, the information disclosed, the purpose of the disclosure, the authority for making the disclosure (§ 1.478), the name and address of the person or facility to whom the disclosure was made, and the name of the individual making the disclosure. (38 U.S.C. 210(c), 4132, 4134)

§ 1.479 Prevention of certain multiple enrollments; not applicable to sickle cell anemia records.

(a) *Definitions.* For the purpose of this section and § 1.493:

(1) The terms "administer," "controlled substance," "dispense," "maintenance treatment," and "detoxification treatment," shall respectively have the meanings defined in paragraphs (2), (6), (10), (27), and (28) of section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term "program" means a non-Veterans Administration program which offers maintenance treatment or detoxification treatment.

(3) The term "permissible central registry" means a qualified entity which collects or accepts, from two or more programs (referred to hereinafter as member programs), all of which are located either within a given State or not more than 125 miles from the nearest point on the border of such State, patient identifying information about persons applying for maintenance treatment or detoxification treatment for the purpose of enabling the member programs to prevent any individual from being concurrently enrolled in more than one such program.

(b) *Use of central registries prohibited except as expressly authorized.* The furnishing of patient identifying information by the Veterans Administration to any central registry which fails to meet the definition of a permissible central registry set forth in paragraph (a)(3) of this section is prohibited, and the furnishing of patient identifying information to or by any

central registry except as authorized by this section is prohibited. Information pertaining to patients held in a central registry may be furnished or used in accordance with paragraphs (e), (f) and (g) of this section for the purpose of preventing multiple enrollments, but may not be otherwise furnished or used in connection with any legal, administrative, supervisory, or other action with respect to any patient.

(c) *Safeguards and procedures required.* To minimize the likelihood of disclosures of information to impostors or others seeking to bring about unauthorized or improper disclosure, any communications carried on by the Veterans Administration and programs pursuant to this section must be conducted by authorized personnel designated by specific written procedures regulating and controlling access by those members of the Veterans Administration, other programs, and the central registry whose responsibilities require such access, and providing for security and accountability as required by §§ 1.460 thorugh 1.499.

(d) *Disclosures with respect to patients in treatment.* The Veterans Administration may supply patient identifying information and information concerning the type of drug used or to be used in treatment and the dosage thereof, with relevant dates, to a permissible central registry with respect to any patient:

(1) When the patient is accepted for treatment,

(2) When the type or dosage of the drug is changed, and

(3) When the treatment is interrupted, resumed, or terminated.

(e) *Disclosures with respect to applications.* When any person applies to the Veterans Administration for maintenance treatment or detoxification treatment, then for the purpose of inquiring whether such person is currently enrolled in another program for such treatment, the Veterans Administration may furnish patient identifying information with respect to such person:

(1) To any permissible central registry of which the Veterans Administration is a member, and

(2) To any other program which is not more than 200 miles distant and which is not a member of any central registry of which the inquiring program is a member.

(f) *Program procedure in case of apparent concurrent enrollment.* When an inquiry pursuant to paragraph (e)(2) of this section is made of a non-Veterans Administration treatment program and its response is affirmative, the Veterans Administration facility and the program may engage in such further communication as may be necessary to establish whether an error has been made and, if none, the Veterans Administration facility should proceed in accordance with sound clinical practice and any applicable regulations pertaining to the type of treatment involved.

(g) *Registry procedure in case of apparent concurrent enrollment.* When inquiry pursuant to paragraph (e)(1) of this section is made of a permissible central registry and its response is affirmative, it may advise the inquiring Veterans Administration facility of the name, address, and telephone number of the other program, or it may advise the other program of the identity of the patient and the name, address, and telephone number of the inquiring Veterans Administration facility, or it may do both, and in any case the program and the Veterans Administration facility may then communicate as provided in paragraph (f) of this section.

(h) *Advice to patients.* When the policies and procedures of any Veterans Adminstration facility or program involve any disclosures pursuant to this section, before any patient is accepted for or continued in treatment (other than detoxification treatment), written consent in accordance with § 1.475 shall be obtained. Such consent shall set forth a current list of the names and addresses either of any programs or of any central registries to which such disclosures will be made. Notwithstanding the requirement of § 1.475(a)(2), such consent shall be effective with respect to any other such program thereafter established within 200 miles, or any registry serving such programs, and shall so state. Such consent shall be effective for as long as the patient remains in treatment status at the Veterans Administration facility to which it is given. (38 U.S.C. 210(c), 4132, 4134)

§ 1.480 Legal counsel for patient.

When a bona fide attorney-client relationship exists between an attorney-at-law and a patient, disclosure of any information in the patient's records may be made to the attorney upon the written application of the patient endorsed by the attorney. Information so disclosed may not be further disclosed by the attorney. (38 U.S.C. 210(c), 4132, 4134)

§ 1.481 Patient's family and others.

Where consent is given in accordance with § 1.475, information evaluating the patient's current or past status in a Veterans Administration treatment facility or program may be furnished to any person with whom the patient has a personal relationship unless, in the judgment of the person responsible for the patient's treatment, the disclosure of such information would be harmful to the patient. (38 U.S.C. 210(c), 4132, 4134)

§ 1.482 Third party payers.

(a) *Acquisition of information.* Disclosure of patient information to third-party payers may be made only with the written consent of the patient given in accordance with § 1.475 and any such disclosure must be limited to that information which is reasonably necessary for the discharge of the legal or contractual obligations of the third-party payer.

(b) *Prohibition on disclosure.* Where a third-party payer maintains records of the identity of recipients of testing, treatment or rehabilitation services for drug abuse, alcoholism or alcohol abuse, or sickle cell anemia, such records are, under the authorizing legislation, maintained in connection with the performance of a drug abuse, alcoholism or alcohol abuse, or sickle cell anemia function, and are subject to the restrictions upon disclosure set forth in §§ 1.460 through 1.499. (38 U.S.C. 210(c), 4132, 4134)

§ 1.483 Employers and employment agencies.

(a) *Disclosure permitted.* Where consent is given in accordance with § 1.475, the Veterans Administration facility may make disclosures in accordance with this section.

(b) *Eligible recipients.* The Veterans Administration may make disclosures under this section to public or private employment agencies, employment services, or employers.

(c) *Scope of disclosure.* Ordinarily, disclosures pursuant to this section should be limited to a verification of the patient's status in treatment of a general evaluation of progress in treatment. More specific information may be furnished where there is a bona fide need for such information to evaluate hazards which the employment may pose to the patient or others or where such information is otherwise directly relevant to the employment situation.

(d) *Criteria for approval.* A disclosure under this section may be made if, in the judgment of the Veterans Administration facility director or designee, the following criteria are met:

(1) The Veterans Administration facility director or designee has reason to believe, on the basis of past experience or other credible information (which may in appropriate cases consist

of a written statement by the employer), that such information will be used for the purpose of assisting in the rehabilitation of the patient and not for the purpose of identifying the individual as a patient in order to deny the patient employment or advancement because of his or her history of drug abuse, alcoholism, or alcohol abuse, or sickle cell anemia.

(2) The information sought appears to be reasonably necessary in view of the type of employment involved. (38 U.S.C. 210(c), 4132, 4134)

§ 1.484 Criminal justice system referrals.

(a) *Consent authorized.*

Where participation by an individual in treatment is made a condition of such individual's release from confinement, the disposition or status of any criminal proceedings against the person or the execution or suspension of any sentence imposed upon the person, such individual may consent to unrestricted communication between the Veterans Administration facility and (1) the court granting probation, or other posttrial or pretrail conditional releases, (2) the parole board or other authority granting parole, or (3) probation or parole officers responsible for his or her supervision. The consent format should follow generally the provisions of § 1.475 but it should also contain the requirements of paragraphs (b), (c), and (d) of this section.

(b) *Duration of consent.* Where consent is given for disclosures described in paragraph (a) of this section, such consent shall expire 60 days after it is given or when there is a substantial change in such person's status, whichever is later. For the purposes of this section, a substantial change occurs in the status of a person who, at the time such consent is given, has been—

(1) Arrested, when such person is formally charged or unconditionally released from arrest;

(2) Formally charged, when the charges have been dismissed with prejudice, or the trial of such person has been commenced;

(3) Brought to a trial which has commenced, when such person has been acquitted or sentenced;

(4) Sentenced, when the sentence has been fully executed.

(c) *Revocation of consent.* An individual whose release from confinement, probation or parole is conditioned upon participation in a program at a Veterans Adminstration treatment facility may not revoke a consent given in accordance with paragraph (a) of this section, until there has been a formal and effective termination or revocation of such release from confinement, probation or parole.

(d) *Restrictions on redisclosure.* Any information directly or indirectly received pursuant to this section may be used by the recipients thereof only in connection with their official duties with respect to the particular individual with respect to whom it was acquired. Such recipients may not make such information available for general investigative purposes, or otherwise use it in unrelated proceedings or make it available for unrelated purposes. (38 U.S.C. 210(c), 4132, 4134)

§ 1.485 Situations not otherwise provided for.

(a) *Criteria for approval.* In any situation not otherwise specifically provided for in §§ 1.475 through 1.484, where consent is given in accordance with § 1.475, the Veterans Administration facility director or designee may make a disclosure for the benefit of a patient from the records of that patient if, in the judgement of the Veterans Administration director or designee, all the following criteria are met:

(1) There is no suggestion in the written consent or the circumstances surrounding it, as known to the Veterans Administration facility personnel, that the consent was not given freely, voluntarily, and without coercion.

(2) Granting the request for disclosure will not cause substantial harm to the relationship between the patient and the Veterans Administration facility or to the Veterans Administration facility's capacity to provide services in general.

(3) Granting the request for disclosure will not be harmful to the patient.

(b) *Circumstances deemed beneficial.* For the purpose of this section the circumstances under which disclosure may be deemed to be beneficial to a patient include, but are not limited to, those in which the disclosure may assist the patient in connection with any public or private claim, right, privilege, gratuity, grant or other interest accruing to, or for the benefit of, the patient or the patient's immediate family. Examples of the foregoing include welfare, medicare, unemployment, worker's compensation, accident or medical insurance, public or private pension or other retirement benefits, and any claim or defense asserted or which is an issue in any civil, criminal, adminstrative or other proceeding in which the patient is a party or is affected. (38 U.S.C. 210(c), 4132, 4134)

§§ 1.486–1.489 [Reserved]

Disclosures Without Patient's Consent

§ 1.490 Medical emergencies.

(a) *General.* Disclosure to medical personnel, either private or governmental, is authorized without the consent of the patient when and to the extent necessary to meet a bona fide medical emergency.

(b) *Food and Drug Administration.* Where treatment involves the use of any drugs, and appropriate officials of the Food and Drug Administration determine that the life or health of patients may be endangered by an error in the manufacture or packaging of such drug, disclosure of the identities of the recipients of the drug may be made without their consent to appropriate officials of the Food and Drug Administration to enable them to notify the patients or their physicians of the problem in order that corrective action may be taken.

(c) *Incapacitated persons.* Where a patient is incapacitated and information concerning the treatment being given him or her by a Veterans Administration facility is necessary to make a sound determination of appropriate emergency treatment, such information may be given without the patient's consent to personnel providing such emergency treatment.

(d) *Notification of family or others.* When an individual suffering from a serious medical condition resulting from drug abuse, alcoholism or alcohol abuse, or sickle cell anemia, is receiving treatment at a Veterans Administration facility, the treating physician may, in his or her discretion, give notification of such condition to a member of the individual's family or any other person with whom the individual is known to have a responsible personal relationship. Such notification may not be made without such individual's consent at any time such individual is capable of rational communication.

(e) *Record required.* Any Veterans Administration employee making an oral disclosure under authority of this section shall make an accounting of the disclosure. The accounting will consist of the name and Veterans Administration file number of the patient, the date and time the disclosure was made, the information disclosed, the nature of the emergency, the authority for making the disclosure (§ 1.490), the name and address of the person or agency to whom the disclosure was made, and the name of the individual making the disclosure. (38 U.S.C. 210(c), 4132, 4134)

§ 1.491 Research, audit, and evaluation.

(a) *General.* Subject to any applicable specific provision set forth in this section, the content of records pertaining to any patient which are maintained in connection with the performance of a function subject to §§ 1.460 through 1.499 may be disclosed, whether or not the patient gives consent, to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personal may not identify, directly or indirectly, and individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner. For the purposes of this section, the term "qualified personnel" means persons whose training and experience are appropriate to the nature and level of the work in which they are engaged and who, when working as part of an organization, are performing such work with adequate administrative safeguards against unauthorized disclosures.

(b) *Use of disclosures of patient identifying information.* (1) Where a disclosure made to any person pursuant to paragraph (a) of this section includes patient identifying information with respect to any patient, such information may not be further disclosed, and may not be used in connection with any legal, administrative, supervisory, or other action whatsoever with respect to such patient, except as provided in paragraph (b)(2) and (3) of this section.

(2) The inclusion of patient identifying information in any written or oral communication between a person to whom a disclosure has been made pursuant to paragraph (a) of this section and the Veterans Administration employee making such disclosure does not constitute the identification of a patient in a report or otherwise in violation of paragraph (a) of this section.

(3) Where a disclosure is made pursuant to paragraph (a) of this section to a person qualified to determine, on the basis of such disclosure, the presence of a substantial risk to the health and well being, whether physical or psychological, of any patient, and, in the judgment of such person, such a risk exists and the situation cannot be dealt with solely by means of communications as described in paragraph (b)(2) of this section without intensifying or prolonging the risk as compared with other means of dealing with it, then the initial disclosure under paragraph (a) of this section and any subsequent disclosure or redisclosure of patient identifying information for the purpose of reducing the risk to the patient involved shall be subject to the provisions of § 1.490. (38 U.S.C. 210(c), 4132, 4134)

§ 1.492 Governmental agencies.

(a) *General.* Where research, audit, or evaluation functions are performed by a State or Federal governmental agency on behalf of the Veterans Administration, the minimum qualifications of personnel performing such functions may be determined by the Veterans Administration, subject to the provisions of §§ 1.460 through 1.499, with particular reference to the organizational requirements and limitations on the categories of records subject to review by different categories of personnel.

(b) *Financial and administrative records.* Where Veterans Administration records are reviewed by personnel who lack either the responsibility for, or appropriate training and supervision for, conducting scientific research, determining adherence to treatment standards, or evaluating treatment as such, such review should be confined as far as practicable to administrative and financial records. Under no circumstances should such personnel be shown caseworker or counselor notes, or similar clinical records. Records should be so organized that financial and administrative matters can be reviewed without disclosing clinical information and without disclosing patient identifying information except where necessary for audit verification. (38 U.S.C. 210(c), 4132, 4134)

§ 1.493 Supervision and regulation of narcotic maintenance and detoxification programs; not applicable to sickle cell anemia records.

(a) *Definition of "registrant."* For the purposes of this section, the term "registrant" means a person who (1) has pending an application for registration under section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)), or (2) has been registered under such section and whose registration has not expired or been surrendered or revoked.

(b) *Drug Enforcement Administration.* Duly authorized agents of the Drug Enforcement Administration shall have access to the premises of registrants for the purpose of ascertaining compliance (or ability to comply) with standards established by the Attorney General under section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) respecting the security of stocks of narcotic drugs and the maintenance of records (in accordance with section 307 of the Controlled Substances Act (21 U.S.C. 827)) on such drugs. Registrants shall maintain such records separate from and in addition to patients' clinical records required to be maintained under 21 CFR 291.505(d)(7)(iii), which shall not be available to such agents except as authorized under a Federal court order in accordance with §§ 1.496 through 1.498. Records maintained by registrants for the purposes of section 307 of the Controlled Substances Act (21 U.S.C. 827) need not identify patients by name, address, social security number, or otherwise except by an identifying number assigned by the registrant, but where such a system is used, the registrant shall maintain on a current basis a cross-index referencing each identifying number to the name and address of the patient to whom it refers. Upon request at any time and without advance notice, such agents shall be granted immediate access to any such index. Such agents may use names and addresses so obtained strictly for the purposes of auditing or verifying records, and shall exercise all reasonable precautions to avoid inadvertent disclosure of patient identities to third parties. Names and other identifying information so obtained may not be compiled or used in any registry or personal data bank of any description.

(c) *Food and Drug Administration.* Duly authorized agents of the Food and Drug Administration shall have access to the premises of registrants and to all records maintained by registrants, for the purpose of ascertaining compliance (or ability to comply) with standards established by the Secretary of Health, Education, and Welfare under section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 257a), sections 303(g)(1) and 303(g)(3) of the Controlled Substances Act (21 U.S.C. 823(g)(1) and 823(g)(3), and sections 505 and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 and 371(a)). When necessary in the conduct of their duties, agents may use names and addresses of patients strictly for the purposes of auditing or verifying records, and shall exercise all reasonable precaution to avoid inadvertent disclosure of patient identities to third parties. Names and other identifying information on patients obtained pursuant to this section or by any other compulsory process may not be compiled or used in any registry or personal data bank of any discription. Except as authorized under this paragraph or by a Federal court order granted under §§ 1.496 through 1.498, (1) such agents may not, either orally or in writing, except in conversation with personnel of the registrant while on the

premises of the registrant, identify any patient otherwise than by reference to an identifying number assigned by the registrant, and (2) such agents may not remove from the premises of the registrant any notes, documents, or copies thereof which contain patient identifying information. (38 U.S.C. 210(c), 4132, 4134)

§ 1.494 Prohibition on disclosure of patient identities from research, audit, or evaluation records.

Where the content of patient records has been disclosed pursuant to §§ 1.490 through 1.494 for the purpose of conducting scientific research, management audits, financial audits or treatment evaluation, information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily or in response to any legal process whether Federal or State. This prohibition does not affect the accessibility of the original records under the authority of a Federal court order referred to in §§ 1.496 through 1.498. (38 U.S.C. 210(c), 4132, 4134)

§ 1.495 [Reserved]

Court Orders

§ 1.496 Court orders.

(a) *Legal effect of order*—(1) *General.* Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia which is carried out by or for the Veterans Administration may be disclosed if authorized by an appropriate order of a court of competent jurisdiction (either Federal or State) granted after application showing good cause therefor. In assessing good cause the court is statutorily required to weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, is required by statute to impose appropriate safeguards against unauthorized disclosure. An order of a court of competent jurisdiction, Federal or State, to produce records subject to §§ 1.460 through 1.499 will not be sufficient unless the order reflects that the court has complied with the requirements of 38 U.S.C. 4132(b)(2)(C). Such an order from a Federal court compels disclosure. However, such an order from a State court only acts to authorize the Administrator to exercise discretion to disclose such records. It does not compel disclosure.

(b) *Inapplicability to secondary records.* The authority in paragraph (a) of this section which authorizes disclosures, applies only to records maintained by treatment or research programs which have patients, and not to secondary records generated by disclosure of the records to researchers, auditors, or evaluators authorized in § 1.491.

(c) *Limitation to objective data*—(1) *General.* Except as provided in paragraph (c)(2) of this section, the scope of an order issued pursuant to §§ 1.496 through 1.498 may not extend to communications by a patient to personnel of the treatment service, but shall be limited to the facts or dates of enrollment, discharge, attendance, medication, and similar objective data, and may include only such objective data as is necessry to fulfill the purposes for which the order is issued.

(2) *Exception.* When a patient in litigation offers testimony or other evidence pertaining to the content of his or her communications with a Veterans Administration facility, an order under §§ 1.496 through 1.498 may authorize the submission of testimony or other evidence by the Veterans Administration facility or its personnel.

(d) *Procedures and criteria in general*—(1) *Identity of patient.* Applications for court orders to authorize disclosure of records pertaining to a known patient shall not use the real name of the patient unless the patient consents thereto voluntarily and intelligently. In the case of an ex parte application initiated by the patient, the application should be instituted in the name of a fictitious person, such as John Doe, unless the patient requests otherwise. The same procedure should be followed in the case of a separate proceeding held in conjunction with a pending criminal or civil action. Any court order should identify the patient fictitiously, and the disclosure of the patient's real name should be communicated to the Veterans Administration in such manner as to protect the confidentiality of the patient's identity.

(2) *Notice.* In any proceeding not otherwise provided for in §§ 1.496 through 1.498, in which the patient or the Veterans Administration has not been made a party, each shall be given appropriate notice and an opportunity to appear in person or to file a responsive statement, deposition or other form of response consistent with local rules of procedures. The court shall give due consideration to any such statement, deposition or other response in exercising its discretion as to the existence of good cause, and, if deemed necessary or desirable, consistent with local rules of procedure, it may order the Veterans Administration facility director to appear and give direct testimony.

(3) *Hearings.* All hearings and all evidence in connection therewith shall be held or taken in the judge's chambers, unless the patient requests an open hearing or the court determines that such hearing is consistent with the public interest and the proper administration of justice.

(4) *Good cause.* No order shall be issued unless the record shows that good cause exists, and in assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

(5) *Need for disclosure.* If other competent evidence or sources of information are available, the court should ordinarily deny the application.

(6) *Adverse effects.* If there is evidence that disclosure would have an adverse effect upon successful treatment or rehabilitation of the patient or would impair the effectiveness of the treatment service, or other programs similarly situated, in the treatment or rehabilitation of other patients, the application should be denied unless the court finds that the adverse effects are outweighed by other factors.

(7) *Content of order.* Any order authorizing disclosure shall:

(i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted;

(ii) Limit disclosure to those persons whose need for information is the basis for the order; and

(iii) Include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship and the treatment services.

(8) *Applications not otherwise provided for.* In any case not otherwise provided for in §§ 1.496 through 1.498, application for an order authorizing disclosure of records to which §§ 1.460 through 1.499 apply may be made by any person who has a legally cognizable interest in obtaining such disclosure. (38 U.S.C. 210(c), 4132, 4134)

§ 1.497 Investigation and prosecution of patients.

(a) *Applicability.* This section applies to any application by an investigative,

law enforcement, or prosecutorial agency for an order to permit disclosure of patient records for the purpose of conducting an investigation or prosecution of an individual who is, or who is believed to be, a present of former patient in a program.

(b) *Notice.* Any Veterans Administration facility with respect to whose records an order is sought under this section shall be notified of the application and afforded an opportunity to appear and be heard thereon.

(c) *Criteria.* A court may authorize disclosure of records pertaining to a patient for the purpose of conducting an investigation of or a prosecution for a crime of which the patient is suspected only if the court finds that all of the following criteria are met:

(1) The crime was extremely serious, such as one involving kidnapping homicide, assault with a deadly weapon, armed robbery, rape, or other acts causing or directly threatening loss of life or serious bodily injury, or was believed to have been committed on the premises of the Veterans Administration or against personnel of the Veterans Administration.

(2) There is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.

(3) There is no other practicable way of obtaining the information or evidence.

(4) The actual or potential injury to the physician-patient relationship in the treatment service affected and in other programs similarly situated, and the actual or potential harm to the ability of such programs to attract and retain patients, is outweighed by the public interest in authorizing the disclosure sought.

(d) *Scope.* Both disclosure and dissemination of any information from the records in question shall be limited under the terms of the order to assure that no information will be unnecessarily disclosed and that dissemination will be no wider than necessary. Under no circumstances may an order under this section authorize the Veterans Administration facility to turn over patient records in general, pursuant to a subpoena or otherwise, to a grand jury or a law enforcement, investigative, or prosecutorial agency.

(e) *Counsel.* Any application to which this section applies shall be denied unless the court makes an explicit finding to the effect that the Veterans Administration facility has been afforded the opportunity to be represented by counsel independent of counsel for the applicant and is so represented. (38 U.S.C. 210(c), 4132, 4134)

§ 1.498 Undercover agents and informants.

(a) *Applicability.* this section applies to any application by an administrative, regulatory, supervisory, investigative, or law enforcement agency for an order to permit such agency to have an undercover agent or informant in a facility under circumstances which would otherwise be prohibited under § 1.468.

(b) *Notice.* An order under this section may be granted without notice where the criminal conduct for the investigation of which it is granted is believed to be carried on by the Veterans Administration treatment facility director or by any employee or agent of the facility with the knowledge of the director or under such circumstances that in the exercise of reasonable care the director should know of such conduct. Under any other circumstances, an order under this section may be granted only after the director has been afforded notice and opportunity for hearing.

(c) *Criteria.* An order under this section may be granted only where there is reason to believe that a facility or any principal, agent, or employee thereof is engaged in serious criminal misconduct and that other means of securing evidence of such criminal misconduct are not available or would not be effective.

(d) *Scope.* An order granted pursuant to this section may authorize the use by the applicant of an undercover agent or informant, either as a patient or as an employee, of the Veterans Administration facility in question.

(e) *Time periods.* An order under this section may not authorize the use of an undercover agent for an initial period exceeding 60 days. At any time prior to the expiration of such 60-day period, the applicant may apply for an order extending such period for an additional period not to exceed 60 days, but in no event may the use of an undercover agent in any Veterans Administration treatment facility be authorized for more than 180 days in any period of 12 consecutive months.

(f) *Duty of agent.* Except to the extent expressly authorized in an order under this section, which shall be limited to disclosure of information directly related to the purpose for which the order is granted, an undercover agent or informant shall for the purposes of §§ 1.460 through 1.499 be deemed an agent of the Veterans Administration treatment facility within which he or she is acting as such, and as such shall be subject to all of the prohibitions of §§ 1.460 through 1.499 applicable to disclosure of any information which he or she may acquire. (38 U.S.C. 210(c), 4132, 4134)

§ 1.499 [Reserved]

§ 1.513 [Amended]

2. Section 1.513 is amended by deleting the words "his duly" and inserting the words "his or her duly" in paragraph (b)(1)(xi).

§ 1.513a [Revoked]

3. Section 1.513a is revoked.

§ 1.514 [Amended]

4. Section 1.514 is amended by deleting the words "his duly" and inserting the words "his or her duly" in the first sentence of paragraph (a) and in the introductory portion of paragraph (b).

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38 CFR Part 19

Rules of Practice; Appeals Regulations

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The proposed regulation changes to the Rules of Practice reflect the Veterans Administration's conformance with the directive to improve Government Regulations. References to gender have been omitted and existing practices before the Board of Veterans Appeals have been clarified.

An addition to the Appeals regulations has been made to reiterate the Board of Veterans Appeals' jurisdiction over appeals of Department of Medicine and Surgery determinations.

DATES: Comments must be received on or before September 22, 1980. It is proposed to make these changes effective 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 address shown above during normal business hours until October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Jan Donsbach, Special Assistant to the Chairman (Legal), Board of Veterans Appeals, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2978).

SUPPLEMENTARY INFORMATION: The following substantive changes have

been made to the Rules of Practice (38 CFR 19.101–19.199; Rules 1–99).

Rule 1: New paragraphs (b) and (c) have been added to include the scope of the rules and the manner in which the rules will be construed.

Rule 2: The rule has been added to establish an effective date for the revised rules and specify how these rules will be applied to pending cases.

Rule 3: Paragraph (b) clarifies that, in its decisions, the Board is not bound by administrative issues not approved by the Administrator and is not bound by medical opinions.

Rule 6: The new rule set forth procedure wherein an appellate or representative may request that a case be advanced on the docket.

Rule 7: The rule has been added to assist appellants or representatives in corresponding with the Board of Veterans Appeals.

Rule 11: (old Rule 8) The rule has been amended to specify that the Board of Veterans Appeals makes jurisdictional determinations.

Rule 13: The new rule covers the release of records certified to the Board for appellate review and the making of copies of such records.

Rule 16: The new rule refers to the existing practice of notifying the parties of the Board's decision.

Rules 20, 21 and 22: Old Rule 15 is revised to clarify the purpose of a substantive appeal. The rule with respect to a supplemental statement of the case has been clarified to point out that a supplemental statement of the case is required following a developmental remand.

Rule 23: (old Rule 16) The rule is revised to specify that the filing of a substantive appeal is the last requirement placed on the appellant in perfecting the appeal.

Rule 27: (old Rule 20) The rule is amended to point out that the notice of disagreement and the substantive appeal are filed with the agency of original jurisdiction.

Rule 28: (old Rule 11) Paragraph (c) has been added to allow the spouse or close friend to prepare the notice of disagreement or substantive appeal when the appellant is seriously disabled provided the appeallant demonstrates approval of these actions.

Rule 32: This rule was added to clarify what days are considered holidays when computing time limits.

Rules 33, 34, 35, 36 and 37: These rules are a restatement of old Rule 19.

Rules 43, 44, 45, 46, 47, 48 and 49: These rules are a restatement of old Rules 17 and 18 as they pertained to contested claims.

Rule 51: (old Rule 29) The term "service organization" has been changed to read "recognized organizations" in order to include any organizations approved by the Office of the General Counsel. Paragraph (b) has been amended to indicate that the revocation is effective when received by the Veterans Administration.

Rules 52 and 53: (old Rule 30) These rules are a restatement of old Rule 30 in order to separate the responsibilities applicable to agents and attorneys. Paragraph (a) of Rule 52 allows the attorney to use letterhead to show that he/she is a member in good standing of the bar in the State.

Rule 54: (old Rule 31) Paragraph (b) has been added to inform an individual agent how to obtain a waiver of the one claimant limitation rule.

Rule 56: This rule sets forth the procedure to be followed by legal interns.

Rule 60: (old Rule 38) A sentence has been added to indicate the circumstances under which the members of the hearing panel render the final decision.

Rules 61, 62, 63 and 64: These new rules cover existing practices associated with personal hearings.

Rule 65: (old Rule 35) Paragraph (b) has been restated to clarify the procedure to be followed when, instead of an oath, an affirmation is made.

Rule 68: (old Rule 40) Amended to clarify that a hearing held after the notice of disagreement is filed must be recorded. (38 U.S.C. 4002)

Rule 69: This rule sets forth the procedure for specialized recording of personal hearings.

Rules 70 and 71: These rules explain the status of the Board's hearing transcript.

Rule 73: (old Rule 42) This rule has been revised to exclude substitutes for a supplemental statement of the case.

Rule 74: This rule sets forth the existing practice of allowing the appellant or representative to waive the right to a supplemental statement of the case.

Rules 76 and 77: (old Rule 44) These rules are a restatement of old Rule 44 in order to include opinions by the Armed Forces Institute of Pathology (AFIP).

Rule 78: The rule sets forth the procedure for requesting medical specialty opinions.

Rule 79: This rule provides for furnishing of the opinion to the appellant or representative and allowing a period of 30 days within which to file any response.

Rules 80 and 81: Old Rule 45 has been restated and a limitation has been set forth with regard to the number of members who may participate in a decision.

Rule 82: (old Rule 46) Paragraph (b) has been amended to include due process remands.

Rule 88: This rule has been added to allow the Board to remand for evidence when reconsidering a decision.

Rule 89: (old Rule 51) This rule has been revised to omit the requirement that a request for a personal hearing in connection with reconsideration be filed within 1 year from the date of the mailing of notice of the original decision.

Rule 90: This is a restatement of old Rule 52 and requires the assignment of additional Board members to equal those participating in the original decision. Such participation is limited to 12 Board members.

Rule 91: The finding of harmless error will not require that the decision be vacated.

Rule 94: (old Rule 55) This has been restated to stress that a reopened claim involves both questions of materiality and the question of whether a new factual basis is provided warranting an allowance.

Rule 96: Allows the Board to review "de novo" service connection cause of death cases notwithstanding the fact that a final appellate decision had been rendered during the veteran's lifetime.

Rule 97: Although Board decisions must be consistent, the decisions of any given section are not binding upon the other sections of the Board.

Rules 98 and 99: These rules set forth the procedure for amendment of records under the Privacy Act.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until October 2, 1980. Any person visiting Veterans Administration Central Office in Washington, DC 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 station will be informed that the records are available for inspection only in Central Office and furnished the address and room number.

Approved: August 18, 1980

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

Part 19 is revised to read as follows:

PART 19—BOARD OF VETERANS APPEALS

Subpart A—Appeals—General

Sec.
19.1 General Appellate Jurisdiction.
19.2 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.
19.3 Subject matter of appeals.
19.4 Disclosure of information.
19.5 Restriction as to change in payments pending determination of administrative appeals.
19.6 Appellate jurisdiction of determinations of the Department of Medicine and Surgery.

Subpart B—Appeals—Rules of Practice

General

19.101 Rule 1; authority, scope of rules, and construction.
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19.103 Rule 3; governing criteria.
19.104 Rule 4; finality of decisions.

Docketing

19.105 Rule 5; docketing of appeals.
19.106 Rule 6; advance on the docket.

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19.107 Rule 7; name and business hours.
19.108 Rule 8; establishment of Board.
19.109 Rule 9; composition of Board.
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19.111 Rule 11; function of the Board.
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19.114 Rule 14; notification of right to appeal.
19.115 Rule 15; failure to receive notice.
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Commencement of Appeal

19.117 Rule 17; what constitutes an appeal.
19.118 Rule 18; notice of disagreement.
19.119 Rule 19; action by agency of original jurisdiction on notice of disagreement.
19.120 Rule 20; statement of the case.
19.121 Rule 21; furnishing the statement of the case and instructions for filing a substantive appeal.
19.122 Rule 22; supplemental statement of the case.
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19.124 Rule 24; closing—failure to respond to statement of the case.
19.125 Rule 25; withdrawal.
19.126 Rule 26; dismissal.

Filing

19.127 Rule 27; place of filing, notice of disagreement and substantive appeal.
19.128 Rule 28; who can file an appeal.
19.129 Rule 29; time limit for filing.
19.130 Rule 30; extension of time for filing.
19.131 Rule 31; computation of time limit.
19.132 Rule 32; legal holidays.
19.133 Rule 33; timely filing of appeal questioned by agency of original jurisdiction.
19.134 Rule 34; adequacy of notice of disagreement questioned by agency of original jurisdiction.
19.135 Rule 35; untimely filing of appeal protested by claimant.
19.136 Rule 36; inadequacy of the notice of disagreement.
19.137 Rule 37; adequacy of the substantive appeal.
19.138 Rule 38; administrative appeal.
19.139 Rule 39; officials authorized and time limits for filing administrative appeals.
19.140 Rule 40; notification of claimant.
19.141 Rule 41; merger of administrative appeal and claimant's appeal.
19.142 Rule 42; effect of decision on administrative or merged appeal.

Contested Claims

19.143 Rule 43; notification of right to appeal in contested claims.
19.144 Rule 44; who can file an appeal in contested claims.
19.145 Rule 45; time limits for filing in contested claims.
19.146 Rule 46; notice of contesting parties on receipt of notice of disagreement.
19.147 Rule 47; notice of substance of appeal to other contesting parties.
19.148 Rule 48; extension of time for filing in contested claims.
19.149 Rule 49; notices to last addresses of record in contested claims.

Representation

19.150 Rule 50; right to representation.
19.151 Rule 51; recognized organizations.
19.152 Rule 52; attorneys.
19.153 Rule 53; agents.
19.154 Rule 54; other persons as representative.
19.155 Rule 55; general.
19.156 Rule 56; legal interns.

Hearings

19.157 Rule 57; general.
19.158 Rule 58; who may appear.
19.159 Rule 59; scheduling and notice of hearing.
19.160 Rule 60; place of hearing.
19.161 Rule 61; composition of the hearing panel.
19.162 Rule 62; functions of the presiding member.
19.163 Rule 63; prehearing conference.
19.164 Rule 64; procurement of additional evidence following a hearing.
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19.166 Rule 66; expenses.
19.167 Rule 67; hearings in contested claims.
19.168 Rule 68; recorded hearing.
19.169 Rule 69; recording of hearings.
19.170 Rule 70; official transcript.
19.171 Rule 71; alternate transcript versions.

Evidence

19.172 Rule 72; submission of additional evidence.
19.173 Rule 73; consideration of additional evidence by agency of original jurisdiction.
19.174 Rule 74; waiver of agency of original jurisdiction action.

Action by the Board

19.175 Rule 75; order of consideration.
19.176 Rule 76; medical opinions.
19.177 Rule 77; independent medical expert opinions.
19.178 Rule 78; filing of requests for the procurement of medical opinions.
19.179 Rule 79; notification of medical opinions secured by the Board.
19.180 Rule 80; the decision.
19.181 Rule 81; voting by Board members.
19.182 Rule 82; remand for further development.
19.183 Rule 83; disqualification of members.
19.184 Rule 84; administrative allowance.

Reconsideration

19.185 Rule 85; when accorded.
19.186 Rule 86; requirements in application.
19.187 Rule 87; evidence considered.
19.188 Rule 88; remand pursuant to reconsideration.
19.189 Rule 89; filing of request.
19.190 Rule 90; number of members on reconsideration panel.

Finality

19.191 Rule 91; harmless error.
19.192 Rule 92; finality of decisions of the agency of original jurisdiction where appeal is not perfected.
19.193 Rule 93; finality of determinations of the agency of original jurisdiction affirmed on appeal.
19.194 Rule 94; new claim after appellate decision.
19.195 Rule 95; death of appellant during pendency of appeal.
19.196 Rule 96; claim for death benefits by survivor—prior unfavorable decision.
19.197 Rule 97; nonprecedential nature of Board decisions.

Privacy Act

19.198 Rule 98; Privacy Act request—appeal pending.
19.199 Rule 99; amendment of appellate decisions.

Authority: 38 U.S.C. 210(c)(1).

Subpart A—Appeals—General

§ 19.1 General appellate jurisdiction.

All questions on claims involving benefits under the laws administered by the Veterans Administration are subject to review on appeal to the Administrator of Veterans Affairs, decisions in such cases to be made by the Board of Veterans Appeals. In its decisions, the Board is bound by the regulations of the Veterans Administration, instructions of the Administrator and precedent opinions of the General Counsel. This statutory jurisdiction permits the Board to apply all the adjudicative criteria and exercise the authority of the department having original adjudicative responsibility for claims for benefits. (38 U.S.C. 4004)

§ 19.2 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.

In addition to the authority vested in the Chairman and Vice Chairman, Board of Veterans Appeals, by law, Veterans Administration regulations and manuals, authority is delegated to each as follows:

(a) To authorize assumption of appellate jurisdiction of an adjudicative determination which has not become final.

(b) To authoriize administrative action on an adjudicative determination which has become final by appellate decision or failure to timely appeal.

(c) To authorize Central Office investigations of matters before the Board. (38 U.S.C. 210(b))

§ 19.3 Subject matter of appeals.

The Board's appellate jurisdiction includes but is not limited to questions of service connection and entitlement to: pension for disability without regard to service connection; death compensation and pension; dependency and indemnity compensation; vocational rehabilitation, including need therefor; education and training allowance; subsistence allowance; educational assistance allowance and special training allowance (38 U.S.C ch. 35); special allowance (38 U.S.C 412); death gratuity (38 U.S.C. 423); insurance contracts, including total disability income provision; reinstatements, conversions, and changes of plan, and all insurance benefits; payment or reimbursement for unauthorized medical expenses; burial allowances; disability suffered as the result of examination, treatment or hospitalization or vocational training; emergency officers retirement benefits; basic eligibility to loans and unemployment compensation; adjusted compensation; waiver or recovery of overpayments; waiver of payment of loan guaranty indebtedness (38 U.S.C. 1820(a)(4)); forfeiture of rights; and all related mixed questions of fact and law, such as character of discharge and type of service, marital relations, dependency, validity of claims, apportionment, reduction and increase in compensation or pension benefits, and all other claims for benefits under the laws administered by the Veterans Administration. Under 38 U.S.C 3203(b)(3), jurisdiction extends to determinations on the following questions: needs of a dependent parent; payments from appropriated funds to a dependent parent for his or her support; and use of appropriated funds for the veteran's institutional care and maintenance. (38 U.S.C. 4004(a))

§ 19.4 Disclosure of information.

Appellate decisions and statements of the case will not disclose matters that would be contrary to 38 U.S.C. 3301 or otherwise contrary to the public interest. Such matters may be disclosed to a designated representative unless the relationship between the claimant and the representative is such that disclosure to the representative would be as harmful as if made to the claimant. (38 U.S.C. 4005(d)(2))

§ 19.5 Restriction as to change in payments pending determination of administrative appeals.

In the event of an administrative appeal, no change in payments based on that review or determination will be made until a decision is made by the Board of Veterans Appeals. (38 U.S.C. 4006)

§ 19.6 Appellate jurisdiction of determinations of the Department of Medicine and Surgery.

(a) The Board's appellate jurisdiction extends to legal questions of eligibility for hospitalization, outpatient treatment and domiciliary care, and devices such as prostheses, canes, wheelchairs, back braces, orthopedic shoes, and similar appliances. Questions regarding eligibility for provision of specially adaptive equipment on an automobile and air conditioners may be appealed to the Board of Veterans Appeals.

(b) Nonlegal determinations such as "need for," and "nature of," medical treatment are not adjudicative matters and so are not appealable. Typical examples of issues beyond the Board's jurisdiction are whether a particular drug should be prescribed, whether a specific type of physiotherapy may be or has been ordered, and similar judgmental treatment decisions with which an attending physician may be faced. (38 U.S.C. 4004(a))

Subpart B—Appeals—Rules of Practice

General

§ 19.101 Rule 1; authority, scope of rules, and construction.

(a) *Authority.* Pursuant to the authority vested in the Administrator of Veterans Affairs (38 U.S.C. 210(c)(1)) there are hereby issued revised Rules of Practice which govern proceedings in appeals to the Board of Veterans Appeals.

(b) *Scope.* These rules govern the practices and procedures in all cases and proceedings in the Board of Veterans Appeals. Where in any instance there is no applicable rule of procedure, the Board Member before whom the matter is pending may prescribe the procedure. (38 U.S.C. 4002)

(c) *Construction.* In accordance with the agency's policy of providing assistance to the appellant under section 3.103, Title 38, Code of Federal Regulations, these rules shall be construed to secure the just and speedy determination of every appeal. (38 CFR 3.102)

§ 19.102 Rule 2; effective dates.

These rules as revised will take effect on ————. They govern all proceedings and cases commenced after they take effect and also all further proceedings in cases then pending. The Board of Veterans Appeals may apply the former procedure to cases pending on ————, in the event the revised rules would not be feasible or would effect an injustice.

§ 19.103 Rule 3; governing criteria.

(a) *General.* In the consideration of appeals, the Board shall be bound by the laws and regulations of the Veterans Administration, decisions and instructions of the Administrator of Veterans Affairs, and precedent opinions of the General Counsel. (38 U.S.C. 4004(c))

(b) *Manuals, circulars and opinions.* In its appellate decisions, the Board is not bound by agency manuals, circulars and similar administrative issues not approved by the Administrator. Opinions of the Chief Medical Director, Armed Forces Institute of Pathology, and independent medical experts obtained pursuant to Rules 76 and 77 (38 CFR 19.176 and 19.177) are only advisory in nature. (38 U.S.C. 4004(c), 4009)

§ 19.104 Rule 4; finality of decisions.

Decisions of the Board of Veterans Appeals are final, with the exception that certain claims involving insurance contracts are subject to court review. (38 U.S.C. 211(a), 784, 4004(a)). Reconsideration by the Board may be accorded under Rules 85 through 90 (38 CFR 19.185 through 19.190).

Docketing

§ 19.105 Rule 5; docketing of appeals.

(a) *In order received.* Applications for review on appeal shall be docketed in the order in which they are received. (38 U.S.C. 4007)

(b) *Remanded cases.* Cases returned to the Board following action pursuant to a remand shall assume their original places on the docket. (38 U.S.C. 4007)

§ 19.106 Rule 6; advance on the docket.

(a) A case may be advanced on the docket for good cause shown such as terminal illness and extreme financial

hardship. A motion for this purpose must be filed with the Chairman, Board of Veterans Appeals, and be specific as to the urgent nature of the cause. Interpretation of law of general application affecting other claims may afford a basis for advancing a case on the docket. (See order of consideration, Rule 75, 38 CFR 19.175)

(b) A decision to advance a case on the docket pursuant to a motion will be noted in the decision when rendered. (38 U.S.C. 4007)

The Board

§ 19.107 Rule 7; name and business hours.

(a) *Name.* The name of the Board is the Board of Veterans Appeals.

(b) *Business hours.* The Board shall be open during business hours on all days except Saturday, Sunday and legal holidays. Business hours are from 8 a.m. to 4:30 p.m. (For legal holidays, see Rule 32, 38 CFR 19.132.)

(c) *Mailing address.* Mail to the Board should be addressed to: Chairman (01), Board of Veterans Appeals, 810 Vermont Avenue, N.W., Washington, D.C. 20420. (38 U.S.C. 4001(a))

§ 19.108 Rule 8; establishment of Board.

The Board of Veterans Appeals is established by authority of and functions pursuant to chapter 71, Title 38, United States Code.

§ 19.109 Rule 9; composition of Board.

The Board shall consist of a Chairman, Vice Chairman, Members, and necessary professional, administrative, clerical and stenographic personnel. (38 U.S.C. 4001(a))

§ 19.110 Rule 10; appointment, assignment, and rotation of members.

(a) *Appointment.* Members of the Board (including the Chairman and Vice Chairman) shall be appointed by the Administrator with the approval of the President of the United States. (38 U.S.C. 4001(b))

(b) *Assignment.* The Chairman may divide the Board into sections of three members and assign the members of the Board thereto. (38 U.S.C. 4002)

(c) *Rotation.* The Chairman may from time to time rotate the members of the sections. (38 U.S.C. 4002)

(d) *Vacancy or absence.* If as a result of a vacancy, absence, or inability of an assigned member to serve, a section of the Board does not have a full complement of members, the Chairman may assign other members or direct the section to proceed without any additional assignment of members. (38 U.S.C. 4002)

§ 19.111 Rule 11; function of the Board.

The principal function of the Board is to make jurisdictional determinations and to consider all applications on appeal properly before it, conduct hearings on appeal, evaluate the evidence of record and enter decisions in writing on the questions presented on appeal. (38 U.S.C. 4002, 4004)

§ 19.112 Rule 12; jurisdiction.

(a) *Statutory.* The Board's jurisdiction extends to all questions on claims involving benefits under the laws administered by the Veterans Administration. (38 U.S.C. 4004(a))

(b) *Delegated authority.* The Board may assume jurisdiction of an unappealed issue on its own motion in a case properly before it, as provided in section 19.2 Title 38, Code of Federal Regulations. (38 U.S.C. 212(a))

§ 19.113 Rule 13; Board records.

(a) *Removal of records.* No original record, paper, document or exhibit certified to the Board shall be taken from the Board except as authorized by the Chairman or except as may be necessary to furnish copies or to transmit copies for other official purposes. (38 U.S.C. 3301)

(b) *Release of information.* Information requested from records, including copies of such records in the custody of the Board of Veterans Appeals, will be furnished to the extent permitted by law and Veterans Administration regulations. (See 38 CFR 1.500–1.584.)(5 U.S.C. 552, 552a; 38 U.S.C. 3301)

(c) *Fees.* The fees to be charged and collected for the release of information and for any copies will be in accordance with Sections 1.526, 1.555, and 1.579, Title 38, Code of Federal Regulations.

(d) *Waiver of fees.* When information is requested from records certified to and in the custody of the Board, the required fee may be waived if such information is requested in connection with a pending appeal (see 38 CFR 1.500–1.584) or in accordance with 38 CFR 1.526(e) or 1.555(g).

(e) *Review of records.* Information in the records may be reviewed by agency employees on a "need to know" basis. (5 U.S.C. 552a(b)(1))

Notification of Appellate Rights

§ 19.114 Rule 14; notification of right to appeal.

(a) *General.* The claimant and the representative, if any, will be informed of the right to initiate an appeal and the time within which to do so. This information will be included in each notification of a determination of entitlement or non-entitlement to Veterans Administration benefits by the agency of original jurisdiction. (38 U.S.C. 4005(a))

(b) *Administrative appeals.* Claimants will be notified of administrative appeals pursuant to Rule 40 (38 CFR 19.140).

(c) *Contested claims.* Contesting claimants will be notified of appellate rights pursuant to Rule 43 (38 CFR 19.143).

§ 19.115 Rule 15; failure to receive notice.

While it is contemplated that the agency of original jurisdiction will give proper notice of the right to appeal and the time limit, failure to notify the claimant of the right to such appellate review or of the time limit applicable to a notice of disagreement of substantive appeal will not extend the applicable period for taking this action. (38 U.S.C. 4005)

§ 19.116 Rule 16; decision notification.

After a decision has been rendered by the Board, all parties to the appeal and the representatives, if any, will be notified of the results. (38 U.S.C. 4004(a), (d))

Commencement of Appeal

§ 19.117 Rule 17; what constitutes an appeal.

An appeal consists of a timely filed notice of disagreement in writing and, after a statement of the case has been furnished, a timely filed substantive appeal. (38 U.S.C. 4005)

Cross References: Notice of disagreement. See Rule 18 (§ 19.118). Substantive appeal. See Rule 23 (§ 19.123)

§ 19.118 Rule 18; notice of disagreement.

A written communication from a claimant or the representative expressing dissatifaction or disagreement with an adjudicative determination of an agency of original jurisdiction (the Veterans Administration regional office, medical center or clinic which notified the claimant of the action taken) will constitute a notice of disagreement. The notice should be in terms which can be reasonably construed as a desire for review of that determination. It need not be expressed in any special wording. (38 U.S.C. 4005)

§ 19.119 Rule 19; action by agency of original jurisdiction on notice of disagreement.

(a) *Preliminary action.* When a notice of disagreement is timely filed, the agency of original jurisdiction may develop and review the claim again. (38 U.S.C. 4005(d)(1))

(b) *Statement of the case.* If no preliminary action is required or when it is completed, the agency of original

jurisdiction will prepare a statement of the case pursuant to Rule 20 (38 CFR 19.120), if the issue or issues are not resolved by granting the benefit sought in the appeal, or the notice of disagreement is withdrawn. (38 U.S.C. 4005(d)(1))

§ 19.120 Rule 20; statement of the case.

(a) *Purpose.* The statement of the case should provide the appellant notice of those facts and applicable laws and regulations upon which the agency of original jurisdication based its determination of the issue or issues. It should be complete enough to allow the appellant to present written and/or oral arguments before the Board of Veterans Appeals. (38 U.S.C. 4005(d)(1))

(b) *Contents.* A statement of the case shall consist of:

(1) A summary of the evidence in the case relating to the issue or issues with which disagreement has been expressed.

(2) A summary of the applicable law and Veterans Administration regulations, with appropriate citations.

(3) The decision on the issue or issues and the reasons for the determination. (38 U.S.C. 4005(d)(1).

§ 19.121 Rule 21; furnishing the statement of the case and instructions for filing a substantive appeal.

(a) *Copies of statement of the case.* The statement of the case will be forwarded to the appellant at the latest address of record, and a separate copy provided to the representative (if any). (38 U.S.C. 4005(d)(3))

(b) *Information on filing substantive appeal.* With the statement of the case, the appellent and the representative will be furnished information on the right and time limit to file a substantive appeal, and VA Form 1–9, Appeal to Board of Veterans Appeals. Instructions to the appellant will include:

(1) That the benefits sought must be clearly identified.

(2) That the substantive appeal should set out specific arguments as to error of fact or law, related to the issues.

(3) That the appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken.

(4) That the agency of original jurisdiction may close the appeal for failure to respond to the statment of the case.

(5) That the Board of Veterans Appeals will base its decision on the evidence and argument of record, and will not be limited to that cited in the statement of the case. (38 U.S.C. 4005)

§ 19.122 Rule 22; supplemental statement of the case.

A supplemental statement of the case, so identified, will be furnished when subsequent actions are taken, evidence is received, a material defect is discovered, or for any other reasons the original statement is inadequate under the requirements of Rule 20 (38 CFR 19.120). A supplemental statement of the case will also be issued following development pursuant to a remand of the Board. (See Rule 82 (38 CFR 19.182).) For waiver of the supplemental statement of the case, see Rule 74 (38 CFR 19.174). (38 U.S.C. 4005(d))

§ 19.123 Rule 23; substantive appeal.

A substantive appeal shall consist of a properly completed VA Form 1–9, Appeal to Board of Veterans Appeals, or correspondence containing the necessary information. See Rule 21(b) (38 CFR 19.121(b)). The appeal should set out specific allegations of error of fact or law. To the extent feasible, allegations should be related to specific items in the statement of the case. This is the last action the appellant needs to take to perfect the appeal. The Board will construe such allegations in a liberal manner in determining their adequacy. (38 U.S.C. 4005(d)(4)(5))

§ 19.124 Rule 24; closing—failure to respond to statement of the case.

The agency of original jurisdiction may close the appeal without notice to an appellant for failure to respond to a statement of the case within the period or periods allowed. (38 U.S.C. 4005(d)(3)); see Rule 29(b) (38 CFR 19.129(b).) However, if a response is subsequently received within the 1-year appeal period (except for contested claims), the appeal will be considered to be reactivated. (38 U.S.C. 4005(d)(3))

§ 19.125 Rule 25; withdrawal.

(a) *Notice of disagreement.* A notice of disagreement may be withdraw in writing before a timely substantive appeal is filed. The agency of original jurisdiction may not withdrawn a notice of disagreement for failure to cooperate in reporting for an examination or in furnishing evidence requested. (38 U.S.C. 4005(d)(1))

(b) *Substantive appeal.* A substantive appeal may be withdrawn in writing at any time before the Board enters a decision except where withdrawal would be detrimental to the appellant. The agency of original jurisdiction may not withdraw a substantive appeal for failure to cooperate in reporting for an examination or in furnishing evidence requested or on the basis of deficiency in allegations of error of fact or law. As to determinations on adequacy or timeliness of substantive appeals, see Rules 33, 35 and 37 (38 CFR 19.133, 19.135 and 19.137). (38 U.S.C. 4005(d)(3))

(c) *Who may withdraw.* Withdrawal may be by the appellant or the authorized representative (person or organization) except that a representative may not withdraw either a notice of disagreement or substantive appeal filed by the appellant personally. (38 U.S.C. 4005(b)(2))

§ 19.126 Rule 26: dismissal.

Appeals which are insufficient in allegations of error of fact or law may be dismissed by the Board of Veterans Appeals. (38 U.S.C. 4005(d)(5), 4008)

Filing

§ 19.127 Rule 27; place of filing, notice of disagreement and substantive appeal.

The notice of disagreement and substantive appeal shall be filed with the Veterans Administration office from which the claimant received notice of the decision being appealed. (38 U.S.C. 4005(b)(1) and (d)(3)

§ 19.128 Rule 28: who can file an appeal.

(a) *Persons authorized.* A notice of disagreement and substantive appeal may be filed by a claimant personally or by an accredited representative of a recognized organization, attorney or agent, provided a proper power of attorney or declaration of representation, as applicable, is on record. As to filing a power of attorney or declaration of representation, see Rules 51 through 54 (38 CFR 19.151 through 19.154). Where contesting claimants are involved, see Rule 44 (38 CFR 19.144). (38 U.S.C. 4005(b)(2))

(b) *Incompetent claimant.* If the claimant is incompetent, a notice of disagreement and a substantive appeal may be filed by the legal guardian or other legal fiduciary; or, in the event there is no legal fiduciary, by the next of kin or next friend. (38 U.S.C. 4005(b)(2))

(c) *Claimant seriously disabled and unrepresented.* If the claimant is seriously disabled and has not appointed a representative, a notice of disagreement and a substantive appeal may be prepared by the next of kin or next friend. However, the claimant must ratify these documents by signature or other satisfactory evidence of approval. (38 U.S.C. 4005(b)(2))

§ 19.129 Rule 29; time limit for filing.

(a) *Notice of disagreement.* A notice of disagreement shall be filed within 1 year from the date of mailing of notification of the initial review or determination; otherwise, that determination will become final. (38

U.S.C. 4005(b)(1)) For contested claims, see Rule 45 (38 CFR 19.145).

(b) *Substantive appeal.* A substantive appeal shall be filed within 60 days from the date of mailing of the statement of the case, or within the remainder of the 1-year period from the date of mailing of notification of the review or determination being appealed, whichever period ends later. (38 U.S.C. 4005(b)(1), (d)(3)) Where a supplemental statement of the case is furnished, a period of 30 days will be allowed for response. For contested claims, see Rule 45 (38 CFR 19.145).

§ 19.130 Rule 30; extension of time for filing.

(a) *General.* An extension of the 60-day period for filing a substantive appeal or the 30-day period for responding to a supplemental statement of the case may be granted for good cause shown. A request for such an extension should be in writing and must be made prior to expiration of the time limit for filing the substantive appeal. (38 U.S.C. 4005(d)(3))

(b) *Additional evidence filed.* The filing of additional evidence after receipt of notice of an adverse decision shall not extend the time limit for initiating or completing an appeal from that decision. (38 U.S.C. 4005(d)(3)) (NOTE: For contested claims, see Rule 48 (38 CFR 19.148).)

§ 19.131 Rule 31; computation of time limit.

(a) *Acceptance of postmark date.* A notice of disagreement or a substantive appeal postmarked prior to expiration of the applicable time limit will be accepted as having been timely filed. (38 U.S.C. 4005(b)(1))

(b) *Computation of time limit.* In computing the time limit for filing a notice of disagreement or a substantive appeal, the first day of the specified period will be excluded and the last day included. Where the time limit would expire on a Saturday, Sunday, or holiday, the next succeeding workday will be included in the computation. (38 U.S.C. 4005(b)(1)

§ 19.132 Rule 32; legal holidays.

For purposes of Rule 31 (38 CFR 19.131), the legal holidays, in addition to any other day appointed as a holiday by the President or the Congress of the United States, are as follows: New Year's Day—January 1; Inauguration Day—every fourth year; Washington's Birthday—third Monday in February; Memorial Day—last Monday in May; Independence Day—July 4; Labor Day—first Monday in September; Columbus Day—second Monday in October; Veterans' Day—November 11; Thanksgiving Day—fourth Thursday in November; and Christmas Day—December 25, (38 U.S.C. 4005(b)(1))

§ 19.133 Rule 33; timely filing of appeal questioned by agency of original jurisdiction.

If the agency of original jurisdiction questions the timely filing of a notice of disagreement or substantive appeal, the procedures for an administrative appeal must be followed. (Rule 38 through 42 (38 CFR 19.138 through 19.142)) The Board of Veterans Appeals will make a final decision regarding its appellate jurisdiction. (38 U.S.C. 4005(d)(3), 4006)

§ 19.134 Rule 34; adequacy of notice of disagreement questioned by agency of original jurisdiction.

If the agency of original jurisdiction questions the adequacy of a notice of disagreement, the procedures for an administrative appeal must be followed (Rules 38 through 42 (38 CFR 19.138 through 19.142)). The Board of Veterans Appeals will make a final decision regarding its appellate jurisdiction. (38 U.S.C. 4005(d)(3), 4006)

§ 19.135 Rule 35; untimely filing of appeal protested by claimant.

If the claimant or his/her representative protests an adverse determination made by the agency of original jurisdiction with respect to timely filing of the notice of disagreement or substantive appeal, the claimant will be furnished a statement of the case. The Board of Veterans Appeals will make a final decision regarding its appellate jurisdiction. (38 U.S.C. 4005(d))

§ 19.136 Rule 36; inadequacy of the notice of disagreement.

If the claimant or his-her representative protests an adverse determination made by the agency of original jurisdiction with respect to adequacy of the notice of disagreement, the claimant will be furnished a statement of the case. The Board of Veterans Appeals will make a final decision regarding it appellate jurisdiction. (38 U.S.C. 4005(d))

§ 19.137 Rule 37; adequacy of the substantive appeal.

A determination as to the adequacy of allegations of error of fact or law in a substantive appeal will be made by the Board of Veterans Appeals. When the Board raises the issue of adequacy of the substantive appeal, the appellant or representative will be given a period of 30 days within which to present written or oral argument on this question. (38 U.S.C. 4005(d)(3), 4008)

§ 19.138 Rule 38; administrative appeal.

(a) *General.* An administrative appeal from a decision of the agency of original jurisdiction may be filed by officials of the Veterans Administration authorized to do so to resolve a conflict of opinion or a question of a claim involving benefits under laws administered by the Veterans' Administration. Such appeals may be taken from unanimous decisions denying or allowing the benefit claimed, in whole or in part, or from decisions involving dissenting opinions. (38 U.S.C. 4006)

(b) *Form of appeal.* An administrative appeal is entered by memorandum entitled "Administrative Appeal" in which the issues and the bases for the appeal are set forth. (38 U.S.C. 4006)

§ 19.139 Rule 39; officials authorized and time limits for filing administrative appeals.

The following officials of the Veterans Administration are authorized by the Administrator of Veterans Affairs to file administrative appeals within the time limits specifed:

(a) *Central office*—(1) *Officials.* The Chief Benefits Director or a Service Director of the Department of Veterans Benefits, the Chief Medical Director or a Service Director of the Department of Medicine and Surgery, and the General Counsel.

(2) *Time limit.* Such officials must file an administrative appeal within 1 year from the date of the decision, or within 1 year from the date of mailing notice of such decision, whichever is later.

(b) *Agencies of original jurisdiction*—(1) *Officials.* Directors, Adjudication Officers, and officials at comparable levels in field offices deciding any claims for benefits, from any decision originating within their established jurisdction.

(2) *Time limit.* The Director or comparable official must file an administrative appeal within 6 months from the date of the decision appealed or within 6 months from the date of mailing notice of the decision, whichever is the later date. Officials below the level of Director must do so within 60 days from such date. (38 U.S.C. 4006)

§ 19.140 Rule 40; notification of claimant.

When an administrative appeal is entered, the claimant and the representative, if any, will be promptly informed concerning the question at issue, and will be allowed a period of 60 days to joint in the appeal if he/she so desire. Information will be included relative to the effect of such action and preservation of normal appeal rights if he/she does not elect to join. (38 U.S.C. 4006)

§ 19.141 Rule 41; merger of administrative appeal and claimant's appeal.

If the claimant or the representative elects to join in the administrative appeal, it becomes a merged appeal and the rules governing an appeal initiated by a claimant are for application. The presentation of evidence or argument in response to notification of the right to join in the administrative appeal will be construed as merging the appeal. (38 U.S.C. 4006)

§ 19.142 Rule 42; effect of decision on administrative or merged appeal.

If the administrative appeal is merged, the appellate decision on the merged appeal will constitute final disposition of the claimant's appellate rights. If the claimant does not merge, normal appellate rights on the same issue are preserved, and a decision in any separate appeal perfected by the claimant will be entered by another section of the Board. For disqualification of members, see Rule 83 (38 CFR 19.183). (38 U.S.C. 4006)

Contested Claims

§ 19.143 Rule 43; notification of right to appeal in contestd claims.

In a contested claim, where one claim is allowed and the other is denied or the allowance of one claim would result in payment of a lesser amount to another claimant, all parties of interest will be specifically notified of the action taken and of the right and time limit for initiation of an appeal. (38 U.S.C. 4005A(a)) (See Rule 167) for hearings in contested claims.)

§ 19.144 Rule 44; who can file an appeal in contested claims.

In a contested claim, any claimant or representative of a claimant (as specified in Rule 28 (38 CFR 19.128)) may file a notice of disagreement or substantive appeal within the time limits set out in Rule 45 (38 CFR 19.145). (38 U.S.C. 4005(b)(2))

§ 19.145 Rule 45; time limits for filing in contested claims.

(a) *Notice of disagreement.* Where one claim is allowed and one denied, or the allowance of one claim would result in payment of a lesser amount to another claimant, the notice of disagreement from the person adversely affected must be filed within 60 days from the date of mailing of notification of the review or determination; otherwise, that determination will become final.(38 U.S.C. 4005A(a))

(b) *Substantive appeal.* A substantive appeal must be filed within 30 days from the date of mailing of the statement of the case. (38 U.S.C. 4005A(b)) For computation of time limits for filing, see Rules 31 through 33 (38 CFR 19.131 through 19.133).

§ 19.146 Rule 46; notice of contesting parties on receipt of notice of disagreemnt.

Upon the filing of a notice of disagreement in a contested claim, all parties in interest and their representatives will be furnished a copy of the statement of the case as prescribed in Rule 21 (38 CFR 19.121). The party or parties in interest who file notices of disagreement will be duly notified of the right and time limit to file a substantive appeal and of the requirements, and furnished with VA Form 1–9, Appeal to Board of Veterans Appeals. (38 U.S.C. 4005A(b))

§ 19.147 Rule 47; notice of substance of appeal to other contesting parties.

When a substantive appeal is filed, the substance of the appeal will be communicated to the other party or parties of interest and a period of 30 days will be allowed for filing a brief or argument in answer. (38 U.S.C. 4005A(b))

§ 19.148 Rule 48; extension of time for filing in contested claims.

An extension of the 30-day period to file a substantive appeal may be granted for good cause shown. In granting an extension in contested claims, consideration will be given to the interests of the other parties involved. A request for such an extension should be in writing and must be made prior to expiration of the time limit for filing the substantive appeal. (38 U.S.C. 4005A(b))

§ 19.149 Rule 49; notices to last addresses of record in contested claims.

Notices in contested claims will be forwarded to the last known address of record of the parties concerned and such action will constitute sufficient evidence of notice. (38 U.S.C. 4005A(b))

Representation

§ 19.150 Rule 50; right to representation.

A claimant will be accorded full right to representation in all stages of an appeal by a recognized organization, attorney or agent, or other person authorized to represent claimants before the agency of original jurisdiction. (38 U.S.C. 3401–3405, 4005(a))

§ 19.151 Rule 51; recognized organizations.

(a) *Designation.* The designation of a recognized organization will be by duly executed VA Form 23–22, Appointment of Veterans Service Organization as Claimant's Representative. (38 CFR 14.631(a)) (38 U.S.C. 4005(b)(2))

(b) *Revocation or change of power of attorney.* A claimant shall be permitted to revoke a power of attorney to a recognized organization whenever the person so desires, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (38 U.S.C. 4005(b)(2))

§ 19.152 Rule 52; attorneys.

(a) *Signed consent.* A signed consent by the appellant or appellant's guardian permitting access to all information in the individual's records and a signed statement by the attorney that he/she is authorized to represent the appellant prepared on the attorney's letterhead will be accepted as an executed power of attorney. (38 CFR 14.629(c)) (38 U.S.C. 3401, 3404)

(b) *Individual attorney.* A power of attorney must be executed in favor of one attorney. A power of attorney given to a law firm or several attorneys is invalid for purposes of the appeal. (See 38 CFR 14.631 (c).) (38 U.S.C. 3402, 3403, 3404, 4005(b)(2))

(c) *Revocation or change of representation by an attorney.* A claimant may revoke a declaration of representation by an attorney at any time, but such revocation shall not be effective as to the Veterans Administration until notice of such action is received by the Veterans Administration. (38 U.S.C. 3404)

§ 19.153 Rule 53; agents.

(a) *Designation.* The designation of an agent will be by duly executed VA Form 2–22a, Appointment of Attorney or Agent as Claimant's Representative, or its equivalent (38 CFR 14.631(a)). The designation should be an individual agent, rather than a firm or partnership. (38 U.S.C. 3404)

(b) *Admission to practice.* The provisions of section 3404, title 38, United States Code, and section 14.629(b), Title 38, Code of Federal Regulations, are applicable to admission of agents to practice before the Veterans Administration. Authority for making determinations concerning admission to practice rests with the General Counsel of the Veterans Administration, and any questions concerning admissions should be addressed to that office, 810 Vermont Avenue, NW., Washington, D.C. 20420.

(c) *Revocation or change of representation by an agent.* A claimant may revoke a power of attorney to an agent at any time, but such revocation shall not be effective as to the Veterans Administration until notice of such action is received by the Veterans Administration. (38 U.S.C. 3403, 3404)

§ 19.154 Rule 54; other persons as representative.

(a) *General.* Any competent person may be recognized as a representative for a particular claim, unless that person has been barred from practice before the Veterans Administration. (38 U.S.C. 3403) The designation must be by power of attorney which stipulates that no fee or compensation of any nature will be charged or paid for the services. The designation will be by VA Form 2-22a, Appointment of Attorney or Agent as Claimant's Representative, or its equivalent. (38 U.S.C. 3403)

(b) *More than one claimant.* If an individual has been recognized as a representative for one claimant and has not appealed such limitation to the Office of the General Counsel as provided in section 14.630, Title 38, Code of Federal Regulations, he/she must obtain permission from the Chairman of the Board of Veterans Appeals to represent a subseqent appellant and to present a case in a hearing before the Board. (38 U.S.C. 3403)

§ 19.155 Rule 55; general.

(a) *One representative.* A specific claim may be prosecuted by only one attorney, agent or recognized organization at any one time. (38 U.S.C. 4005(b)(2))

(b) *Change of status from spouse to surviving spouse.* A power of attorney or designation of representation submitted by the spouse of a veteran may continue in effect after the veteran's death. (38 U.S.C. 3402-3404)

(c) *Recognition of representation after death of veteran.* A recognized organization, attorney, agent or person properly designated to represent a veteran may, in the event of death of the veteran, be recognized as the representative of surviving claimants for a reasonable period thereafter, but not as representative of a survivor claimant who has appointed another representative (38 CFR 1.525(d), 14.631(e)). (38 U.S.C. 3402-3404)

§ 19.156 Rule 56; legal interns.

Legal interns must be under the direct supervision of a recognized attorney (Rule 52, 38 CFR 19.152) in order to present cases before the Board of Veterans Appeals. Legal interns may present cases at hearings only if the recognized attorney is present. Otherwise, such individuals must qualify as agents under Rule 53 (38 CFR 19.153). Legal interns who desire to present cases at a hearing before the Board must make advance arrangements with the Chief of the Hearing Section. (38 U.S.C. 3404, 4005(b)(2))

Hearings

§ 19.157 Rule 57; general.

(a) *Right to a hearing.* A hearing on appeal shall be granted where a claimant or a representative expresses a desire to appear in person. (38 U.S.C. 4002)

(b) *Purpose of hearing.* The purpose of a hearing is to receive argument or testimony relevant and material to the appellate issue. (38 U.S.C. 4002)

(c) *Nonadversary proceedings.* Hearings conducted by and for the Board are ex parte in nature and nonadversary. Cross-examination by parties to the hearing will not be permitted. Proceedings will not be limited by legal rules of evidence, but reasonable bounds of relevancy and materiality will be maintained. (38 U.S.C. 4002)

§ 19.158 Rule 58; who may appear.

The claimant, the authorized representative, Members of Congress and their staffs may appear and present argument in support of a claim. At the request of a claimant, a Veterans Benefits Counselor of the Veterans Administration may present the appeal at a hearing before the Board of Veterans Appeals or a hearing agency acting for the Board. (38 U.S.C. 4002, 4005(b)(2))

§ 19.159 Rule 59; scheduling and notice of hearing.

(a) *General.* To the extent that facilities permit, hearings will be scheduled at the convenience of claimants and their representatives, with consideration of the travel distance involved. While a statement of the case should be prepared prior to the hearing it is not a prerequisite for entitlement to a hearing, and an appellant may request that the hearing be scheduled prior to one's issuance. (38 U.S.C. 4002)

(b) *Notification of hearing.* When a hearing is scheduled, the person requesting it will be notified of its time and place, and that the Government may not assume any expense incurred by the claimant, the representative or witnesses attending the hearing. (38 U.S.C. 4002)

(c) *Extension of time.* An extension of time for appearance at a hearing may be granted for good cause shown, with due consideration of the interests of other parties if a contested claim is involved. Ordinarily, hearings will not be postponed more than 30 days. (38 U.S.C. 4002, 4005A)

§ 19.160 Rule 60; place of hearing.

A hearing may be held in one of the following places:

(a) Before a section of the Board of Veterans Appeals in Washington, D.C.

(b) To the extent scheduling permits, before a traveling section of the Board of Veterans Appeals during regularly scheduled visits to Veterans Administration facilities.

(c) Before appropriate personnel in the Veterans Administration regional or other office nearest the claimant's residence, acting as a hearing agency for the Board of Veterans Appeals.

Hearings under paragraphs (a) and (b) of this section are held before members who will make the final decision on the appeal. (38 U.S.C. 4002)

§ 19.161 Rule 61; composition of the hearing panel.

The hearing panel of the Board shall consist of a presiding member acting as the chairman, and two other Board members, all of whom will participate in the final decision. In case of vacancy or absence of a Board member, see Rule 10(d) (38 CFR 19.110(d)). (38 U.S.C. 4002)

§ 19.162 Rule 62; functions of the presiding member.

The presiding member is responsible for the conduct of the hearing, administration of the oath or affirmation, and for ruling on questions of procedure. (Rule 1(b), 38 CFR 19.101(b)) The presiding member will assure that the course of the hearing remains relevant to the issue on appeal and that there is no cross-examination of the parties or witnesses. (38 U.S.C. 4002)

§ 19.163 Rule 63; prehearing conference.

Any representative desiring a prehearing conference with the presiding member must make advance arrangements through the Chief of the Hearing Section. Such conference should be limited to issue identification, stipulations of fact and procedural matters. (38 U.S.C. 4002)

§ 19.164 Rule 64; procurement of additional evidence following a hearing.

If during the course of the hearing it appears that additional evidence would assist in the review of the question at issue, the record may be left open from 30 to 60 days, or longer for good cause shown, to afford the claimant and any representative the opportunity to obtain the desired evidence. See Rule 74 (38 CFR 19.174) for waiver of the supplemental statement of the case. (38 U.S.C. 4002, 4004)

§ 19.165 Rule 65; witnesses.

(a) *General.* The testimony of witnesses will be heard. A claimant or a representative may arrange for the voluntary appearance of such witnesses

as he/she desires, but the Board will not require the appearance of any Veterans Administration official or other person. (38 U.S.C. 4002)

(b) *Testimony under oath.* All testimony must be given under oath unless excused because of religious principles or other good cause. If the witness declines to take an oath, he/she should be informed that the testimony will be permitted on affirmation. The witness should then be requested to make a solemn declaration as to the truth of the testimony about to be given. The witness may use such words as he/she can consider binding on his/her conscience. Administration of the oath for the sole purpose of presenting contentions and argument is not required. (38 U.S.C. 4002)

§ 19.166 Rule 66; expenses.

No expenses incurred by an appellant, counsel, or witnesses incident to attendance at a hearing may be paid by the Government. (38 U.S.C. 4002)

§ 19.167 Rule 67; hearings in contested claims.

If a hearing is scheduled for either party to a simultaneously contested claim, the Board will either accord the other contesting claimant or his/her representative the opportunity to be present but not participate, or will advise the other contesting claimant or his/her representative in writing of the substance of the argument or contentions advanced. In either event, a reasonable time will be allowed for argument or testimony in refutation, and separate hearing for the other contesting claimant will be scheduled for that purpose, if requested. (38 U.S.C. 4005A)

§ 19.168 Rule 68; recorded hearing.

(a) *Board of Veterans Appeals.* The proceedings at the hearing before a section of the Board shall be recorded and a tape of such proceedings shall be on file at the Board of Veterans Appeals. A written transcript or a copy of the tape may be furnished without cost to the appellant or representative upon request made at the time of or prior to the hearing; otherwise a charge may be made in accordance with 38 CFR 1.579.

(b) *Field offices.* The proceedings at the hearing before field office personnel after the filing of a notice of disagreement shall be recorded and a copy of the complete transcript incorporated as a permanent part of the claims record. A copy may be furnished without cost to the appellant or representative upon request made at the time of or prior to the hearing; otherwise a charge may be made in accordance with 38 CFR 1.579. (38 U.S.C. 4002)

§ 19.169 Rule 69; recording of hearings.

An appellant or representative may record the hearing with his/her own equipment. Filming, videotaping or televising the hearing may be authorized provided a written consent is obtained from the appellant and made a matter of record. In all such situations, advance arrangements must be made with the Chief of the Hearing Section. (38 U.S.C. 4002)

§ 19.170 Rule 70; official transcript.

Only the Board of Veterans Appeals transcript prepared pursuant to section 4002, title 38, United States Code, is the official transcript. (38 U.S.C. 4002)

§ 19.171 Rule 71; alternate transcript versions.

Alternate transcript versions prepared by the appellant and representative may be considered as a supplemental argument and filed in the appellant's record. (38 U.S.C. 4002, 4005)

Evidence

§ 19.172 Rule 72; submission of additional evidence.

A claimant may submit additional evidence or information as to the availability of additional evidence after initiating an appeal. As to failure to submit evidence requested by an agency of original jurisdiction after initiation of an appeal, see Rule 25 (38 CFR 19.125). (38 U.S.C. 4005(d)(1))

§ 19.173 Rule 73; consideration of additional evidence by agency of original jurisdiction.

(a) *Evidence received prior to transfer of records to Board of Veterans Appeals.* Evidence received in the agency of original jurisdiction after the initiation of an appeal and prior to transfer of the records to the Board of Veterans Appeals, including that in cases in which certification may have been completed, will be referred to the rating or authorization activity for review and disposition. A supplemental statement of the case will be furnished the claimant and his/her representative as provided Rule 22 (38 CFR 19.122). (38 U.S.C. 4005(d)(1))

(b) *Evidence recieved after transfer of records to the Board of Veterans Appeals.* Additional evidence received in an agency of original jurisdiction after the records have been transferred to the Board of Veterans Appeals for appellate consideration will be forwarded to the Board if it has a direct bearing on the appellate issue or issues. The Board will then determine what procedural steps are required with respect to the new evidence. (38 U.S.C. 4004(b), 4005(d)(1))

Cross-Reference: Waiver of agency of original jurisdiction action. See Rule 74 (38 CFR 19.174).

§ 19.174 Rule 74; waiver of agency of original jurisdiction action.

The appellant and/or representative may submit additional evidence following certification and transfer of the appeal to the Board. This evidence, as well as any referred by the originating agency under Rule 73(b) (38 CFR 19.173(b)), must be referred to the agency or original jurisdiction for review and preparation of a supplemental statement of the case unless this procedural right is waived by the appellant. Such waiver must be in writing or formally entered as part of the hearing transcript. (38 U.S.C. 4005)

Action by the Board

§ 19.175 Rule 75; order of consideration.

Applications for review on appeal shall be considered in the order in which they are entered on the docket, except that a case may be advanced on the docket for earlier consideration for sufficient cause shown. (38 U.S.C. 4007) (To advance a case on the docket, see Rule 6 (38 CFR 19.106).)

§ 19.176 Rule 76; medical opinions.

(a) *Opinion of the Chief Medical Director.* The Board may obtain an expert medical opinion from the Chief Medical Director of the Veterans Administration on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of the appeal. (38 U.S.C. 4004(c))

(b) *Armed Forces Institute of Pathology opinions.* The Board may refer pathologic material to the Armed Forces Institute of Pathology for review and expression of opinion. See Rule 3 (38 CFR 19.103). (38 U.S.C. 4004(c))

§ 19.177 Rule 77; independent medical expert opinions.

When, in the judgment of the Board, additional medical opinion is warranted by the medical complexity or controversy involved in an appeal, the Board may obtain an advisory medical opinion from one or more medical experts who are not employees of the Veterans Administration. Opinions will be secured, as requested by the Chairman of the Board, from recognized medical schools, universites, clinics or medical institutions, with which arrangements for such opinions have been made by the Administrator of Veterans Affairs. Selection of the individual expert or experts within the insitution to give the opinion will be

made by an appropriate official of the institution. (38 U.S.C. 4009)

§ 19.178 Rule 78; filing of requests for the procurement of medical opinions.

The appellant or representative may request that the Board obtain a medical opinion under Rule 76 or 77 (38 CFR 19.176 or 19.177). Such request must be in writing and will be granted for good cause shown. (38 U.S.C. 4002, 4004(c), 4009)

§ 19.179 Rule 79; notification of medical opinions secured by the Board.

When an opinion under Rule 76 or 77 (38 CFR 19.176 or 19.177) has been obtained by the Board, a copy of such opinion will be furnished to the appellant's representative or, subject to the limitations provided in section 3301, title 38, United States Code, to the appellant if there is no representative. A period of 30 days will be allowed for response. (38 U.S.C. 4005, 4009)

§ 19.180 Rule 80; the decision.

(a) *Decisions based on entire record.* The claimant is presumed to be in agreement with any statement of fact contained in a statement of the case to which no exception is taken. Decisions of the Board, however, shall be based on a review of the entire record. (38 U.S.C. 4005(d)(4)(5))

(b) *Disposition of issues.* The decision of the Board will dispose of each issue on appeal by allowance, denial, remand or dismissal, in whole or in part. (38 U.S.C. 4004(a))

(c) *Format.* The decision of the Board shall be in writing and shall set forth specifically the issue or issues, findings of fact and conclusions of law separately stated and the reasons for the Board's decision. (38 U.S.C. 4004(d))

§ 19.181 Rule 81; voting by Board members.

(a) *Unanimous decisions.* A decision unanimously concurred in by the members of the Section and duly promulgated shall be final. (38 U.S.C. 4003(a))

(b) *Dissent.* Where the members do not agree, the Chairman of the Board may either concur with the majority, in which event this will constitute final determination of the Board, or may direct further consideration by two or more sections, not to exceed 12 members, including the section to which the case was originally assigned. Any decision by an expanded panel which is not unanimous will require concurrence of the Chairman of the Board; if the members are equally divided, the Chairman will participate in the determination by casting the deciding vote. (38 U.S.C. 4003(b))

§ 19.182 Rule 82; remand for further development.

(a) *General.* When, during the course of review, it is determined that further evidence or clarification of the evidence or correction of a procedural defect is essential for a complete appellate determination, the section of the Board shall remand the case to the agency of original jurisdiction, specifying the further development to be undertaken. (38 U.S.C. 4002, 4004(a)

(b) *Review by agency of original jurisdiction.* Where the development results in additional evidence, a supplemental statement of the case will be furnished the claimant and any representative, and the records will again be reviewed by the agency of original jurisdiction. Review by the agency of original jurisdiction is not required where the remand is only for assembly of records previously considered by the agency of original jurisdiction. A remand to cure a procedural defect may also require issuance of a supplemental statement of the case to assure full notification to the appellant of the status of the case. (38 U.S.C. 4005(d)(1))

(c) *Resubmission to Board of Veterans Appeals.* Unless benefits in issue on appeal are awarded on review by the agency of original jurisdiction, the records will be returned to the Board of Veterans Appeals for completion of appellate review. Remanded cases will not be closed for failure to respond to the supplemental statement of the case. (38 U.S.C. 4005(d))

§ 19.183 Rule 83; disqualification of members.

(a) *General.* A member of the Board shall disqualify himself/herself in a hearing or decision on an appeal from a determination in which he/she participated or had supervisory responsibility in the agency of original jurisdiction prior to his/her appointment as a member of the Board, or where there are other circumstances which might give the impression of bias either for or against the appellant. (38 U.S.C. 4002)

(b) *Appeal on same issue subsequent to decision on administrative appeal.* Members of the Board signatory to the decision on administrative appeal will disqualify themselves from acting on a subsequent appeal by the claimant on the same issue. (38 U.S.C. 4002)

Cross Reference: Effect of decision on administrative or merged Appeal. See Rule 42 (38 CFR 19.142).

§ 19.184 Rule 84; administrative allowance.

The Chairman or Vice Chairman under authority delegated in section 19.2(b), Title 38, Code of Federal Regulations, may authorize an administrative allowance, following review and recommendation by members of the Board, in adjudicative actions which are otherwise final. (38 U.S.C. 210(b))

Reconsideration

§ 19.185 Rule 85; when accorded.

Reconsideration of an appellate decision may be accorded by the Board of Veterans Appeals:

(a) Upon allegation of obvious error of fact or law by a claimant or his/her representative;

(b) On the Board's own motion;

(c) Upon discovery of additional service department records. (38 U.S.C. 4003(a))

§ 19.186 Rule 86; requirements in application.

Application for reconsideration shall set forth clearly and specifically the alleged obvious error(s) of fact or law in the decision of the Board or other appropriate basis for requesting reconsideration. (38 U.S.C. 4003, 4008)

§ 19.187 Rule 87; evidence considered.

Reconsideration of an appellate decision shall not be limited to review of the evidence of record at the time the decision was entered, and the Board may secure additional medical or legal opinion. (38 U.S.C. 4003, 4009)

§ 19.188 Rule 88; remand pursuant to reconsideration.

In connection with a reconsideration, the Board may remand to develop the evidence of record. However, such evidence obtained may provide the basis for a reopened claim under the provisions of Rule 94 (38 CFR 19.194). (38 U.S.C. 4004(b))

§ 19.189 Rule 89; filing of request.

A brief for the purpose of showing error may be filed at any time. If a hearing is requested, those members who participate in the original decision, if available, will be a part of the hearing panel. (38 U.S.C. 4002, 4003)

§ 19.190 Rule 90; number of members on reconsideration panel.

(a) *Board member(s) signatory to decision available.* When a reconsideration request is received, the Chairman may create a panel to review the merits of the request. The number of Board members assigned to the reviewing panel shall be determined by doubling the number of members who

participated in the original decision (to a maximum number of 12 members). All members who were signatory to the decision being reconsidered and are still available will be assigned to the panel. (38 U.S.C. 4002)

(b) *Board member(s) signatory to decision unavailable.* When a reconsideration request is approved and the Board members who participated in the decision being reconsidered are no longer available, the Chairman may create a panel consisting of 3 members to review the merits of the request. (38 U.S.C. 4002)

Finality

§ 19.191 Rule 91; harmless error.

An error or defect in any decision by the Board of Veterans Appeals which does not affect the merits of the issue or substantial rights of the appellant will be considered harmless and not a basis for vacating, reversing, or modifying such decision. (38 U.S.C. 4003)

§ 19.192 Rule 92; finality of decisions of the agency of original jurisdiction where appeal is not perfected.

A determination on a claim by the agency of original jurisdiction of which the claimant is properly notified shall become final if an appeal is not perfected as prescribed in Rule 29 (38 CFR 19.129). (38 U.S.C. 4005(c))

§ 19.193 Rule 93; finality of determinations of the agency of original jurisdiction affirmed on appeal.

When the determination of the agency of original jurisdiction is affirmed by the Board of Veterans Appeals, such determination becomes a part of the appellate decision. (38 U.S.C. 4004(a))

§ 19.194 Rule 94; new claim after appellate decision.

When a claimant requests that a claim be reopened after an appellate decision and submits evidence in support thereof, a determination must be made whether such evidence is new and material and, if so, whether it provides a new factual basis for allowance of the claim. An adverse determination as to either issue is appealable. (38 U.S.C. 4004(b))

§ 19.195 Rule 95; death of appellant during pendency of appeal.

When an appeal is pending before the Board of Veterans appeals at the time of the appellant's death, the Board may complete its action on issues properly before it without application from the survivors. (38 U.S.C. 4008)

§ 19.196 Rule 96; claim for death benefits by survivor—prior unfavorable decision.

Issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of them during the veteran's lifetime. (38 U.S.C. 4004(b))

§ 19.197 Rule 97; nonprecedential natural of Board decisions.

The Board will strive for uniformity and consistency of approach in issuing its decisions. Its decisions shall not, however, be considered binding in subsequent cases involving different appellants. (38 U.S.C. 4004(a))

Privacy Act

§ 19.198 Rule 98; Privacy Act request—appeal pending.

When a Privacy Act request is filed by an individual seeking records pertaining to him or her (under 38 CFR 1.577) and the relevant records are in the custody of the Board, such request will be reviewed and processed prior to appellate action. (5 U.S.C. 552a; 38 U.S.C. 4002, 4007)

§ 19.199 Rule 99; amendment of appellate decisions.

A request for amendment of an appellate decision under the Privacy Act (5 U.S.C. 552a) may be entertained. However, such a request may not be used in lieu of, or to circumvent, the procedures established under Rules 85 through 90 (38 CFR 19.185 through 19.190). Where the request to amend under the Privacy Act is an attempt to attack the adjudicatory function of the Board, the request will be denied on the basis that the Act does not authorize a collateral attack on a decision of the Board. The denial will satisfy the procedural requirements of 38 CFR 1.577. If otherwise appropriate, the request will be considered one for reconsideration under Rules 85 through 90 (38 CFR 19.185 through 19.190). (5 U.S.C. 552a(d); 38 U.S.C. 4003(a), 4008)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 1580-8]

Assistance for Pesticide Enforcement and Applicator Certification Programs

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notification to Secretary of Agriculture of final rule.

SUMMARY: Notice is given as required by Section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's final rule which implements a program of assistance for those States and Indian tribes which are interested in entering into cooperative agreements with EPA to undertake pesticide enforcement and applicator certification.

FOR FURTHER INFORMATION CONTACT: David Stangel, Policy and Strategy Branch, Pesticides and Toxic Substances Enforcement Division (EN-342), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-9404.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA states that the Administrator shall provide the Secretary of Agriculture a copy of any final regulation at least 30 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested, and the response of the Administrator. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign such regulation for publication in the Federal Register any time after the 15 day period.

Pursuant to FIFRA Section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The final regulation has also been submitted to the FIFRA Scientific Advisory Panel, as required by Section 25(d).

(Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136(w))

Dated: August 15, 1980.

R. Sarah Compton,

Acting Assistant Administrator for Enforcement.

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BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1576-3]

Air Quality; Section 107—Proposed Designations of Attainment Status—Areas East of the Mississippi River—Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In compliance with a recent decision of the United States Court of Appeals for the District of Columbia Circuit, EPA, today proposes new attainment/unclassifiable designations for ozone (O_3) for all areas east of the Mississippi River which were originally designated as attainment or unclassifiable for ozone by EPA on March 3, 1978, and which have not already been redesignated as nonattainment. EPA invites the public to comment on the ozone designations proposed today. The proposed designations are identified in the charts below.

DATE: Comments on these new designations are due on or before September 22, 1980.

ADDRESSES: Address comments of a general nature should be addressed to: Lanny M. Deal, Control Programs Division, USEPA–(MD–15), Research Triangle Park, North Carolina 27711, (919) 541–5365 or FTS 629–5365.

Comments relative to a specific state or to specific designations should be submitted directly to appropriate EPA Regional Office contacts as listed below:

Region I: Harley Laing, (Acting) Chief, Air Branch, EPA Region I, JFK Federal Building, Boston, Massachusetts, 02203, (617) 223–5186 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont).

Region II: William Baker, Chief, Air Branch, EPA Region II, 26 Federal Plaza, New York, N.Y. 10007, (212) 264–2517 (New Jersey, New York, Puerto Rico, Virgin Islands).

Region III: Robert Blanco, (Acting) Chief, Air Branch, EPA Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597–8131 (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia).

Region IV: Winston Smith, Chief, Air Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, (404) 881–3454 (Alabama, Georgia, Florida, Kentucky, Mississippi, North Carolina, Tennessee, South Carolina).

Region V: Steven Rothblatt, Chief, Air Branch, EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353–2212 (Indiana, Illinois, Michigan, Minnesota, Ohio, Wisconsin).

In addition, background information generally relevant to this action will be available for public inspection during normal business hours at the following location: Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street S.W., Washington, D.C. 20460.

Background information and data relevant to specific designations will be available during normal business hours at the appropriate EPA Regional Office as listed above.

FOR FURTHER INFORMATION CONTACT: Requests for information of a general nature about this proposed action should be directed to Lanny M. Deal at the address given above, (919) 541—5365 or FTS 629–5365.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 required EPA to designate those areas of the country with air quality worse than the levels set by EPA's national ambient air quality standards ("nonattainment areas"), those areas with air quality better than the national standards level ("attainment areas"), and those areas which could not be classified for lack of sufficient reliable data on which to make a determination ("unclassifiable areas"). Section 107(d), 42 U.S.C. 7407(d).

EPA promulgated attainment status designations for all areas of the country on March 3, 1978 at 43 FR 8962. The State of New Jersey challenged the attainment/unclassifiable designations for ozone promulgated by EPA for areas east of the Mississippi River. New Jersey alleged that EPA had violated the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(b) and (c), by failing to provide notice and an opportunity to comment prior to taking final action on these designations. New Jersey also challenged various aspects of EPA's policy for promulgating attainment/unclassifiable designations for ozone. In particular, New Jersey objected to EPA's policy of designating as "unclassifiable" areas for which no monitoring data was available, claiming that sufficient information existed to support nonattainment designations for all areas east of the Mississippi. This information consisted primarily of data collected from air craft at elevated altitudes showing readings above the 0.08 parts per million ozone standard.

The District of Columbia Court of appeals stayed proceedings in the lawsuit to allow New Jersey to submit comments to EPA and to allow EPA to evaluate and respond to these comments. EPA found New Jersey's data to be unreliable. This response was announced at 44 Fed. Reg. 6395 (Feb. 1, 1979) and in EPA's Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable and Nonattainment Areas for Ozone (January 1979). (A copy of this document is included in the background information available at EPA's Public Information Reference Unit).

In a separate rulemaking, EPA relaxed the ozone standard from 0.08 parts per million to 0.12 parts per million. 44 FR 82020 (Feb. 8, 1979).

The District of Columbia Circuit ultimately found that EPA had violated the notice and comment requirements of the Administrative Procedure Act. *State of New Jersey, Department of Environmental Protection* v. *EPA*,— F.2d—(D.C. Cir., decided June 30, 1980). The Court ordered EPA to promulgate new designations, after first providing notice and opportunity for comment, to replace those designations that were challenged by the State of New Jersey. The Court did not address New Jersey's substantive arguments.

New Jersey's opening brief requested the Court to set aside only ozone attainment and unclassifiable designations for areas east of the Mississippi. *See* Brief for Petitioners at 61. In addition, New Jersey's petition for review requested the Court to review only those designations promulgated by EPA on March 3, 1978. Thus, any attainment and unclassifiable designations for ozone promulgated after March 3, 1978 are outside the scope of New Jersey's challenge and the Court's remand. For the same reasons, EPA considers any ozone attainment or unclassificable designations promulgated on March 3, 1978, but subsequently revised to nonattainment to be outside the scope of the Court's order.

EPA wishes to point out that all designations for pollutants other than ozone, all ozone nonattainment designations and all attainment and unclassifiable ozone designations for areas west of the Mississippi River are not affected. Furthermore, because the Court's decision does not affect any nonattainment designations, the ongoing Part D state implementation plan revision process will not be disrupted.[1]

Current Action

EPA today proposes to designate all those areas affected by the Court's decision as "cannot be classified or better than national standards." The affected areas and the proposed

[1] Under the new prevention of significant deterioration (PSD) regulations recently promulgated by EPA, any new or modified major source of pollution located in an area which is designated as attainment or unclassifiable for any pollutant is reviewed for PSD purposes for *all* pollutants regulated under the Clean Air Act which the source emits in significant amounts (except pollutants for which the area is designated nonattainment). All areas affected by today's notice are designated as attainment or unclassifiable for at least one other pollutant in addition to ozone. Accordingly, PSD review of ozone sources will not be disrupted in these areas.

designations are listed in the charts below. With minor exceptions, these charts duplicate the original lists of ozone attainment status designations promulgated by EPA on March 3, 1978. The exceptions consist of areas which were originally designated as attainment/unclassifiable but which have already been redesignated as nonattainment. Such areas are shown as nonattainment areas. EPA wishes to emphasize that it is proposing new designations for only those areas designated on the charts as attainment/unclassifiable. The nonattainment designations appearing in the charts are included only for informational purposes. EPA is not proposing action on these nonattainment designations.

EPA is not proposing any new ozone designations for the states of Connecticut, Rhode Island, Vermont, Massachusetts, New Jersey, New York, Pennsylvania, or the District of Columbia. All areas in these states were designated as nonattainment for ozone on March 3, 1978, and are not affected by the Court's decision. Accordingly, EPA is not publishing charts for these states in this notice.

EPA is basing these proposals on its original ozone attainment/unclassifiable designations for several reasons. First, both EPA Headquarters and Regional Offices have conducted a preliminary review of new ozone data available to them at this time, and have found that these data suggest that the original attainment/unclassifiable designations are still appropriate. (The data reviewed by EPA Headquarters is available as part of the background information for this proposed rulemaking.) Second, at this time EPA proposes to support the same policy on the type and sufficiency of data needed to support specific ozone designations that it used in promulgating its original ozone designations. See EPA's "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable, and Nonattainment Areas for Ozone."

EPA invites the States and the public to submit comments on all of the proposed attainment/unclassifiable designations identified in the charts below. EPA particularly wishes to solicit submittals of new or more detailed air quality data relevant to any of the proposed designations. EPA also wishes to solicit comments on the effects of the relaxation of the ozone standard on data which has already been submitted. EPA will consider all comments and data received within thirty days publication of this notice, and will evaluate its policies and proposed designations in light of these comments.

During this comment period EPA's Regional Offices for Regions I–V will perform a more detailed evaluation of all recent ozone air quality data submitted to EPA by states and local air quality agencies for the areas proposed to be redesignated.

EPA has determined that this document does not propose a significant regulation and does not require the preparation of a regulatory analysis under Executive Order 12044.

(Sec. 107(d), 171(2), and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 74707(d), 7501(2), and 7601(a))

Dated: August 12, 1980.

Edward Tuerk,

Assistant Administrator for Air, Noise and Radiation Division.

The following charts identify the new ozone attainment/unclassifiable designations EPA is proposing today:

Alabama—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Jefferson County	X	
Madison County	X	
Mobile County	X	
Morgan County	X	
Russel County	[1]X	
Rest of State		X†

* EPA designation replaces State designation.
† Only these designations are reproposed for comment.

Delaware—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
New Castle County	X	
Kent County		[2]X†
Sussex County		[2]X†

† Only these designations are reproposed for comment.

Florida—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Duval County	X**	
Leon County	X**	
Broward County	X**	
Dade County	X**	
Palm Beach County	X**	
Escambia County	X**	
Orange County	X**	
Hillsborough County	X**	
Pinellas County	X**	
Rest of State		X**†

** EPA designation only.
† Only these designations are reproposed for comment.

Georgia—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Atlanta Area—Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Fulton, Gwinnet, Henry, Spaulding and Rockdale Counties.	X	
Muscogee County	X*	
Rest of State		X†

* EPA designation replaces State designation.
† Only these designations are reproposed for comment.

Illinois—O_x

Designated area	Does not meet primary standards	Cannot Be Classified or Better Than National Standards
AQCR 65:		
Fulton County		X†
Hancock County		X†
Henderson County		X†
Knox County		X†
McDonough County		X†
Mason County		X†
Peoria County	X	
Tazewell County	X	
Warren County		X†
Woodford County		X†
AQCR 66:		
Champaign County	X	
Clark County		X†
Coles County		X†
Cumberland County		X†
DeWitt County		X†
Douglas County		X†
Edgar County		X†
Ford County		X†
Iroquois County		X†
Livingston County		X†
McLean County	X	
Moultrie County		X†
Piatt County		X†
Shelby County		X†
Vermillion County		X†
AQCR 67:		
Cook County	X	
DuPage County	X	
Grundy County	X	
Kane County	X	
Kankakee County	X	
Kendall County	X	
Lake County	X	
McHenry County	X	
Will County	X	
AQCR 68:		
JoDaviess County		X†
AQCR 69:		
Carroll County		X†
Henry County		X†
Mercer County		X†
Rock Island County	X	
Whiteside County		X†
AQCR 70:		
Bond County		X†
Clinton County		X†
Madison County	X	

Illinois—O_x

Designated area	Does not meet primary standards	Cannot Be Classified or Better Than National Standards
Monroe County	X	
Randolph County		X†
St. Clair County	X	
Washington County		X†
AQCR 71:		
Bureau County		X†
LaSalle County	X	
Lee County		X†
Marshall County		X†
Putnam County		X†
Stark County		X†
AQCR 72:		
Alexander County		X†
Johnson County		X†
Massac County		X†
Pope County		X†
Pulaski County		X†
Union County		X†
AQCR 73:		
Boone County	X	
DeKalb County	X	
Ogle County		X†
Stephenson County		X†
Winnebago County	X	
AQCR 74:		
Clay County		X†
Crawford County		X†
Edwards County		X†
Effingham County		X†
Fayette County		X†
Franklin County		X†
Gallatin County		X†
Hamilton County		X†
Hardin County		X†
Jackson County		X†
Jasper County		X†
Jefferson County		X†
Lawrence County		X†
Marion County		X†
Perry County		X†
Richland County		X†
Saline County		X†
Wabash County		X†
Wayne County		X†
White County		X†
Williamson County	X	
		X†
AQCR 75:		
Adams County	X	
Brown County		X†
Calhoun County		X†
Cass County		X†
Christian County		X†
Greene County		X†
Jersey County		X†
Logan County		X†
Macon County	X	
Macoupin County		X†
Menard County		X†
Montgomery County		X†
Morgan County		X†
Pike County		X†
Sangamon County	X	
Schuyler County		X†
Scott County		X†

† Only these designations are reproposed for comment.

Indiana—O_x

	Does not meet primary standards	Cannot be classified or better than national standards
Allen County	X*	
Clark County	X*	
Elkhart County	X*	
Floyd County	X	
Lake County	X	
Marion County	X	
Porter County	X*	
St. Joseph County	X*	
Vanderburgh County	X	
All portions of all other Indiana counties		X†

* EPA designations replace State designations.
† Only these designations are reproposed for comment.

Kentucky—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Cincinnati Area—Boone, Kenton, and Campbell Counties	X	
Daviess County	X	
Fayette County	X	
Henderson County	X	
Jefferson County	X	
McCracken County	X	
Boyd County	X	
Rest of State		X†

†Only these designations are reproposed for comment.

Maine—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 110	X	
AQCR 107	X	
AQCR 109	X	
AQCR 108		X†
AQCR 111		X†

†Only these designations are reproposed for comment.

Maryland—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Cumberland-Keyser Interstate AQCR	X	
Central Maryland Intrastate AQCR		X†
Metropolitan Baltimore Intrastate AQCR	X	
National Capital Interstate AQCR—Maryland Portion	X	

Maryland—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Southern Maryland Intrastate AQCR		X†
Eastern Shore Intrastate AQCR		X†

†Only these designations are reproposed for comment.

Michigan—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 82 (Michigan portion)	X	
AQCR 122—Except sub-area defined		X†
1. Muskegon, Ottawa, Allegan, Kent, Montcalm, Ionia, Gratiot, Midland, Bay, Saginaw, Shiawas- ee, Genesee, Tuscola, Lapeer, Sanilac and Huron Counties.	X	
AQCR 123	X	
AQCR 124 (Michigan portion)	X	
AQCR 125	X	
AQCR 126—Except sub-area defined		X†
1. Marquette County	X*	

*EPA designations replace State designations.
† Only these designations are reproposed for comment.

Mississippi—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Statewide		X†

† Only these designations are reproposed for comment.

New Hampshire—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Central N.H. Intrastate AQCR 149	X	
N.H. portion of Androscoggin Valley Interstate AQCR 107		X†
N.H. portion of Merrimack Valley So. N.H. Interstate AQCR 121	X	

† Only these designations are reproposed for comment.

North Carolina—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Mecklenburg County	X	
Buncombe County	X*	

North Carolina—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Durham County	X*	
Rest of State		X†

*EPA designations replaces State designation.
†Only these designations are reproposed for comment.

Ohio—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Adams		X*†
Allen	X*	
Ashland	X	
Ashtabula	X	
Athens		X*†
Auglaize		X*†
Belmont	X	
Brown	X	
Butler	X	
Carroll	X	
Champaign	X	
Clark	X	
Clermont	X	
Clinton	X	
Columbiana	X	
Coshocton		X*†
Crawford		X*†
Cuyahoga	X	
Darke	X	
Defiance		X*†
Delaware	X	
Erie	X	
Fairfield	X	
Fayette	X	
Franklin	X	
Fulton	X	
Gallia		X*†
Geauga	X	
Greene	X	
Guernsey		X*†
Hamilton	X	
Hancock	X	
Hardin		X*†
Harrison	X	
Henry	X	
Highland	X	
Hocking	X	
Holmes	X	
Huron	X	
Jackson		X*†
Jefferson	X	
Knox	X	
Lake	X	
Lawrence	X	
Licking	X	
Logan	X	
Lorain	X	
Lucas	X	
Madison	X	
Mahoning	X	
Marion	X	

Ohio—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Medina	X	
Meigs		X*†
Mercer		X*†
Miami	X	
Monroe		X*†
Montgomery	X	
Morgan		X*†
Morrow	X	
Muskingum		X*†
Nobel		X*†
Ottawa	X	
Paulding		X*†
Perry	X	
Pickaway	X	
Pike		X*†
Portage	X	
Preble	X	
Putnam		X*†
Richland	X	
Ross	X	
Sandusky	X	
Scioto		X*†
Seneca	X	
Shelby	X	
Stark	X	
Summit	X	
Trumbull	X	
Tuscarawas	X	
Union	X	
Van Wert		X*†
Vinton		X*†
Warren	X	
Washington		X*†
Wayne	X	
Williams		X*†
Wood	X	
Wyandot		X*†

*EPA designation replaces state designation
†Only these designations are reproposed for comment.

South Carolina—O_x

Designated area	Does not meet primary standards	Cannot be classifed or better than national standards
Charleston Area—Charleston and Berkeley Counties	X*	
Columbia Area—Richland and Lexington Counties	X*	
York County	X*	
Rest of State		X†

* EPA designation replaces state designation
† Only these designations are reproposed for comment.

Tennessee—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Nashville Area—Davidson, Sumner, Rutherford, Wilson and Williamson Counties	X**	
Shelby County	X**	
Maury County	X**	
Hamilton County	X**	
Knox County	X**	
Sullivan County	X**	
Bradley County	X**	
Roane County	X**	
Rest of State		X†

** EPA designation only.
† Only these designations are reproposed for comment.

Virginia—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR	X*	
Valley of Virginia AQCR	X*	
Central Virginia AQCR		X†
Northeastern Virginia AQCR	X*	
State Capital AQCR	X*	
Hampton Roads AQCR	X*	
Virginia Portion of National Capital Interstate AQCR	X*	

** EPA designation only.
† Only these designations are reproposed for comment.

West Virginia—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Kanawha Valley Intrastate AQCR	X	
Remainder of State		X†

† Only these designations are reproposed for comment.

Wisconsin—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 68: Grant County	X	
AQCR 73: Rock County		X†
AQCR 128:		
Barron County		X†
Buffalo County		X†
Chippewa County		X†
Clark County		X†
Crawford County		X†
Dunn County		X†
Eau Claire County		X†

Wisconsin—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Jackson County		X†
LaCrosse County	X	
Monroe County		X†
Pepin County		X†
Pierce County		X†
Polk County		X†
St. Croix County		X†
Trempealeau County		†
Vernon County		†
AQCR 129:		
Ashland County		X†
Bayfield County		X†
Burnett County		X†
Douglas County	X	
Iron County		X†
Price County		X†
Rusk County		X†
Sawyer County		X†
Taylor County		X†
Washburn County		X†
AQCR 237:		
Brown County	X	
Calumet County		X†
Door County		X†
Fond du Lac County		X†
Green Lake County		X†
Kewaunee County		X†
Manitowoc County		X†
Marinette County		X†
Marquette County		X†
Menomonee County		X†
Oconto County		X†
Outagamie County		X†
Shawano County		X†
Sheboygan County		X†
Waupaca County		X†
Waushara County		X†
Winnebago County		X†
AQCR 238:		
Adams County		X†
Florence County		X†
Forest County		X†
Juneau County		X†
Langlade County		X†
Lincoln County		X†
Marathon County		X†
Oneida County		X†
Portage County		X†
Vilas County	X	
Wood County		X†
AQCR 239:		
Kenosha County	X	
Milwaukee County	X	
Ozaukee County	X	
Racine County	X	
Walworth County		X†
Washington County		X†
Waukesha County	X	
AQCR 240:		
Columbia County	X	
Dane County	X	
Dodge County		X†
Green County		X†
Iowa County		X†
Jefferson County		X†
Lafayette County		X†
Richland County		X†
Sauk County		X†

†Only these designations are reproposed for comment.

[FR Doc. 80-25548 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 435

[FRL 1574-5]

Offshore Subcategory of the Oil and Gas Extraction Point Source Category, Withdrawal of Proposed New Source Standards of Performance

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of proposed regulations.

SUMMARY: In settlement of *Natural Resources Defense Council* v. *Costle,* the Environmental Protectin Agency has agreed to promulgated final new source standards for the offshore subcategory. However, because of the length of time since proposal (40 FR 42572) and revision (44 FR 22075) of the subcategorization, EPA believes that examination of additional data and reproposal is necessary before promulgation. Consequently, EPA is now withdrawing the proposal published on September 15, 1975. EPA intends to propose revised new source standards as soon as possible.

FOR FURTHER INFORMATION CONTACT: John W. Lum or Teresa Wright, (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or telephone, (202) 426-4617.

SUPPLEMENTARY INFORMATION: On September 15, 1975, the Environmental Protection Agency (EPA) published, pursuant to section 306 of the Clean Water Act, proposed new source standards of performance for the near and far offshore subcategories of Oil and Gas Extraction Point Source Category. 40 FR 42572. On that same day, EPA also added the Oil and Gas Extraction Point Source Category to the list of industries, established pursuant to Section 306(b)(1)(A) of the Act, for which new source standards are to be promulgated. 40 FR 42596.

Although EPA has promulgated effluent limitations representing "best practicable technology currently available" applicable to all oil and gas facilities in a revised "offshore" subcategory, 44 FR 22075 (April 13, 1979), the Agency has not promulgated final new source standards of performance for this subcategory. On December 29, 1979, the Natural Resources Defense Council files suit seeking an order to compel the Administrator to promulgate such standards. *Natural Resources Defense Council* v. *Costle,* C.A. No. 79-3442 (D.D.C.).

The Administrator recognizes the statutory requirement to promulgate new source standards of performance for all industries listed pursuant to Section 306(b)(1)(A), and in settlement of *NRDC* v. *Costle,* the Agency has agreed to promulgate final new source standards for the offshore subcategory. However, because of the length of time since proposal and revision of the subcategorization, EPA believes that examination of additional data and reproposal is necessary before promulgation. Consequently, EPA is now withdrawing the proposal published on September 15, 1975. Pursuant to the Settlement Agreement in *NRDC* v. *Costle,* EPA intends to propose revised new source standards as soon as possible.

Dated: August 18, 1980.

Barbara Blum,

Acting Administrator.

[FR Doc. 80-25596 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch.1

[CC Docket No. 80-170; RM-3525]

Authorizing the Communications Satellite Corporation To Provide International Satellite Communications Services Directly to the Public; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time to file comments and replies.

SUMMARY: On April 22, 1980, the Commission adopted a Notice of Proposed Rulemaking (NPRM) which addresses Comsat's authority to deal directly with the public as a retail carrier. The NPRM also seeks comments as to which entities may be permitted to deal directly with Comsat in its wholesale capacity. Under the proposed policy revisions, Comsat, through a separate subsidiary, would no longer be limited to serving only as a wholesaler of international satellite services. The Commission tentatively concludes that by authorizing Comsat to enter the retail market, along with permitting separate rates for cable and satellite services, the competition which results will encourage the realization of economies made possible by satellite terminology.

NEW DATES: Comments must be received on or before August 19, 1980. Reply Comments must be received on or before September 23, 1980.

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

FOR FURTHER INFORMATION CONTACT: Gene P. Belardi, International Facilities, Authorization and Licensing Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 632-7265.

Order

Adopted: July 30, 1980.

Released: July 31, 1980 (45 FR 43441).

By the Common Carrier Bureau:

1. Western Union International, Inc. (WUI), has filed a request for an extension of time from August 8, 1980, until August 12, 1980, to file comments in the *Notice of Proposed Rulemaking in CC Docket No. 80-170,* FCC 80-129, released May 6, 1980, wherein the Commission is proposing to permit the Communications Satellite Corporation (Comsat) to provide international satellite communications services directly to the public. In support of its request, WUI states that it needs a brief extension of time in order that its lengthy comments may be printed and bound. WUI asserts that such printed comments would be more manageable and readable for the Commission and the public. Lastly, WUI contends that the public would not be adversely affected by the four-day extension.

2. We agree that the public would not be harmed by grant of this request for short extension of time. While we believe that WUI should have calculated the additional time needed to print its comments into its schedule for filing,[1] we see no reason to deny this request for such a minimal extension of time. However, our action here should not be regarded as precedent for every occasion that a party to a proceeding plans to file printed comments. Since we have extended the comment date by four days we will also extend the reply date from September 19, 1980, to September 23, 1980.

3. Accordingly, it is ordered, pursuant to authority delegated in Section 0.291 of the Commission's Rules and Regulations, 47 C.F.R. Section 0.291 (1979), that the request by Western Union International, Inc., for an extension of time to file comments in CC Docket No. 80-170 is granted, and that interested parties shall file comments in this proceeding on or before August 12, 1980. Replies shall be filed on or before September 23, 1980.

Federal Communications Commission.

William F. Adler,

International Facilities Authorization and Licensing Division Common Carrier Bureau.

[FR Doc. 80-25736 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[1] We note that the original date for filing comments in this proceeding was July 3, 1980, was extended to August 8, 1980. See *Order,* Mimeo No. 32493, released June 11, 1980.

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47 CFR Part 73

[Docket No. 21474; RM-1968; RM-2810; RM-2978]

Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments regarding the FCC's Second Further Notice of Proposed Rule Making in Docket No. 21474, in response to a motion filed by the National Association of Broadcasters. This aspect of the proceeding concerns revisions to the FCC's broadcast model equal employment opportunity ("EEO") program.

DATES: Comments must be filed on or before October 24, 1980, and reply comments on or before November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 14, 1980.

Released: August 15, 1980.

By the Chief, Broadcast Bureau:

1. On June 4, 1980, the Commission adopted a *Second Further Notice of Proposed Rule Making* concerning the above-captioned proceeding, FCC 80-328, 45 FR 42729, published June 25, 1980. The present dates for filing comments and reply comments are August 25, 1980, and September 25, 1980, respectively.

2. On August 5, 1980, the National Association of Broadcasters ("NAB") filed a motion seeking extension of time for filing comments and reply comments to and including October 24, 1980, and November 24, 1980, respectively.[1] NAB states that it is undertaking a study of the costs of compliance with the Commission's present and proposed EEO requirements, in terms of both revenues and personnel utilization. Approximately 300 licensees will be involved. Additionally, the study will solicit licensees' suggestions as to various EEO alternatives, including those proposed in the *Further Notice.*

3. We are of the view that the public interest would be served by this extension as the information developed by NAB may be helpful to the Commission in resolving the issues in this proceeding.

4. Accordingly, it is ordered, That the dates for filing comments and reply comments in Docket No. 21474 are extended to and including October 24, 1980, and November 24, 1980, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 80-25699 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Permit Commercial Importation of Kangaroos, Public Hearing

AGENCY: Fish and Wildlife Service, Department of Interior.

ACTION: Reopening of comment period; notice of public hearing.

SUMMARY: The public comment period on the Service's proposed regulation to permit commercial importation of the red (*Megaleia rufa*), eastern gray (*Macropus giganteus*), and western gray (*M. fuliginosus*) Kangaroos, is hereby reopened between September 16 and October 1, 1980. In addition, a public hearing will be held on this proposal. The date, time, and place of the hearing are set forth below.

DATES: The Service will consider all comments on the proposal to permit commercial importation of these kangaroos that are received between September 16, 1980, and October 1, 1980. The public hearing will be held on Tuesday, September 16, 1980, commencing at 9:00 A.M.

ADDRESSES: The public hearing will be held in Room 8068, Main Interior Department Building, 18th and C Streets, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information on the proposal or the hearing, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S.. Fish and Wildlife Service, Washignton, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION: On June 16, 1980, the Service published in the Federal Register (45 FR 40958) a proposed rulemaking to permit the importation of eastern gray, western gray, and red kangaroos for commercial purposes. On July 16, 1980, the Society and Animal Protective Legislation and the Humane Society of the United States petitioned the Service to hold a public hearing on the proposal. In the interest of insuring full public participation in the rulemaking process, the Service has decided that it will accept this petition, and will hold a public hearing on the issue at the time and place specified above.

Accordingly, the comment period on the Services' proposal to permit commercial importation of kangaroos is hereby reopened between September 16, 1980, and October 1, 1980.

A public hearing on this proposal will be held as set forth above. All comments and statements presented at this hearing will be made part of the public record and will be considered before any final decision is made concerning the proposal.

Dated: August 19, 1980.

Ronald E. Lambertron,

Director, Fish and Wildlife Service.

[FR Doc. 80-25700 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-55-M

[1] NAB supplemented its motion on August 13, 1980. Supporting comments were filed by the law firm of Dow, Lohnes and Albertson on behalf of its licensee clients.

Notices

Federal Register
Vol. 45 No. 165
Friday, August 22, 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

Office of the Secretary

1981 Wheat Program; Determinations Regarding the Proclamation of 1981—Crop National Program Acreage, Set-Aside Level and Other Program Provisions for Wheat

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of determination of 1981—crop national program acreage, set-aside level and other program provisions for wheat.

SUMMARY: This notice is for the purpose of proclaiming a national program acreage, announcing that there will be no set-aside requirement, and setting forth other program provisions for the 1981 crop of wheat in accordance with applicable sections of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act"). Provisions of the 1949 Act require that a determination of national program acreage, set-aside requirements and recommended voluntary reduction, be made for wheat not later than August 15 prior to the year in which the crop is harvested.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Program Specialist, Production Adjustment Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 (202) 447–6688. The Final Impact Statement describing the options considered in developing this Notice of Determination and the impact of implementing each option will be available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This Notice of Determination has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

The title and number of the federal assistance programs that this notice applies to are: TITLE-Wheat Production Stabilization: NUMBER 10.058, as found in the Catalog of Federal Domestic Assistance.

A notice that the Secretary was preparing to make determinations with respect to the 1981-crop wheat program was published in the Federal Register on June 20, 1980 (45 FR 41672), in accordance with 5 U.S.C. 553, and provided for a 30-day comment period. The comment period was limited to 30 days to allow the Secretary sufficient time to properly consider the comments received before the final program determinations were made as provided for by the 1949 Act. Comments were received from 300 entities in 25 States. The comments received were from 209 farmers, 8 national organizations, 7 State and county farm organizations, 55 State and county ASC committees, 2 State government agencies, 1 State agribusiness, 1 State Senator, 3 bankers, 2 realtors, 6 national farm organizations, 3 national agribusinesses, 1 member of Congress, and 2 consumer groups. A majority of the comments centered around the following six issues: (1) set-aside; (2) land diversion; (3) target price; (4) loan rate; (5) compliance with the normal crop acreage (NCA); and (6) special wheat acreage grazing and hay program. Over 88 percent of the comments favored some form of production adjustment program, such as: a set-aside program (49 percent); a land diversion program (12 percent); or a combination of both (27 percent). The general level of recommended required set-aside was from 10–20 percent, 10–20 percent for a voluntary land diversion and a combination of set-aside and diversion at 10 percent each, with suggestions as high as 50 percent. The suggested rate of payment for the land diversion program ranged from $.60 per bushel to the total costs of producing wheat, with a general level of $2.00–$3.00 per bushel. Suggested established "target" prices for the 1981 crop of wheat generally fell within a $4.00–$4.50 per bushel range, with suggestions of as high as 100 percent of parity. Comments suggested a loan and purchase rate ranging from $2.50 per bushel to 100 percent of parity but the majority of suggestions were from $3.00 to $3.50 per bushel. Over 77 percent of the comments received favored requiring compliance with the farm normal crop acreage (NCA) as a condition of eligibility for program benefits. Nearly 84 percent of the respondents favored implementation of the Special Wheat Acreage Grazing and Hay Program with a payment rate ranging from $.75 to $1.00 per bushel. All comments received were duly considered by the Secretary.

Accordingly, the Secretary has made the following program decisions pertaining to the 1981 crop of wheat:

Notice of Determinations

1. *No Set-Aside for 1981-Crop Wheat.* Section 107(f)(1) of the 1949 Act provides that the Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of wheat will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. In accordance with these criteria, it is hereby determined and proclaimed that no set-aside of cropland will be required for the 1981 crop of wheat. The absence of a set-aside requirement for the 1981 crop of wheat in plantings will likely be slightly below the 80.9 million acres planted for the 1980 crop. It is projected that there will be a modest buildup in ending stocks.

World wheat production for the 1980 crop year is estimated at 443.2 million metric tons (MMT) (based on August 11, 1980 Foreign Agricultural Circular-World Crop Production) up almost six percent from the 1979 crop. World export trade of wheat in 1980/81 (July 1980 through June 1981) will likely be a record (86.8 MMT) exceeding last year's record by 2.0 MMT. Production is expected to exceed consumption of wheat, therefore, world 1980/81 ending stocks may increase by almost six percent. Over three-fourths of the stocks increase is expected to occur outside the U.S. Carryover stocks of the major wheat exporters (U.S., Canada, Australia and Argentina) are expected to decline by over six percent from year earlier levels. The world 1980/81 ending stocks level for wheat is now estimated to be 21.0 percent of the world consumption of wheat, compared with 18 percent during the extremely tight stocks situation of the 1972–75 period.

Therefore, the world supply-demand picture for wheat is expected to remain in a relatively tight position.

At this time, about three-fourths of the world wheat crop has been harvested. However, the advent of unfavorable weather in areas not yet harvested, especially in the Southern Hemisphere, could further tighten current year world wheat supplies and exacerbate the 1980/81 and 1981/82 wheat supply-demand situations.

U.S. wheat production for the 1980 crop is estimated at a record 2325 million bushels, despite the extreme drought experienced in the Northern Plains States. Although U.S. wheat supplies will be at record levels, total expected domestic use and exports for the 1980/81 season (June 1980 through May 1981) are also projected to be at a record level (about 2.3 million bushels) resulting in only a modest five percent buildup in 1980/81 carryover stocks (948 million bushels) over last year.

Although U.S. 1980/81 carryover stocks are likely to increase moderately, they are still expected to be over 10 percent below what is considered a maximum carryover objective (an amount equal to 6.6 percent of the world consumption of wheat or about 1060 million bushels).

Given the current year outlook and the prospect for continued strong export demand of U.S. wheat for the 1981/82 marketing year, it was determined that no set-aside was needed for the 1981 crop of wheat. Other measures such as expanded use of the farmer-owned reserve program and implementation of a land diversion program, if later information indicates an adjustment is needed, will be used in designing an appropriate 1981/82 supply management program. Such a program will be aimed at providing remunerative prices to wheat producers as well as assuring the U.S. consumer and our foreign customers of a reliable and adequate supply of wheat.

2. *National Program Acreage for 1981-Crop Wheat.* It is hereby proclaimed that the preliminary national program acreage (NPA) for the 1981 crop of wheat shall be 71.0 million acres. The NPA is based on the following data:

(a) Estimated domestic consumption, 1981–82 (million bushels)	835
(b) Plus estimated exports, 1981–82 (million bushels)	1,425
(c) Minus estimated imports, 1981–82 (million bushels)	−2
(d) Plus adjustment to increase stocks to desired level (million bushels) [1]	+112
(e) Divided by estimated national weighted average farm program yield (bushels/acre)	33.4
(f) Equals: Preliminary 1981 National Program Acreage (million acres)	71.0

[1] The 112 million bushel adjustment for increased stocks has been determined appropriate relative to the maximum carryover objective for 1981/82. The maximum carryover objective is equal to 6.6 percent of the 1980/81 world consumption of wheat (6.6% x 438.0 MMT = 28.9 MMT x 36.7437 = 1060 million bushels). Difference between maximum carryover (1060 million bushels) and estimated 1981/82 carryin (948 million bushels) is + 112 million bushels.

The Secretary may revise the NPA as proclaimed for the purpose of determining the allocation factor (to be determined in the fall of 1981) if he determines it is necessary based on latest information.

3. *Voluntary Reduction from 1980 Plantings for 1981-Crop Wheat.* It is hereby determined and proclaimed that producers who plant no more wheat for 1981 harvest than was planted and considered planted for harvest in 1980 shall be guaranteed established "target" price protection on the normal production from the entire 1981 acreage. In applying the voluntary reduction for 1981, the 1980 wheat acreage shall be:

The 1980 wheat acreage planted for harvest including any approved prevented planted acreage.

The voluntary reduction determination is based on the following data:

(a) 1980 national harvested acreage (million acres)	71.6
(b) Plus acreage credited as harvested (million acres) [1]	.3
(c) Equals: 1980 considered harvested acreage (million acres)	71.9
(d) Minus 1981 preliminary national program acreage (NPA) (million acres)	71.0
(e) Equals: Acreage reduction needed from previous year's harvested acreage (million acres)	.9
(f) Divided by 1980 considered harvested acreage (million acres)	71.9
(g) Equals: 1981 Recommended voluntary reduction (percent)	[2]0

[1] Includes estimated 1980-crop prevented planted acreage.
[2] Rounded to zero for simplicity of administering this program provision.

4. *1981 Land Diversion.* It is hereby determined that in accordance with the decision not to require a set-aside of cropland as a condition of eligibility for loans, purchase, and payments, no land diversion program will be implemented at this time for the 1981 crop of wheat. If later information such as U.S. and world crop conditions, exports, and winter wheat plantings indicate that the 1981/82 supply of wheat will be excessive, a land diversion program will be considered and implemented by early next spring.

5. *1981 Established "Target" Price for Wheat.* Section 107A(b)(1)(B) of the Agricultural Act of 1949, as amended by the Agricultural Adjustment Act of 1980, provides that the 1981-crop established "target" price shall not be less than the 1980-crop established "target" price ($3.63 per bushel), adjusted upward to reflect such changes in the cost of producing wheat as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for wheat and competing commodities. It is hereby determined in accordance with those criteria that the 1981 established "target" price for wheat shall be established using the estimated short-term costs [1] per acre of producing wheat for the 1981 crop divided by an estimated yield per planted acre. In order to determine the 1981-crop established "target" price on the latest available costs of production data, a final decision on the established "target" price is being delayed and will be announced by early next spring. The final 1981-crop established "target" price for wheat will not be less than $3.81 per bushel. It is hereby determined that the 1981-crop established "target" price for wheat will not be further increased to compensate producers for not exceeding the established farm normal crop acreage (NCA).

6. *1981-Crop Loan and Purchase Level for Wheat.* It is hereby determined that the 1981-crop wheat loan and purchase level shall be at least $3.00 per bushel. It has been determined that this level will maintain the competitive relationship of wheat to other grains in domestic and export markets. A final decision, on the loan and purchase level will be made by early next spring following a further review of the farmer-owned reserve program objectives for the 1981 crop of wheat.

7. *Compliance With Farm Normal Crop Acreage (NCA) for Program Benefit Eligibility.* It is hereby determined for the 1981 crop of wheat that wheat producers shall be required to plant within the established farm NCA as a condition of eligibility for loans, purchases, and payments (deficiency and disaster, if applicable).

8. *Special Wheat Acreage Grazing and Hay Program.* It is hereby determined that in accordance with the no set-aside decision, the Special Wheat Acreage Grazing and Hay Program will not be implemented at this time for the 1981 crop of wheat. However, if a need for this program is determined based on new information, the program will be implemented before the spring grazing season begins.

[1] Short-term costs are those costs considered nonpostponable and include: (1) variable costs less producer labor, (2) machinery ownership costs less replacement and interest, (3) general farm overhead cost, (4) land at acquisiton value (this is a composite cost consisting of owner-operator land costs, share rental costs and cash rent costs), and (5) a return for family living based on a median family income.

Signed at Washington, D.C. on August 15, 1980.

Jim Williams,

Acting Secretary.

[FR Doc. 80-25358 Filed 8-18-80; 10:49 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Glen Hills Watershed, Wis.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone number (608) 252-5351.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deletion of the remaining work of improvement to be installed in the Glen Hills Watershed, St. Croix and Dunn Counties, Wisconsin.

The environmental assessment of this action indicates that the project will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Jerome C. Hytry, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project being modified concerns a plan for watershed protection, flood prevention, recreation, and enhancement of fish and wildlife resources. The remaining planned works of improvement include 7.3 miles of stream channel improvement and 6.25 miles of trout stream improvement.

The notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. Jerome C. Hytry. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 26, 1980.

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-25637 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-16-M

Grand Prairie Watershed, Oreg.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Guy W. Nutt, State Conservationist, Soil Conservation Service, Federal Building, 1220 SW., Third Avenue, Portland, Oregon 97204, telephone number (503) 221-2751.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for works of improvement to be carried out in the Grand Prairie Watershed located in Linn County, Oregon.

The environmental assessment of this federally assisted action indicates that the action will not cause significant impacts to the human environment. As a result of these findings, Mr. Guy W. Nutt, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

Project action will include land treatment measures to provide more efficient distribution and use of irrigation water, removal of excess rainwaters, wildlife habitat improvement, cropping systems, and pasture and hayland planting and management. Structural measures will include shaping and seeding the present channel system where needed for stability or increased capacity to carry flood flows, improvements to irrigation canals and structures for irrigation water control. Additional measures will provide not less than 20 acres to be improved and dedicated to wildlife habitat.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. Guy W. Nutt. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and Local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 13, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-25639 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-16-M

Lipscomb County Critical Area Treatment R.C. & D. Measures, North Rolling Plains R.C. & D. Area, Tex.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501, telephone 817-773-1214.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Lipscomb County Critical Area Treatment Measures in the North Rolling Plains R.C. & D. Area, Lipscomb County, Texas.

The environmental assessment of these federally-assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings. Mr. George C. Marks, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for critical area treatment practices on public and private land to reduce

damage caused by gully erosion and the resulting sediment deposition. The planned works of improvement include erosion control practices such as shaping, smoothing, and establishing permanent vegetative cover, installing two grade stabilization structures, fencing, and constructing a lined waterway.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501, telephone 817–773–1214. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Managemant and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: August 13, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–25638 Filed 8–21–80; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket 36595]

Competitive Marketing of Air Transportation; Rescheduling of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing now scheduled to be held on September 3, 1980 (45 FR 51865, August 5, 1980), is rescheduled for October 14, 1980 at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., August 19, 1980.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 80–25667 Filed 8–21–80; 8:45 am]

BILLING CODE 6320–01–M

[Dockets 33363 and 34923]

Former Large Irregular Air Service Investigation, Application of Conquest International Airlines, Inc.; d.b.a. Conquest Airline; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding will be held on October 15, 1980, at 9:30 a.m. (local time), in Hearing Room 1003 B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. 20428.

For information concerning the issues involved and other details in this procceding, interested persons are referred to the aforementioned docket in the Dockets Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 18, 1980.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 80–25666 Filed 8–21–80; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

[Docket No. 1–80]

Foreign-Trade Zones Board

Panama City Port Authority; Application

This notice concerns the application of the Panama City Port Authority, a Florida municipal corporation, filed by the Foreign-Trade Zones Board on January 4, 1980, requesting authority to establish a foreign-trade zone within the applicant's port complex and industrial park in Port Panama City, Florida (45 FR 2077, 1–10–80). The proposal includes a large diameter steel pipe plant.

A public hearing was held on the matter on February 12, 1980, and in March the open record period for comments was extended to April 18, 1980 (45 FR 18045, 3–20–80). During the open record period a number of comments in opposition were received from the domestic steel industry.

In order to assist the Examiners Committee in its evaluation of the proposal, the Board's Executive Secretary requested from the Bureau of Industrial Economics, U.S. Department of Commerce (BIE), an economic analysis as to the impact on the national economy and competing domestic industry of allowing the steel pipe plant to operate under foreign-trade zone procedures. The analysis was completed on August 14, 1980.

Notice is hereby given that the application record has been reopened to parties of record for comments on the BIE economic impact report. Comments should be submitted with 12 copies and must be received or postmarked by September 22, 1980.

The report is available for inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Room 6886–B, Washington, D.C. 20230. Requests for copies may be made by calling the office (202) 377–2862.

Dated: August 19, 1980.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 80–25678 Filed 8–21–80; 8:45 am]

BILLING CODE 3510–25–M

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scienfic and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, September 11, 1980.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 and 5:00 P.M., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00344. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Illinois 61801. Ariticle: Superconducting High-Resolution Magnet System (250 MHz). Manufacturer: Oxford Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of a very low concentration of a wide variety of dilute nuclei in systems of chemical and biological interest, and importance, e.g., coal, drugs, antibiotics, catalysts. Experiments will consist of

observation of chemical shifts, relaxation rates, nuclear quadrupole couplings via Fourier transform nuclear magnetic resonance techniques under conditions of high resolution. The objectives of these studies are to determine the molcular structures of new materials used in energy research, improvement of drug design, analysis of molecular structure of new antibiotics, anti-cancer compounds, etc. Application received by Commissioner of Customs: June 12, 1980.

Docket No. 80-00345. Applicant: U.S. Customs Service, Technical Services Division, 1301 Constitution Avenue, N.W., Rm. 7113, Washington, D.C. 20229. Article: Atmospheric Pressure Mass Spectrometer, TAGA 3000. Manufacturer: Sciex Inc., Canada. Intended use for article: The article is intended to be used for a Customs contraband detection research program. The research will include fundamental studies involving build up times of drug vapors, migration rates of vapors, and permeation rates of vapors in typical concealment scenarios. Factors such as environmental conditions and vapor background will be carefully evaluated in terms of system performance. Ion molecule chemistry will be applied through selected chemical ionization reagent gases to optimize system performance under various operating conditions. The thrust of this work will be to precisely characterize a drug detection scheme. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00346. Applicant: National Institute of Enviromental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies on deposition of minerals in the lung, and translocation of elements in inhaled particles, studies on cells and tissues from lung cultivated in vitro, and ultrastructural studies on transformed cells and cytotoxic events induced by inhaled inorganic particles. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00347. Applicant: The Regents of the University of California, Riverside, Materiel Management Department, Riverside, CA 92521. Article: Cryokit, LKB 14800-3 Freezing Accessory. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is an accessory to an existing ultramicortome being used for the study of plant tissues and cells. Investigations will include the study of the localization of mineral ions within the cells and tissues, using the electron microprobe. In these studies, to prevent or minimize dislocation of soluble ions, frozen thin sections or frozen thin, freeze-dried sections are utilized. Application Received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00348. Applicant: Deborah Heart & Lung Foundation, 1 Trenton Road, Browns Mills, New Jersey 08015. Article: Electron Microscope, Model EM 10CR with Scanning Attachment. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to investigate on an ultrastructural level alterations in the myocardium, prior to, during and following infarction, degrees of damage and type of damage to the ischemic myocardium, as well as the effects of various pharmacologic neurodynamic and metabolic interventions, i.e., vasodilators and beta adrenergic blocking agents in the development of tissue injury. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00349. Applicant: University of Maryland Center for Environmental & Estuarine Studies, Horn Point Environmental Laboratories, P.O. Box 775, Cambridge, Maryland 21613. Article: N-15 Analyzer, Model NOI-5. Manufacturer: DEV Straton (Company) East Germany. Intended use of article: The article is intended to be used for nitrogen stable isotope studies and evaluation of biological pathways of nitrogen metabolism. The objectives of these studies are to determine the rate of nitrogen in the environment, including determinations of the rates of nitrogen utilization. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00350. Applicant: University of Arizona, Tucson, Arizona 85724. Article: Electron Microscope, Model EM 109R with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of bacteria, viruses and their respective genetic information including both DNA and RNA molecules. Experiments to be conducted will include:

(a) A structural analysis of specific genes of a bacterium, *escheichia coli;*

(b) A study of tumor causing virus including an analysis of the structure and function of the viral genes and how they relate to cancer induction; and

(c) Heteroduplex mapping of the T4 bacteriophage genes.

In addition, the article will be used to teach students how to study nucleic acids in the transmission electron microscope and ultimately the processes of cellular growth and virus replication and virus-induced cancer. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00351. Applicant: University of California, Lawrence Berkeley Laboratory, One Cycolotron Road, Berkeley, CA 94720. Article: Cryo Microtome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare sections of 20 micron to 100 micron thickness of rats, mice, monkey and rabbit heads, and some organs from large animals. The sections are prepared after injecting the animal with a C-14 or tritium labelled radiopharmaceutical, sacrifice, and preparation of the animal in a matrix of carboxymethyl cellulose. The article will be used in the following programs:

(a) DOE project involving evaluations of the influx of carbon monoxide into the brain under various environmental conditions.

(b) Measurement of the effects of magnetic fields on the blood brain barrier and the metabolism of the brain using rats and radioactive labelled amino acids and sugars.

(c) Evaluation of the oxygen distribution in bone marrow using oxygen-18 and subsequent activation with protons of the tissue sections to produce fluorine-18.

(d) Evaluation of the uptake and transport of amino acids in the brain and heart with specific emphasis on taurine.

(e) Evaluation of the uptake and distribution of choline in animals as a function of diet and aging. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00352. Applicant: Notre Dame University, Notre Dame, Indiana 46556. Article: Electron Microscope, Model H-600-3 with Accessories. Manufacturer: Hitachi Instruments, Japan. Intended use of article: The article is intended to be used for the following research projects:

(1) Examination of fish gill and kidney tissue from fresh and salt water species and comparisons between tissues which have been treated with ion transport inhibitors and untreated controls.

(2) Studies of cells derived from lines of normal and malignant kidney cells as well as virus particles to identify cell surface moitics with respect to specific virus related antigens and specific tumor cell related antigens.

(3) Experiments involving the immunological localization of membrane binding sites of glycoproteins to characterize some of the biochemical

processes underlying cell transformation and endocystotic phenomena.

(4) Experiments to characterize the membrane binding and uptake sites of vitamin B_{12}.

(5) Study of the capacity of the mammalian central nervous system to repair damage and to discover methods of increasing its innate capacity to do so.

In addition, the article will be used in the course B558 Biological Electron Microscopy which is designed to teach students the basic transmission electron microscopic techniques; both specimen preparation and instrument operation. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00353. Applicant: The University of Texas at Dallas, P.O. Box 688, Richardson, Texas 75080. Article: Coherent NMR Pulse Spectrometer, Model CPS-2. Manufacturer: Spin-Lock Ltd., Canada. Intended use of article: The article will be used to study the binding of paramagnetic metal ions to biological macromolecules. These studies will in part be M.S. Level Research in Chemistry. The objectives of this work include in an examination of the metal ion hydration sphere free in aqueous solution and upon binding to a large macromolecules such as a nucleic acid or protein. This information may be derived from relaxation studies of the water solvent using the various pulse sequence established by the article. Application received by Commissioner of Customs: June 20, 1980.

Docket No. 80-00354. Applicant: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Bethesda, MD 20205. Article: Electron Microscope, Model EM 400T and Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used for a variety of research projects. These include examination of DNA-DNA and DNA-RNA heteroduplexes formed between genomes of recombinant phages, bacteriophages, and their respective parental genomes. The genetic material of a series of molecularly cloned RNA tumor viruses will be similarly examined. The same procedures will be used to examine eukaryotic genes cloned in bacterial plasmids. The article will also be used to monitor restriction enzyme digestion of nucleic acids and their recombination of the enzyme DNA ligase. Application received by Commissioner of Customs: June 26, 1980.

Docket No. 80-00355. Applicant: University of Wisconsin-Madison, 750 University Avenue, Madison, WI 53706. Article: Earth Resistivity System, RAC-8. Manufacturer: Scientrex Limited, Canada. Intended use of article: The article is intended to be used to study the electrical resistivity of glaciers and ice sheets. The principal experiments planned are on the Greenland and Antarctic ice sheets. Standard geophysical techniques are to be used to investigate the variations of electrical resistivity as a function of depth within the ice. This leads to better understanding of the electical characteristics of the ice itself, which are of direct importance to understanding ice as a material, and also are of use in determining the temperature variations within the ice. This research will be carried out principally by graduate students as an essential part of their education. Application received by Commissioner of Customs: June 26, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-25633 Filed 8-21-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket S-674]

Lyke Bros. Steamship Co., Inc.; Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has filed an application dated August 8, 1980, to amend its present Operating-Differential Subsidy Agreement, Contract No. MA/MSB-451, so as to increase its maximum sailing limitation from 24 subsidized sailings to 36 subsidized sailings for calendar year 1980 only on its subsidized Trade Route No. 15-B—Freight Service (Line E—Africa Line) between U.S. Gulf ports and ports in South and East Africa.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230 by the close of business on August 27, 1980.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS))

By Order of the Maritime Subsidy Board.

Dated: August 15, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-25333 Filed 8-21-80; 8:45 am]

BILLING CODE 3510-15-M

Office of the Secretary

Privacy Act of 1974; Proposed New System of Records

The purpose of this notice is to propose a new system of records for the National Bureau of Standards (NBS), entitled: COMMERCE/NBS-7, NBS Emergency Locator System.

The new system of records reflects the Bureau's concern that in the case of an emergency at NBS (e.g., fire, explosion, power outage, heavy snow) it could be necessary to contact, in a systematic way, scientists and engineers who might be working on experiments which will be affected by such an emergency or those employees who will be required to deal with the emergency.

The only personal information in this system of records is home telephone numbers of some NBS employees, and other individuals using NBS facilities. The records, both paper and machine-readable, will be retrieved by building and room number as well as organizational code. They will not be retrieved alphabetically; however, it is felt that this list is small enough that a person's home telephone number could be easily obtained with only the knowledge that the person works at an NBS facility. Accordingly, it is being published as a Privacy Act system of records.

The National Bureau of Standards will maintain the system in a manner to assure the protection of the privacy of the individuals covered by these records. Access to machine-readable records will be limited through the use of security codes; and access to paper records, through the use of locked file cabinets.

The description of the system is set forth below and a new system report dated August 18, 1980, was submitted to the Congress and the Office of Management and Budget as required by the Privacy Act.

The "routine uses" of this new system of records will be the general routine uses noted by the Department which apply to, and are incorporated by reference into, each Department system

of records. There are no other "routine uses" for this system of records.

A comment period of 30 days will be given and any comments will be given due consideration. Any interested person may submit written data, views, or arguments to the Assistant Secretary for Administration (ATTN: Information Management Division, Room 5319), U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230, any time on or before September 22, 1980. The comments received will be available, as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

This system will become effective October 21, 1980, unless the Department notices to the contrary.

Authority: 5 U.S.C. 552a, Sec. 3, Privacy Act of 1974 (P.L. 93-579, 88 Stat. 1896).

Dated: August 18, 1980.

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

Commerce/NBS-7

SYSTEM NAME:

NBS Emergency Locator System.

SYSTEM LOCATION:

National Bureau of Standards, Gaithersburg, Maryland: Physical Security Office, Fire Protection Service Office, Health Physics Unit Office; National Bureau of Standards, Boulder, Colorado: Guard Office, Deputy Security Office; homes of Department of Commerce management officials having overall responsibility for the protection of personnel, buildings, and equipment.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NBS employees and other individuals utilizing NBS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and home telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 278e, 40 U.S.C. 490(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Manual and machine-readable.

RETRIEVABILITY:

Building and room number; organizational code.

SAFEGUARDS:

Paper records will be kept in lockable file cabinets with limited access; machine-readable records will have limited access with security key required.

RETENTION AND DISPOSAL:

Records will be updated every 6 months or more frequently.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Facilities Services Division, Office of the Director of Administrative and Information Systems, NBS, Washington, D.C. 20234; Staff Services Officer, Boulder Executive Office, Radio Building, Room 4011, NBS, Boulder, Colorado 80303.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and building location or organizational unit.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear at 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individuals and those authorized by the individual to furnish information.

[FR Doc. 80-25711 Filed 8-21-80; 8:45 am]

BILLING CODE 3510-17-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Partially Closed Meeting

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 the Committee: Army Science Board.

Dates of Meeting: September 22-23, 1980.

Place: Presidio of San Francisco, CA (exact location can be determined by contacting Helen Pipon at 202 697-9703).

Time: 0800-1315 hours, September 22, 1980 (Open); 1315-1700 hours, September 22, 1980 (Closed); 0800-1300 hours, September 23, 1980 (Open); 1300-1500 hours, September 23, 1980 (Closed).

Proposed Agenda:

The Army Science Board will hold its fall General Membership Meeting to present and receive briefings as shown in the Agenda:

Monday, September 22

0800-0810 Welcome by 6th Army Host
0810-0830 Opening remarks
0830-1000 Presentations by Sixth Army; Asst AG, State of Washington
1000-1015 Break
1015-1630 ASB Briefings and Discussions:
1015-1045 National Training Center
1045-1115 Energy Needs of the Army
1115-1145 Vertical Lift Technology
1145-1315 Lunch
1315-1345 Summer Study I—Statistical Techniques in Testing
1345-1500 Summer Study II—High Technology Light Division
1500-1515 Break
1515-1535 Night Vision Common Module
1535-1600 HF/DF C-C³ Follow-On
1600-1645 Army RDA
1645-1700 Update on ASB activities

Tuesday, September 23

0800-1200 Break in three groups for visit to Letterman Army Institute of Research
1200-1300 Lunch
1300-1500 Round Table Discussion
1500- Meeting Adjourns

Portions of the meeting as indicated will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and nonclassified matters to be discussed during those portions are so inextricably intertwined so as to preclude opening those portions.

Helen Pipon,

Administrative Officer.

[FR Doc. 80-25641 Filed 8-21-80; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

DATES: Public hearings; September 15, 1980;

Anchorage, Alaska: Community College, Adult Education Center; 3:00 p.m. to 6:30 p.m.

Boise, Idaho: Boise State University; 1:00 p.m. to 4:30 p.m.
Salem, Oregon; Oregon Department of Education; 10:00 a.m. to 12 noon.
Seattle, Washington: Seattle Community College; 9:00 a.m. to 11:30 a.m.
State Visitations; September 16, 1980; September 17, 1980, 1:30 p.m. to 10:00 p.m.; September 18, 1980, 9:00 a.m. to 5:30 p.m.; September 19, 1980, 9:00 a.m. to 1:00 p.m.

ADDRESS: Regional Office, Arcade Building, Room 1021, 1321 2nd Avenue, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:
Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.
The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:
State public hearings on the reauthorization of the Adult Education Act. (Alaska, Idaho, Oregon, and Washington) September 15, 1980.
Program visitations. (Alaska, California, Idaho, Oregon, and Washington) September 16, 1980.
Council meeting. (Seattle, Washington) September 17-19, 1980.

Other agenda items are:
Executive Committee meeting.
Standing and Ad Hoc Committee meetings.
State visitation reports.
Public hearing on reauthorization of the Adult Education Act.
Report of the Long Range Planning Committee.
Discussion of public hearing results.
Fiscal Year 1981 operational budget.
Future Council meetings.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on August 18, 1980.

Gary A. Eyre,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-25532 Filed 8-21-80; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Finding of No Significant Impact, 100 F-Area Decommissioning Program; Hanford Site

The Department of energy has prepared an environmental assessment on the proposed 100 F-Area Decommissioning Program at the Department's Hanford site near Richland, Washington. Based on the findings of the environmental assessment, which is available to the public on request, the Department has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement is required.

The proposed decommissioning program would be a full scale decontamination and decommissioning demonstration project directed toward the removal or stabilization of all radioactive materials in the 100 F-Area. The proposed action would include complete decontamination and dismantlement of Building 105 (the retired F-Reactor building), buildings 115 and 117 (ancillary buildings near the reactor), 107-F retention basin and 116-F-2 liquid waste trench, and buildings 108-F and 141-C (Battelle biology buildings). In addition, six radioactive solid waste burial grounds and seven contaminated liquid waste disposal facilities (cribs and trenches) in the 100 F-Area would be isolated in place or, in a few cases, exhumed for removal to more suitable burial grounds.

There are no significant environmental impacts associated with the 100 F-Area decommissioning program. All contaminated material resulting from the decomissioning activity will be transported within the controlled area of the Hanford reservation by truck or rail to approved disposal facilities in the 200 area. Approximately 120,000 gallons of contaminated liquid will be shipped to the 200 West area by 20,000 gallon railway tanks cars for evaporation to a solid and in-tank storage. Contaminated solid waste, approximately 100,000 ft^3 per year during each of the four years of decommissioning, will be transported to the 200 area burial ground and buried. While this amount will increase the annual volume currently being buried in the 200 area by about 50%, the increase will have only a minor effect on the overall capacity available in the 200 area. No adverse impacts have been identified for historical or archeological sites, or for recreational, ecological, or wildlife resources as a result of this action. No significant release of radioactive or nonradioactive pollutants is anticipated as a result of the normal decommissioning operation, and off-site dose estimates of radioactive material released as a result of transportation accidents would be less severe than the credible accidents described in ERDA-1538, Final Environmental Impact Statement, Waste Management Operations, Hanford Reservation, December 1975. In all cases, occupational exposure to the project personnel would be lower than the maximum permissible effluent release concentrations found in Department of Energy Manual Chapter 0524, "Standards for Radiation Protection." Additional manpower needed to implement the program is minor and should not result in any socioeconomic impacts.

The alternatives to the proposed action discussed in the environmental assessment include layaway, or no further action on the area beyond what is presently occurring (maintenance, security, etc.), protective storage, entombment, and dismantlement.

Single copies of the environmental assessment are available from: Mr. Oscar Elgerd, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352.

For further information contact: Mr. robert Strickler, U.S. Department of Energy, Office of Environmental Compliance and Overview, NEPA Affairs Division, Forrestal Building, Room 4G-064, 1000 Independence Ave., S.W., Washington, D.C. 20585, (202) 252-4610.

Date Issued: August 18, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-25698 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

International Energy Program; Request for Comment on Proposed Approvals by the Secretary of Energy Pursuant to Section 5 of the Voluntary Agreement and Plan of Action

AGENCY: Department of Energy.

ACTION: Publication of Notice of Proposed Approval of Participation by U.S. Companies in the International Energy Agency's Third Allocation Systems Test and Request for Comment.

SUMMARY: A draft of a proposed letter of approval and recordkeeping guidelines with respect to U.S. oil company participation in the third test of the International Energy Agency's international oil allocation system is being published for public comment.

DATE: Written comments to be submitted by September 12, 1980.

ADDRESS: Comments should be submitted to Department of Energy, Office of General Counsel, International Trade and Emergency Preparedness, Room 6E-067, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585, Attention: Mr. Martin S. Kaufman.

FOR FURTHER INFORMATION CONTACT: Craig S. Bamberger or Martin S. Kaufman, Office of the General Counsel, International Trade and Emergency Preparedness, Room 6E-067, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Secretary of Energy monitors the carrying out of voluntary agreements to implement the Agreement on an International Energy Program (TIAS 8278, November 18, 1974) by U.S. companies and issues certain approvals with respect thereto. In this connection, U.S. companies who are members of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, 2 CCH Federal Energy Guidelines, para. 15,845, will be requested to assist the International Energy Agency (IEA) in conducting a test of the IEA's emergency oil allocation system beginning October 1, 1980. The Department of Energy, in cooperation with the staffs of the Department of State, the Department of Justice, and the Federal Trade Commission, has developed the drafts of the various clearance documents which follow below and are published today for comment.

The first document is a draft letter of approval for U.S. companies participating in the IEA's third allocation systems test (AST-3). The second document is the "Requirements for Recordkeeping" which U.S. participants will be required to observe in AST-3. These recordkeeping requirements will apply existing DOE regulations, contained in Title 10, CFR, Part 209, to AST-3.

The proposed approval letter is substantially similar to the approval letter which was provided for the IEA's second allocation systems test (AST-2) held in 1978. See 43 FR 12060 (March 23, 1978). However, the categories of data which may be exchanged have been more precisely drawn, and new provisions have been introduced to provide flexibility for possible unanticipated data exchanges. Additional aspects of the system which are tested for the first time in AST-3 are provided for. The recordkeeping requirements also are similar in substance to those issued in 1978. Several changes have been made based on experience of the U.S. Government in monitoring the prior tests and IEA activities subsequent to AST-2, and the expanded scope of AST-3.

DOE has determined that, based on experience in AST-2, utilization of a verbatim transcript for portions of the test is practicable. Accordingly, as provided in section 252(c)(3) of EPCA, it is contemplated that a transcript will be taken of many of the group sessions during AST-3. In addition, U.S. Government observers will maintain a full and complete record of AST-3 in the form of memoranda, documents and communications logs of U.S. oil company personnel involved in AST-3.

AST-3 will test certain aspects of the IEA emergency allocation system not previously tested. This will include company-to-company communications concerning voluntary offers by oil companies to reallocate oil under the IEA system and communications between the Industry Supply Advisory Group (ISAG), an industry group serving at IEA headquarters as part of the IEA Emergency Management Organization, and governmental National Emergency Sharing Organizations (NESOs) in each participating IEA member country.

U.S. Companies will participate in AST-3 as "Reporting Companies" which will provide information and data to ISAG and the IEA, including information and data with respect to oil availability during the hypothetical supply disruption and with respect to possible actions to reallocate available oil in accordance with the IEA sharing formula. U.S. companies also will assist the IEA by providing staff for the ISAG.

Comment Procedure

Written comments regarding the proposed approval letter and recordkeeping guidelines will be accepted and considered if received by 4:30 p.m., September 12, 1980. Any person submitting written comments with respect to the letter and recordkeeping requirements should submit ten (10) copies to the Department of Energy, Office of General Counsel, International Trade and Emergency Preparedness, Room 6E-067, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585, Attention: Mr. Martin S. Kaufman. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Proposed Approval Letter and Recordkeeping Requirements for AST-3".

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. The Department of Energy reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., August 15, 1980.

Eric J. Fygi,

Acting General Counsel.

Appendix A

Proposed letter from the Deputy Secretary, United States Department of Energy, to United States Reporting Companies.

1. The International Energy Agency (IEA) will conduct in the near future a third test of the emergency allocation system (AST-3). The Department of Energy (DOE) considers AST-3 a vital part of our preparedness activities. We hope your company will participate and provide full cooperation to the IEA in this undertaking.

2. This letter sets out guidelines for participation in AST-3 by U.S. oil companies and personnel of U.S. oil companies and provides required approvals for the exchange of confidential and proprietary information or date in connection with AST-3; as required by the Voluntary Agreement and Plan of Action to Implement the International Energy Program

("Voluntary Agreement"), 2 CCH Federal Energy Guidelines, para. 15,845. Participation by U.S. companies is governed by section 252 of the Energy Policy and Conservation Act (EPCA), DOE regulations, 10 CFR Part 209, and the Voluntary Agreement.

3. AST–3 will begin on October 1, 1980 and will continue for approximately 10 weeks. The primary objective of AST–3 is to further test the concepts, procedures, data collection and data processing systems which have been devised to implement the emergency oil allocation procedures of the International Energy Program (IEP), including modifications and improvements made since the spring of 1978, as further delineated in the Emergency Management Manual of the IEA (EMM), the ISAG/Secretariat Operations Manual (ISOM) and the AST–3 Test Guide. AST–3 also will be used to assess the interaction of the IEA emergency oil sharing system with Phase II of the Eruopean Community's emergency energy system. The test will serve as a vehicle for training personnel of the IEA Secretariat, the Industry Supply Advisory Group (ISAG), Reporting Companies and their affiliates, participating country National Emergency Sharing Organizations (NESOs) and in some cases Non-Reporting Companies, in the functioning of the emergency allocation system. The scope of AST–3 is designed to be significantly broader than the first Allocation Systems Test (AST–1) held in the autumn of 1976 and the second Allocation Systems Test (AST–2) held in the spring of 1978 and will more fully involve NESOs of member countries, Reporting Companies, affiliates of Reporting Companies and some Non-Reporting Companies.

4. Industry will participate in several ways. First, industry representatives will staff the ISAG, which, with the IEA's Allocation Coordinator, Secretariat and an SEQ Emergency Group composed of representatives of IEA member countries, will comprise the IEA Emergency Management Organization at IEA headquarters in Paris, France conducting the test. Second, Reporting Companies will submit IEA Questionnaire "A" and other data to the IEA Secretariat and the ISAG, and will discuss these data with the IEA Secretariat and with the ISAG to the extent required for the test; their affiliates will make similar data submissions and have similar discussions with the NESOs of the participating countries in which they operate. Third, Reporting Companies will propose and carry out certain hypothetical supply reallocation measures called "Type 2" allocation by the IEA, and, in this connection, may communicate with other Reporting Companies (i) for the purpose of identifying suitable suppliers or receivers of oil to formulate "closed loop" Type 2 offers and (ii) to enable Reporting Companies to work out logistics needed to implement, or undertake needed subsequent modification of Type 2 offers which have been accepted by the Allocation Coordinator. Finally, it is our understanding that some NESOs may have employees of Reporting or Non-reporting Companies or their affiliates as members or advisors.

5. In Paris, the test will be conducted, for notice purposes, under the Voluntary Agreement, as a single meeting of ISAG carried out in accordance with Section 5 of the Voluntary Agreement. In addition to individual tasks and contacts with the Secretariat by ISAG members, working sessions will include meetings of all ISAG members, smaller group meetings of several ISAG members, as well as joint working sessions of a few ISAG members assigned to solve particular problems. A verbatim transcript of certain sessions will be made under the supervision of U.S. Government observers; for some other ISAG sessions, a full and complete record will be prepared by U.S. Government observers who are present. A full and complete record of other communications will be maintained by the U.S. test participants. More detailed recordkeeping requirements, including operating procedures, are set out in the attachment to this letter. These recordkeeping requirements have been prepared in cooperation with the Department of State, the Department of Justice and the Federal Trade Commission, and are to be considered as an integral part of this letter of approval.

6. In order to carry out the test, it will be necessary for Reporting Companies to provide the IEA Secretariat and the ISAG with certain information or data on IEA questionnaire forms and IEA formats, and to submit voluntary offers to supply or receive reallocated oil, and they may have to engage in other communications with the IEA Secretariat or ISAG to clarify, amplify, correct, or supplement such data submissions and voluntary offers. Further, ISAG members may have to exchange this and other information or data among themselves, with members of the IEA Secretariat, with IEA Reporting Companies, and with NESOs. Access to such information or data and to ISAG discussions also will be open to official observers from the European Community and IEA member countries authorized by the IEA to be present at the test. Aside from the IEA questionnaire and format data and information as to voluntary offers, much of the data or information will be available from public sources, particularly that described below in paragraph 7(a) through (g). Some such information or data, while actually public information, may not be definitely known to be publicly available by those exchanging it or it may be considered confidential by some companies. Some of the data or information needed to be provided or exchanged clearly will be confidential or proprietary.

7. Accordingly, approval under section 5(b) of the Voluntary Agreement is hereby given to Voluntary Agreement participants and their employees engaged in AST–3 to submit and exchange the types of information or data listed below which involve or might involve disclosure of confidential or proprietary information or data. However, this approval is granted only to the extent that the submission or exchange of these types of confidential or proprietary information or data is necessary to implement the oil allocation procedures of the International Energy Program as delineated in the EMM and ISOM and as elaborated in the AST–3 Test Guide, and to meet specific problems as they arise during AST–3. Approval is further limited to information or data covering the historical period October, November and December 1979 and January, February and March 1980. This approval does not cover the activities of company employees serving on NESO's or any communication between the Reporting Company or its affiliate and a NESO. Under these limitations, the submission and exchange of the following types of information or data is approved:

(a) Disaggregated October 1979 through March 1980 Questionnaire A or B data submitted during AST–3, *i.e.*, data as required by the Questionnaire A and B reporting instructions in effect for AST–3 as further defined in the AST–3 Test Guide, including:

Indigenous production of crude oil and natural gas liquids (NGLs) and feedstocks;

Crude imports and exports;

Petroleum product imports and exports (in crude oil equivalent);

International marine bunkers;

Inventory levels and changes.

This data base will be disrupted by Reporting Companies, coordinating as required with their affiliates, and by

NESOs for non-Reporting Companies operating within their boundaries, based on the Secretariat's disruption telex at the beginning of each cycle, and as elaborated during each cycle by updating telexes from the Secretariat. Reporting Companies may mask data if they so choose. Reporting Companies will rearrange their international supply plans to reflect the reduced availability of certain types of crude oil as well as certain other restrictions as indicated in the disruption telex and updating telexes and will report the new supply plan on Questionnaire A submitted to the Secretariat. In addition, each NESO will compile Questionnaire B from information or data received from Reporting Companies or their affiliates operating within its country and from non-Reporting Companies operating within its country and will submit Questionnaire "B" to the Secretariat. Company submissions to the Secretariat may include as actual undisrupted data the following:

Starting inventories as of October 1, 1979;

Indigenous crude/NGL production through all six months in the data base;

International marine bunkers.

(b) Capability of a refinery to process crude oils or specific crude oils, and the capability of a pipeline, dock, terminal or other storage or transit facility to receive, store, or throughput crude oils or specific crude oils, and physical capability of such installations to receive, store or throughput petroleum products.

(c) Capability of a port, installation, or waterway to receive or move vessels of various sizes and configurations.

(d) Main characteristics of crude grades and product types, excluding individual company product specifications.

(e) Actual and estimated historical production data on crude oil and natural gas liquids for individual countries.

(f) Specific refinery considerations that prevent acceptance or processing of certain crudes, e.g., the inability of the refinery to make certain specialty products for which the crude is particularly suited; the inability of a crude to meet certain general product specifications; hazards to refinery operations which use of a particular crude might cause; or the need for a refinery to operate at a minimum throughput level.

(g) Identification of supply logistics problems relating to certain countries.

(h) Identification of the existence of certain individual company considerations, involving:

(1) commercial policy,

(2) supply or transportation factors, or

(3) affiliate, third-party, concessional or other contractual arrangements

which would preclude or make impracticable a proposed movement of oil. In each case, these considerations only would be described as such, without disclosure of calculations or examples of specific costs, prices or other financial information, or any other underlying facts.

(i) Identification of product imbalances in certain countries or regions of certain countries, on EMM Format 7, and communications between NESOs and ISAG personnel concerning such product imbalances. Any discussion or communication about product imbalance questions with ISAG or to which ISAG personnel may have access shall not include disclosure of individual company confidential or proprietary information or data.

(j) Such additional information or data or types of information or data as may be utilized to implement the oil allocation procedures of the EMM and the ISOM as elaborated in the AST–3 Test Guide and to meet specific problems as they arise within ISAG, the disclosure of which is adequately justified in writing by the ISAG Manager or Deputy Manager and which is approved on an interim basis by a U.S. Government representative attending the test and confirmed by him in writing. Such interim approval can be terminated by the Department of Energy representative or the Department of Justice representative. Such interim approval shall not be applicable to information or data disclosed more than twenty-four hours after the interim approval is granted, unless it is extended in writing by the Department of Energy representative, with the concurrence of the Department of Justice representative, after consultation with the representative of the Federal Trade Commission. Such approvals shall be telexed to the Reporting Company involved, if appropriate. Any such request by the ISAG Manager or Deputy Manager shall, to the extent practicable, be processed within twenty-four hours after receipt.

(k) Clarification, amplification, correction, explanation or supplementation of the types of information or data enumerated in subparagraphs (a) through (j), provided that this subparagraph (k) does not supersede any specific prohibition contained in subparagraphs (a) through (j) or elsewhere in this letter.

8. In order to carry out the test, these data and information must be provided and exchanged on a disaggregated basis and the finding required by section 5(b)(2) of the Voluntary Agreement in this regard is hereby made, with the following limitations:

(i) During each test cycle, U.S. ISAG personnel will examine Questionnaire A's and B's to detect supply or logistical anomalies that might indicate that an error had been made by a Reporting Company or NESO in transmitting the data. After detecting a potential supply or logistical anomaly, a U.S. ISAG member may bring this to the attention of Secretariat personnel, but U.S. ISAG personnel may not discuss potential supply or logistical anomalies with any other ISAG member, any Reporting Company, or any NESO, other than the Reporting Company or NESO which transmitted the Questionnaire A or B. When responding to an inquiry from the ISAG member regarding such anomalies a Reporting Company may only confirm the accuracy of the reported data or provide corrected data. The Reporting Company may provide an explanation of such anomalies to personnel of the IEA Secretariat.

(ii) Company-specific opening inventory data shall not be made available to U.S. ISAG personnel on a routine basis, but only as necessary to solve specific supply problems when they arise. A U.S. Government observer present at the AST–3 test site may give written approval for disclosure of such data, upon receipt and consideration of a written determination by the ISAG Manager or Deputy Manager that access to such data is necessary.

(iii) The Department of Energy representative, with the concurrence of the Department of Justice representative, after consultation with the Federal Trade Commission representative at AST–3 may terminate this approval as it applies to the conduct of any supply analysis by U.S. ISAG personnel if such analysis may lead to unwarranted disclosure of competitively sensitive supply or logistical information, or have any other unwarranted anticompetitive effect.

9. This approval does not extend to provision or exchange of:

(a) Confidential or proprietary crude oil or petroleum product prices;

(b) Costs or market shares of crude oil or products (other than those which can be derived from the Questionnaire "A" or "B" data submitted during AST–3);

(c) Individual company information regarding overall long-term investment, divestment, refining, operating, transportation or marketing programs.

10. A U.S. Reporting Company will be permitted to communicate with another Reporting Company to enable them to formulate "closed-loop" voluntary offers or to enable them to work out the

logistics needed to implement Type 2 offers which have been accepted by the Allocation Coordinator. Type 2 transactions are those intended to balance allocation rights/obligations and to remove significant product imbalances. These communications will be limited to discussions of the quality and volumes of oil that would be involved in a voluntary offer and the timing or logistics involved in effecting the physical transfer of such oil. No other confidential or proprietary information or data shall be discussed or exchanged. Prices or value of the oil shall not be discussed. Type 1 transactions are transactions made by a company to satisfy its own commercial supply, distribution or logistics needs in light of Allocation Rights and Allocation Obligations notified by the IEA. Type 1 transactions will be assumed to have occurred, without inter-company communications during AST–3.

Communications between Reporting Companies (involving one or more U.S. Companies) as described in this . Paragraph 10 are permitted from October 15 through October 28, 1980 (for Cycle 1) and November 16 through 26, 1980 (for Cycle 2). During the period October 29 through November 15, 1980 communciations between such Reporting Companies are permitted if, in the supplying or receiving company's opinion, it is necessary to modify a Cycle 1 Type 2 transaction approved for implementation by the Allocation Coordinator.

11. Participation in AST–3 does not create an obligation on ISAG members or Reporting Companies to exchange any information or data which may be confidential.

12. In no case shall an employee or representative of a U.S company participant in Voluntary Agreement or any affiliate of a U.S. company which affiliate is listed as a participant in the Voluntary Agreement supply to his company or any other person, any confidential or proprietary information or data obtained as a consequence of his membership in the ISAG or participation in any NESO, except such information or data as is necessary to be supplied in the course of carrying out AST–3 or related NESO activities. Upon completion of AST–3, no ISAG member may remove any documents related to the test from the IEA premises.

13. Three (3) copies of all Questionnaire "A" data shall be provided on Questionnaire "A" formats, as distinguished from telex form, to: Voluntary Agreement Coordinator, International Affairs, Department of Energy, Forrestal Building, Room 7F–031, 1000 Independence Ave., S.W., Washington, D.C. 20585.

An additional copy should be sent to each of the following: Office of General Counsel, International Trade and Emergency Preparedness, Department of Energy, Forrestal Building, Room 6E067, 1000 Independence Ave., S.W., Washington, D.C. 20585. Donald A. Kaplan, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044.

14. Any confidential or proprietary information or data exchanged or furnished pursuant to the test shall be supplied upon request to U.S. Government observers from the Department of Energy, Department of Justice or Federal Trade Commission. During AST–3 U.S. Government observers may obtain access to those offices of U.S. participants for the purpose of observing AST–3 related activities, reviewing records kept in connection with AST–3 or interviewing employees participating in AST–3.

15. This approval may be modified or revoked in writing by the Department of Energy representative, with the concurrence of the Department of Justice representative in consultation with the Federal Trade Commission representative if developments during AST–3 indicate that modification or revocation is warranted. Any modification or revocation shall be in writing and conveyed to all participants in the Voluntary Agreement and the ISAG Manager or Deputy Manager. No modification or revocation shall have retroactive effect.

16. This approval of the test and the provision of certain data and information (including the need to provide it in disaggregated form) has been the subject of consultation with the Department of State and has been concurred in by the Department of Justice, after consultation with the Federal Trade Commission, all as required by the Voluntary Agreement. Copies of correspondence reflecting our consultation with the Department of State, and the Department of Justice's concurrence in our approval, after consultation with the Federal Trade Commission, are annexed.

Sincerely,

Deputy Secretary of Energy

Requirements for Recordkeeping by U.S. Companies *Participating in the Third Allocation Systems Test (AST–3)*

1. Introduction

The following requirements apply existing U.S. recordkeeping requirements (10 CFR, Part 209) to the Fall 1980 IEA Allocation Systems Test (AST). These requirements apply to U.S. Reporting Companies and to U.S. Reporting Company employees who are members of the Industry Supply Advisory Group (ISAG) who will be participating in the test in Paris.

These requirements set out detailed recordkeeping requirements for AST–3. If experience indicates the need, the U.S. Government representatives will have discretion to allow alternative recordkeeping procedures consistent with Section 252 of the Energy Policy and conservation Act and existing regulations.

2. Definitions

For purposes of these requirements the following definitions apply:

(a) The term "Communication" means any exchange of data or other information relating to the carrying out of AST–3, except that such terms does not include administrative, procedural, or ministerial information exchanged within the test site.

(b) The term "Test Site" means that portion of the building housing the headquarters of the International Energy Agency where IEA offices and conference rooms are located and such other office space or conference rooms as may be assigned by the IEA during the test.

(c) The term "Test Site Communication" means any face-to-face communication occurring within the test site which involves two or more ISAG members, at least one of whom is an employee of a U.S. company participant in the Voluntary Agreement or its affiliates.

(d) The term "Test Site Telephone Conversation" means any telephonic communication between a U.S. ISAG member and (i) another ISAG member, (ii) a Reporting Company, (iii) any NESO representative, or (iv) the IEA Secretariat.

(e) The term "Test Meeting" means the following Test Site Communications:

(i) Meetings of the entire ISAG;

(ii) Meetings of the ISAG Country Supply, Supply Coordination or Supply Analysis subgroups;

(iii) Meetings of the ISAG manager and/or deputy manager with ISAG subgroup heads.

3. Communications by U.S. ISAG Members

(a) *Permissible Communications*

Subject to the procedures and limitations in Sections 4 and 5, the following types of oral communications are permitted:

(i) Test Site Communications;

(ii) Test Site Telephone Conversations;

(iii) Off-Site Communications;

(iv) Communications by a U.S. ISAG member with representatives of the IEA Secretariat or members of the SEQ Emergency Group. The recordkeeping requirements set out in Section 5 below do not apply to such communications.

(b) *Restrictions on Communications*

All communications shall occur on the test site except when special circumstances make an off-site communication necessary, e.g., when a need for immediate communication arises unexpectedly or otherwise makes a return to the test site impracticable, or when time zone differences involved in necessary communications would otherwise require very early morning arrival or very night stay at the test site.

4. U.S. Government Monitoring and Recordingkeeping at Paris

(a) A U.S. Government representative shall be present throughout all test meetings. He may be present during any other communications. While it is intended that U.S. Government representatives will be present continuously at the test site to monitor test meetings, communications, work sessions and individual work by ISAG members (1) during such regular work hours as ISAG adopts and (2) at any extraordinary hours if given advance notice, it will not be necessary for U.S. Government observers to be present at times other than the above for permissible communications other than Test Site Communications, or individual work by ISAG members to be undertaken.

(b) Test meetings shall be monitored by a U.S.Government employee who shall be responsible for keeping a "full and complete" written record of each session, or for ensuring that a verbatim transcript is made.

(c) U.S. Government representatives may make use of tape recording devices or other recording devices, to assist in their personal recordkeeping.

(d) The "full and complete" record of the Paris portion of AST–3 shall consist of (i) the records of all test meetings' (ii) records of other test site communications which may be taken by U.S. Government representatives; (iii) the communication records required to be supplied to U.S. Government representatives by U.S. ISAG members pursuant to Section 6(a); (iv) the telexes, written communications and other records required to be supplied to U.S. Government representatives pursuant to Sections 6(b) through (d); and (v) a daily log summarizing the overall test activities of ISAG at Paris. As they are accumulated in appropriate batches, these materials will be transmitted to the U.S. Government in Washington at approximately weekly intervals, to be correlated and analyzed with the remainder of the test records, i.e., the records of Reporting Company communications on voluntary offers and their reports of actions taken, as required pursuant to Section 7.

5. Recordkeeping Requirements for U.S. ISAG Members

Recordkeeping with respect to test site communications other than test meetings will be conducted in accordance with subsections (a) through (d) below:

(a) A U.S. ISAG member shall maintain the full and complete record of a test site communication, test site telephone conversation or off-site communication by means of entering in a standardized log the date, time, identity of the parties (by name and organization) and a description of the transaction or information discussed, including identification of any problem involved and any conclusions reached or recommendations made. In the case of an off-site communication, he shall also state the special circumstances necessitating this communication.

(b) Where a U.S. ISAG member has been assigned to joint work sessions to solve specific identified problems, the overall subject matter of which is already contained in a full and complete record of a test meeting, and the results of which will be reported at a session where a full and complete record will be maintained, then, notwithstanding subsection (a), the record of such session to be kept by the U.S. ISAG member need only include the date, time, identity of the parties and a brief identification of the substance of the discussion during the work session, with a reference to the test meeting where it was more fully discussed.

(c) Where more than one U.S. ISAG member is involved, the parties may designate who shall make and supply such records. By mutual agreement, non-U.S. ISAG members may make records of communications with U.S. Reporting Companies and with U.S. ISAG members if such records are kept in the required form and supplied to the U.S. Government representatives promptly, in accordance with these guidelines.

6. Disposition of Records at the Test Site

(a) Copies of records required to be maintained by U.S. ISAG members under Section 5 shall be submitted to a U.S. Government representative within three days following the communication involved.

(b) Documents, information or data furnished by the IEA to U.S. ISAG members to be used in balancing allocation rights and obligations, including the member country allocation rights and obligations and any other information furnished in Step 1 of the *IEA* Allocation *Implementation Steps* shall be provided to a U.S. Government representative.

(c) All documents, information or data furnished by or on behalf of U.S. Reporting Companies or the ISAG to the IEA in connection with balancing allocation rights and obligation shall be submitted to a U.S. Government representative.

(d) Telexes or other written communications from the ISAG to U.S. Reporting Companies and from U.S. Reporting Companies to the ISAG, shall be provided to a U.S. Government representative.

7. Records of U.S. Reporting Companies

(a) A U.S. Reporting Company is required to maintain intra-corporate documents relating to the Voluntary Agreement. With respect to the test, this is expected to include telexes received and sent, memoranda concerning intra-company discussions of hypothetical sales or exchanges, documentation concerning actions requested by the ISAG or proposed by a Reporting Company, and any other documents generated by the test.

(b) A U.S. Reporting Company is also required to make a full and complete record of any communication with ISAG members, including any of its own employees who are members of the ISAG, except when the Reporting Company has agreed with the ISAG or with an ISAG member that the communication will be recorded by the ISAG or the ISAG member.

(c) A U.S. Reporting Company is required to maintain copies of all written communications with another company or make a full and complete written record of any non-written communication with another company, in connection with carrying out the test, i.e., a communication with respect to developing or implementing a voluntary offer.

(d) Records of *unwritten* communications should be made in the manner described in section 5(a) of these guidelines.

(e) Each Reporting Company is required to forward within two weeks copies of all test records set forth in section 7(a) through (d) to an appropriate office at company headquarters, where they shall be

maintained for five years separately from other company records. These records may be subject to U.S. Government examination during and after the test.

8. Reports of Communications with Other Companies

(a) A copy of any written communication by a U.S. Reporting Company shall be simultaneously sent to the Departments of Energy and Justice and the Federal Trade Commission by the same means of transmission as used to send the original.

(b) A U.S. Reporting Company shall make a copy of each written communication received from another company and forward it to the Departments of Energy and Justice and the Federal Trade Commission within 24 hours of its receipt by the company office and/or individual to whom it is specifically addressed.

(c) A U.S. Reporting Company shall forward to the Departments of Energy and Justice and the Federal Trade Commission, within 24 hours of its recordation, a copy of each record of an unwritten communication required to be made pursuant to Section 7(c).

(d) If a Reporting Company anticipates a substantial number of such communications with other companies, then, notwithstanding subsections (b) and (c), it may accumulate these individual reports and forward them in batches to the U.S. Government agencies at intervals no greater than three working days.

(e) Upon advance notice by the Department of Energy, U.S. Reporting Companies shall permit personnel from the Departments of Energy and Justice and the Federal Trade Commission to monitor communications with other companies by means of on-site inspections at that Reporting Companies' office or three-way conference telephone calls.

9. Reports of Actions Taken

(a) U.S. Reporting Companies must report to the U.S. Government actions taken pursuant to a plan of action. Therefore, for the purposes of AST-3, each U.S. Reporting Company shall report to the Departments of Energy and Justice actions taken as part of the test, such as details of voluntary offers made, those accepted, and simulated reallocations of supply in response to requests for voluntary offers.

(b) A report should be submitted within seven days of the end of the week in which the action was taken.

(c) The manner and particular content of a report is left to the discretion of the individual Reporting Company. It can be submitted in any fashion a company believes will best reflect what it has done.

10. Addresses of Reporting Company Reports to the U.S. Government

Reports to U.S. Government agencies required pursuant to Sections 8 and 9 should be addressed, respectively, as follows:

Office of General Counsel, International Trade and Emergency Preparedness, Department of Energy, Forrestal Building, Room 6E-067, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Donald A. Kaplan, Chief, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044.

Ronald B. Rowe, Assistant Director, Bureau of Competition, Federal Trade Commission, 425 13th Street, N.W., Suite 932, Washington, D.C. 20004.

[FR Doc. 80-25703 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Mesa Petroleum Co.; Final Action on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces final action to accept a Consent Order after consideration of comments received from the public.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Office of Enforcement, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: On July 7, 1980, the Office of Enforcement of the ERA Published Notice of a Consent Order which had been executed between Mesa Petroleum Company and DOE. With that Notice, and in accordance with 10 CFR 205.199J(c), the Office of Enforcement invited interested persons to comment on the Consent Order. A press release was issued simultaneously, in conformity with 10 CFR 205.199J(c). Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until the DOE publishes Notice of its execution and solicits and considers public comments with respect to its terms. Pursuant to 10 CFR 205.199J, the Office of Enforcement of the ERA hereby gives Notice of final action taken on the Consent Order.

Comments Received

No comments were received with respect to the terms of the Consent Order.

II. Determination

The Office of Enforcement of the ERA has determined that the refund procedures as provided in the Consent Order are appropriate under the circumstances of this case.

The Office of Enforcement has concluded that the Consent Order as executed between DOE and Mesa Petroleum Company is an appropriate resolution of the compliance proceedings described in the Notice published on July 7, 1980, and hereby gives Notice that the Consent Order is made effective by written notice to mesa Petroleum Company on this date.

Issued in Kansas City, Missouri on this 7th day of August, 1980.

William D. Miller,

District Manager, Economic Regulatory Administration.

Concurrence:

David H. Jackson,

Chief Enforcement Counsel.

[FR Doc. 80-25692 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-01-M

Westate Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of settlement.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of July 1980. The Consent Order represents resolution of an outstanding compliance investigation by the DOE and the firm and concerns overcharges in sales of gasoline during the period covered by the audit. This Consent Order is concerned exclusively with the firm's agreement to refund overcharges through price reduction on all customer purchases.

For further information regarding this Consent Order, please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, N. E. Atlanta, Georgia 30367, telephone number (404) 881-2396.

Firm name and address, settlement terms, period covered

Westate Oil Company, Milan, Tenn. Refund $52,122 through price reduction on customer purchases. Nov. 1, 1973 to Dec. 31, 1974.

Issued in Atlanta, Ga., on the 13th day of August 1980.

James C. Easterday,

District Manager of Enforcement.

[FR Doc. 25693 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

Natomas North America, Inc.; Corrections to Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Correction to notice of action taken and opportunity for comment on consent order.

SUMMARY: This corrects the document that was published in Federal Register Vol. 45, FR 52865 (August 8, 1980). The following correction should be made in Section I. "The Consent Order," Paragraph 2, *add* the following:

"This Consent Order constitutes neither an admission by Natomas North America that ERA regulations have been violated nor a finding by the ERA that Natomas has violated ERA regulations."

Issued in Dallas, Texas on the 13th day of August 1980.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Adminstration.

[FR Doc. 80-25643 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Alaskan Northwest Natural Gas Transportation Co., Northwest Alaskan Pipeline Co.; Notice of Application and Order Establishing Procedures

[Docket Nos. CP80-435, CP78-123, et al and RM78-12]

Issued August 1, 1980.

Notice of Application

On July 1, 1980,[1] Alaskan Northwest Natural Gas Transportation Company (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP80-435 an application, pursuant to Section 7(c) of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), for a certificate of public convenience and necessity authorizing the construction and operation of the Alaska segment of the Alaska Natural Gas Transportation System (ANGTS), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct a pipeline commencing at the discharge side of the gas processing and conditioning facilities in the Prudhoe Bay field. The processing and conditioning facilities would receive the gas from production fields and treat and compress it to a delivery pressure of 1260 psig with an approximate temperature of 25 to 30 degrees F. The gas would be delivered into and transported by a 48 inch diameter pipeline with a pipe wall thickness varying from 0.600 to 0.864 inch depending upon location. Applicant states that, with the exception of three aerial crossings, the pipe would be installed in the buried mode at depths of from 5 to 16 feet, and would operate at temperatures between 0 and 32 degrees F.

Applicant states that the pipeline would parallel the Trans-Alaska Pipeline System (TAPS) south for 274 miles, then turn southeast at Prospect Creek, Alaska, for the next 261 miles. At Delta Junction, the pipeline would diverge from the TAPS route and continue southeast (generally along the route of the Alaska Highway) to the Alaska-Yukon border and interconnect with the Canadian segment of the ANGTS. Applicant further notes that the pipeline would cross 24 major streams requiring special construction considerations; aerial crossings would be utilized at three streams. In addition, Applicant states that there would be 38 encased wood crossings, 35 wood crossings with 56-inch casings, and 10 wood crossings with 66-inch casings. The pipeline would cross TAPS at 23 locations and the TAPS fuel line at ten locations. Applicant maintains, however, that the proposed 743 mile pipeline route minimizes adverse impact to the environment and utilizes existing transportation corridors and other facilities as well.

Pursuant to Section 13(b) of ANGTA, 15 U.S.C. § 719k(b), Applicant has agreed to transport the State of Alaska's royalty gas in the ANGTS and to withdraw such gas within Alaska. Applicant states that, after analysis of existing and potential gas markets within the State, it would provide six intermediate gas taps along the pipeline route.

Applicant maintains that, in order to provide the initial design flow rate capacity of 2,000,000 Mcf per day, seven compressor stations would be required, each rated at 26,500 horsepower. Applicant also asserts that refrigeration units would be installed at each compressor station to maintain the pipeline gas temperature within the 0 to 32 F range. Gas heaters would also be constructed at Compressor Stations No. 2 and No. 4 to assure that gas temperatures would be maintined above the hydrocarbon dew point under all operating conditions. In addition, each compressor station would include buildings for the compressors, refrigeration equipment, utilities, flammable liquid storage, gas scrubber units, pumps and living quarters.

Applicant also proposes to construct and operate two metering stations, one to measure the quantity of gas supplied to the pipeline from the Prudhoe Bay gas processing and conditioning facilities and the other to measure the gas delivered to the Canadian segment at the Alaska Yukon border.

Applicant states that it would install a supervisory control system located at the Operations Control Center in Fairbanks, Alaska, which would operate the pipeline, perform related system balancing, and consolidate functions with the gas processing and conditioning plant and the Canadian segment. Applicant also states that it would provide a communications system, operation and maintenance facilities, and temporary support facilities at various locations along the pipeline route.

Applicant states that it has prepared a Certificate Cost Estimate (CCE) for the Alaska segment in accordance with the President's *Decision and Report on the Alaska Natural Gas Transportation System (Decision),*[2] the directions of the Commission in conditions 7 and 8 of Order No. 31,[3] and the Certification Cost Estimate format criteria developed by the Commission's Alaskan Delegate and reflecting numerous cost changes that have resulted from increased government requirements and delays since the issuance of the President's *Decision.* However, Applicant warns that this estimate is not the final cost estimate because further design and

[1] The application was initially tendered for filing on July 1, 1980. However, the $50 fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR § 159.1) was not paid until July 2, 1980. Thus, filing was not completed until the latter date.

[2] Executive Office of the President, Energy Policy and Planning (September 1977).

[3] "Order Setting Values for Incentive Rate of Return, Establishing Inflation Adjustment and Change in Scope Procedures, and Determining Applicable Tariff Provisions," Docket No. RM78-12 (June 8, 1979).

engineering changes would take place between the time the costs were "frozen" on April 30, 1980, in order to prepare its application, and the time the Applicant would present its final design cost estimate and construction schedule to the Federal Inspector, which is prior to actual commencement of construction.

Applicant states that the CCE for the total Alaska segment is $7,900,000,000, which includes $4,100,000,000 for pipeline and civil work, $887,000,000 for temporary facilities and services, $693,000,000 for compressor and metering stations, $97,000,000 for communications and supervisory systems, $53,000,000 for operation and maintenance facilities, $1,200,000,000 for project directorate and $846,000,000 for the normal contingency allowance.

Applicant requests a Center Point of 1,292, which is based upon risk analysis of abnormal or unlikely events that would affect project costs and does not include design changes or changes in scope. Because of both design changes and schedule delays that have taken place since issuance of the President's *Decision,* Applicant states that it has chosen a Center point without reference to the 1977 cost estimate.

Applicant requests: (1) review and approval of the Certification Cost Estimate, as submitted, and a Center Point of 1.292; (2) permission to use the index or indices in the Project Labor Agreement for deflation of direct construction labor costs; (3) provisions for adjustment of the CCE to reflect actual third-party monitoring and other government-related costs in computing the Cost Performance Ratio; (4) deferral of its comparison of the 1977 and 1980 cost estimates pending submission of Applicant's financing plan and related materials; and (5) issuance of a final unconditional certificate of public convenience and necessity after review and approval of Applicant's financing plan.

Procedural Considerations

As described more elaborately in the formal notice set forth above, Alaskan Northwest's application requests:

(1) approval of the remaining parameters necessary to implement the Incentive Rate of Return (IROR) mechanism,

(2) approval of the project sponsor's plan for financing of the Alaska segment, and

(3) a determination that the project costs do not "materially and unreasonably exceed" those considered as part of the President's *Decision.*[4]

The application further requests that the labor cost index required for administering the inflation adjustment aspect of the IROR mechanism be conformed to that defined in the terms and conditions of the project labor agreement, and that the certification cost and schedule estimate (CCSE) be adjusted to reflect actual (as opposed to estimated) third party monitoring and other government related costs in establishing the cost performance ratio.

The application omits all materials associated with financing and cost of service analysis for the Alaska segment and for the completed ANGTS. The application informs the Commission that this material is omitted because agreements have recently been reached between the project sponsors and the principal North Slope producers for finalizing the engineering and design of both the Alaska segment and the conditioning facilities required to prepare the gas for entry into the ANGTS and for developing a financing plan for the Alaska segment. The application contemplates the filing of a final financing plan as soon as practicable.

The Commission observes that there are a number of matters associated with final certification of the Alaska segment which must await the submission of the financing plan for that segment. Questions associated with marketability of the gas, the continuing relationship of the project to the national interest, and the relationship of project costs to those considered at the time of the President's *Decision,* are all matters which must be considered by the Commission in granting final certification to the Alaska segment but which are vitally affected by the financing plan for that segment. Accordingly, the Commission will defer such matters to a final certification proceeding which will be initiated upon submission of the financing plan.[5]

On the other hand, the Commission is sympathetic to the need to resolve outstanding matters regarding the IROR mechanism as it applies to the Alaska segment. Accordingly, the Commission will institute a special sub-proceeding to deal with the project sponsors' proposed CCSE and Center Point (CP) values, plus the remaining IROR matters which they have identified for resolution.

The Commission intends to utilize notice and comment procedures, rather than adjudication, to resolve these particular matters. This approach is consistent with the procedures utilized in Docket No. RM78-12 to establish the IROR,[6] and is best suited to satisfy the ANGTA mandate for expedition.[7] The notice and comment procedures will be preceded by a series of technical conferences to resolve many of the issues and to clarify those that remain.[8]

The technical conferences will be presided over by the Commission's Alaskan Delegate in conjunction with the Office of the Federal Inspector (OFI) through the Director of its Division of Audit and Cost Analysis (OFI Division Director).[9] The OFI may also provide support to this process in the form of agency personnel and contractors assisting the Division Director at the conferences. With the concurrence of the Alaskan Delegate, the OFI Division Director may preside in the absence of the Delagate. Because of the Federal Inspector's responsibilities for administering the IROR mechanism after final certification by the Commission, the Commission believes that it is appropriate for OFI representatives to be involved in the development of the remaining IROR parameters.[10]

[4] *See,* e.g., Finance Condition No. 2 at pages 36-37 of the *Decision.*

[5] Other matters, such as final resolution of quality specifications for the gas to be transported by the pipeline, can be addressed and resolved by the Commission as soon as the parties believe that those issues are ripe for decision. Still other matters, such as shipper tracking of Alaskan and Canadian segment charges, will be initiated by the Commission in due course.

[6] *See* Order No. 31 at 232-233.

[7] In its order of April 28, 1980, in Docket No. CP78-123, *et al.* (at page 74, fn. 96), the Commission noted that adjudicatory procedures "may not be the most expeditious for consideration of the cost estimates for the Alaska segment, and that the Commission may develop special procedures for consideration of those estimates." In particular, the Commission pointed to the fact that the certification cost estimate requirement flows from the President's *Decision,* not the Natural Gas Act, and that in any event review of the estimate is more akin to "ratemaking," which, pursuant to Section 403(c) of the Department of Energy Organization Act, may be conducted by rulemaking.

[8] In the event that the Alaskan Delegate determines that factual questions exist for which the project sponsors have not provided adequate supporting information, or if the Delegate perceives a need for cross-examination to resolve one or more particular, limited issues, the Delegate in his discretion may request the Commission to provide for limited cross-examination of appropriate project sponsor witnesses, or of witneses of other parties, with that record to be certified to the Delegate. The Commission anticipates, however, that such instances would occur rarely, if at all; our preference and present intention is to resolve all of these issues through the technical conferences followed by notice, comment and reply coment on the report culminating the conferences.

[9] The OFI's Director of the Division of Audit and Cost Analysis will also be the Commission's Agency Authorized Officer at the OFI. In this context, the OFI does not function as a party.

[10] By procedural order of March 18, 1980, in Docket No. CP78-123, *et al.* (10 FERC ¶61,239), the Commission expressly modified its regulations to recognize that such consultation is both appropriate and desirable.

The conferences will be held at places and on dates to be determined by the Alaskan Delegate. The Delegate shall issue timely notice of the conferences (including place and date), such notice to be served on all persons on the restricted service list (discussed below). To the extent feasible, the notice should indicate the agenda matters to be discussed, but the discussion need not be confined to that agenda.

Any party of record in this proceeding (including the Commission's trial staff) may participate in the conferences. In addition, the Delegate may in his discretion authorize any person who is not a party to participate in the conferences if such participation would contribute to comprehensive and expeditious resolution of the matters under consideration.

The project sponsors have requested that their application, as described above, be maintained in a separately docketed proceeding with a restricted service list, to reduce the burden of serving documents on parties of limited interest. We recognize that Docket No. CP78–123, *et al.*, now comprises a large number of applications, dockets, and assorted proceedings. Accordingly, to minimize confusion and to reduce the burdens on the Commission and its staff as well as the parties, we will not at this time consolidate Docket No. CP80–435 with Docket No. CP78–123, *et al.*

On the other hand, we recognize the obvious relationship between these two dockets [11] and we anticipate that many or most of the parties in Docket No. CP78–123, *et al.*, may wish to become parties to Docket No. CP80–435. We wish to spare everyone the burden of processing duplicate petitions to intervene. Accordingly, all parties to Docket No. CP78–123, *et al.*, will be deemed to be parties to Docket No. CP80–435 as if the two dockets had been consolidated (or as if such persons had filed separate petitions to intervene in Docket No. CP80–435, which petitions had been granted).

The matters to be discussed at the technical conferences, however, raise a separate problem. These matters are highly technical and complex, and may necessitate voluminous filings that would be of interest to only a small number of parties. Accordingly, with respect to the matters to be taken up in the technical conferences presided over by the Alaskan Delegate with OFI's Division Director, a restricted service list shall be established and maintained by the Delegate. All parties who wish to be included in that service list shall forward a notice to that effect, by no later than August 15, 1980, to John B. Adger, Jr., Director, Alaska Gas Project Office, Room 3004, Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C. 20426. Any other interested person that is not a party but wishes to be included on the restricted service list for the technical conference issues should also forward a notice to that effect by the same date to the same place. Upon request, parties of record shall be included in the restricted service list as a matter of right; other interested persons shall be added to the list at the Delegate's discretion.[12] The Delegate will circulate copies of the restricted service list to all persons on that list, as an attachment to his notice of the first technical conference.

At the outset, we anticipate that many of the persons who participated in Docket No. RM78–12, the IROR proceeding, may have an interest in the technical conference issues. Accordingly, this notice and order will be served on all persons on the service list for Docket No. RM78–12.

To summarize, all parties to Docket No. CP78–123, *et al.*, shall have the right to participate in Docket No. CP80–435 as parties to that proceeding for all purposes. Filings of a general nature that are not pertinent to the IROR type issues to be pursued in the technical conferences (e.g. amendments to the application, financing plans, gas marketing studies, etc.) must be served on all parties in Docket No. CP78–123, *et al.*, as they will now be parties to Docket No. CP80–435. Such filings, however, will be filed in Docket No. CP80–435 and will be maintained there as a separate and distinct docket. Filings pertinent to the IROR type issues under consideration in the Alaskan Delegate's technical conferences (including motions and other procedural filings, as well as data and requests for data, and whether addressed to the Delegate or to the Commission) need be served only on the persons listed on the restricted service list for that sub-proceeding.

The first conference should be held in early September of 1980, in Washington, D.C., to determine procedures for future conferences. Future conferences may be held in Washington, in California, in Alaska, or at any other appropriate place. At such time as the Commission's Alaskan Delegate and OFI's Division Director determine that further conferences are unnecessary, they will submit a report to the Commission, served on all parties in Docket No. CP80–435, which details those issues about which there is general agreement and those issues on which the parties disagree and makes substantive and procedural recommendations for Commission resolution of all issues. The Alaskan Delegate and the OFI Division Director may also provide such interim reports to the parties and the Commission as they deem necessary or appropriate. The Commission will provide an opportunity for comment and reply comment on the Delegate and Division Director's final report before taking any final action based on that report.

The Alaskan Delegate will determine at the first conference, after consultation with the participants at that conference, whether transcripts will be kept of the technical conferences. The participants are encouraged to pursue their deliberations through free and open discussion. Stipulations and other agreements are encouraged, and will be included in the final report to the Commission. Unanimous agreement among the participants at a conference shall be deemed to constitute unanimous agreement among the parties. Objections to stipulations must be supported by substantial rationale.

The Alaskan Delegate (or in his absence, the OFI Division Director) is authorized to make rulings with respect to discovery of information and production of documents, either *sua sponte* or at the request of a conference participant. In the event that the Delegate (or Director) rules that information is to be provided, and the person or party in possession of that information refuses to do so, the Delegate may submit a report to the Commission describing the information or document desired and the need for its production, and requesting that the Commission issue a subpena to obtain the information. Copies of such report shall be served on all persons on the restricted service list. All parties on the restricted service list shall have an opportunity to file comments on the Delegate's report within 10 calendar days of the date of issuance of the report. If the Delegate (or Director) rules against a party requesting information, such party may refer the matter to the Commission by filing an appropriate motion, with service of copies on all persons on the restricted service list. Any party may file a response to such

[11] Docket No. CP80–435 entails an application for a final certificate to construct and operate the same pipeline for which the same applicants were issued a conditional certificate in Docket No. CP78–123, *et al.*

[12] Interested persons who are not parties to the proceeding will not be made parties by virtue of their inclusion in the restricted service list.

motion within 10 calendar days after the date of filing of the motion.[13]

We view the above described procedures for referring discovery disputes to the Commission as a necessary ultimate safeguard to protect the rights of all participants to the conferences. However, in light of the need for expedition, as mandated by ANGTA, as well as the need for precision, as mandated by the President's *Decision* and Orders No. 31 and 31–B, we would expect the participants in the conferences to co-operate fully with the Delegate and the Division Director in promptly producing the documents, data and other information that the Delegate and/or the Division Director determine to be necessary to enable them to properly prepare their report to the Commission. Routine or repeated referral of discovery issues to the Commission would not, in our view, be consistent with the ANGTA mandate for expedition.

A special concern of the Commission is that, as is evidenced by the producer-sponsor agreement on further study of design issues, certain of those issues remain outstanding. The Commission's orders establishing the IROR mechanism contemplated that all such issues would have been resolved prior to the filing of the CCSE.[14] Because of this concern, the Commission directs the Delegate to conduct the conferences in such a manner as to identify completely all of the major outstanding design issues and to address the cost consequences of alternative resolutions of those issues. The Commission requests that the Office of the Federal Inspector prepare for circulation to the persons on the restricted service list at the earliest possible time, a brief report identifying the major outstanding design issues, in order that identification of those issues could be addressed at the earliest stages of the conferences.

At present, the Commission is not certain how to deal with the question of outstanding major design issues at the time of approval of the CCSE and CP values for the Alaska segment. Accordingly, the Commission also directs that the technical conferences address the question of alternative values for the CCSE and CP parameters, depending on the alternative resolutions of the major outstanding design issues, and also address the development of guidelines for the design change process contemplated by Orders No. 31 and No. 31–B. The Alaskan Delegate and the OFI Division Director are also directed and requested to address resolution of these questions in their report to the Commission.

The Commission recognizes that the design and cost estimation process for the Alaska segment is an iterative process; that of necessity the project sponsors had to "freeze" their design at some arbitrary point in time for the purpose of preparing their application herein; and that analysis of costs based on that design would meaningfully advance the development of the ANGTS and its regulatory approval. Nevertheless, the Commission can not and will not issue final orders having substantial ratemaking consequences based on design data that fail to consider design alternatives known to the project sponsors at the time of issuance of the orders. Accordingly, the project sponsors in this proceeding (like project sponsors in any other certificate proceeding before this Commission) have an affirmative obligation to disclose voluntarily, promptly and fully all design alternatives under consideration that could have a significant impact on the cost estimates set forth in their application.[15]

The Commission believes that interested parties should have an opportunity to comment on the procedures for the technical conferences, as described above. Accordingly, any interested party may file comments on that subject. The comments should be filed with the Commission's Alaskan Delegate (at the address set forth above) no later than August 15, 1980. The Delegate is directed to review those comments with the participants at the first conference. Thereafter, the Delegate may, in his discretion, advise the Commission of any recommendations he may have as to procedural revisions that might be necessary or appropriate in light of the comments received. In view of the ANGTA mandate for expedition, however, the procedures set forth in this order shall become effective immediately on the date of issuance of this order and shall remain in effect until such time, if any, as they are revised by further order of the Commission.

The Commission orders:

(A) Any person desiring to be heard or to make any protest with reference to the above described application of Alaskan Northwest Natural Gas Transportation Company filed on July 1, 1980, in Docket No. CP80–435 should, on or before August 22, 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 herein therein must file a petition to intervene in accordance with the Commission's Rules.

(B) Parties of record in Docket No. CP78–123, *et al.*, are hereby made parties of record in Docket No. CP80–435. The Secretary of the Commission shall add those parties to the service list for Docket No. CP80–435.

(C) The Commission's Alaskan Delegate is instructed to convene a series of technical conferences to consider the Certification Cost and Schedule Estimate and Center Point values proposed by Alaskan Northwest in its application in Docket No. CP80–435, and to consider all related Alaska segment incentive rate of return issues not previously decided by the Commission that are now ripe for decision and fall within the Commission's jurisdiction to decide. The conferences shall be conducted pursuant to the procedures set forth in this order, including utilization of a restricted service list, discovery of all information necessary to identify and resolve all outstanding issues, and recording of stipulations and agreements. The Director of the Division of Audit and Cost Analysis of the Office of the Federal Inspector is authorized to preside over the conferences jointly with the Delegate, and (with the Delegate's concurrence) to preside in lieu of the Delegate. The Delegate and the OFI Division Director shall submit a report to the Commission at the conclusion of the conferences, and may also submit interim reports. The deliberations at the

[13] The Alaskan Delegate and the Division Director are not authorized to exercise the Commission's power to approve depositions or issue subpenas.

[14] *See*, e.g., Order No. 17–A, "Order Confirming the Incentive Rate of Return Mechanism and Denying Petition for Reconsideration and Clarification," Docket No. RM78–12 (Jan. 17, 1979) at page 7.

[15] In this regard, *see* "Findings and Order Issuing Certificates of Public Convenience and Necessity and Authorizing the Importation of Natural Gas" (April 28, 1980) at pages 100–101, fn. 121, and "Order Granting Applications for Rehearing in Part" (June 20, 1980) at pages 23–25, both orders issued in docket No. CP78–123, *et al.*

conferences shall be based on the most current pipeline design alternatives, and the final report shall be based on the pipeline design that is current as of the date of the final conference; including all major design alternatives under consideration by the project sponsors, whether or not such design alternatives are identified in the application.

(D) The Secretary of the Commission shall cause this notice and and order to be published in the Federal Register, and shall serve copies of this notice and order on all parties to the proceedings in Docket No. CP78–123, *et al.*, and Docket No. RM78–12.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25568 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RA80–46]

Bob's Phillip 66 Service Station; Filing of Petition for Review Under 42 U.S.C. 7194

August 14, 1980.

Take notice that Robert Cope d/b/a Bob's Phillip 66 Service Station on June 6, 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 August 28, 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 as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Ave. S.W. Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25575 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RA80–79]

Bogert Bros. Exxon; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

August 14, 1980.

Take notice that Bogert Brothers Exxon on April 25, 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 August 28, 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 as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Ave. S.W., Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25570 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. QF80–16]

Boott Mills, Proprietors of the Locks and Canals on Merrimack River; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 14, 1980.

On July 31, 1980, Boott Mills and Proprietors of the Locks and Canals on Merrimack River (Boott Mills) filed with the Federal Energy Regulatory Commission (Commission) an application for certification of its Lowell Hydroelectric Project as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility, Lowell Hydroelectric Project, is located at Pawtucket Dam on the Merrimack River in Lowell, Massachusetts. Boott Mills states that the facility includes a proposed 15 megawatt powerplant and existing smaller generating stations at four separate locations along about 5.5 miles of canals, which would be hydraulically integrated and operated as a single project. Boott Mills states that the sole source of energy to be used is falling water which utilizes the hydraulic head of the Merrimack river at the Pawtucket Dam. The total nameplate rating of the project is projected by Boott Mills to be 22,915 kilowatts. Boott Mills further states that no part of the facility will be owned by any electric utility or by any public utility holding company, or by any person owned by either. No usage of natural gas, oil or coal is planned at the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 10 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25581 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER80–589]

Central Hudson Gas & Electric Corp.; Filing

August 14, 1980.

The filing Company submits the following:

Take notice that the Central Hudson Gas & Electric Corporation (Central Hudson), on August 7, 1980, tendered for filing as a rate schedule an executed agreement dated July 15, 1980 between Central Hudson and Connecticut Light & Power Company (CL&O). The proposed rate schedule provides for the transmission of energy by Central Hudson as available and as scheduled from day to day.

The rate schedule provides for a transmission charge of $1 per megawatthour.

Central Hudson requests waiver of the notice of requirements of Section 35.3 of the Commission's Regulations so that

the proposed rate schedule can be made effective on July 20, 1980 in accordance with the terms thereof.

Central Hudson states that a copy of its filing was served on CL&P.

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 September 5, 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. 80-25571 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP76-422]

Colorado Interstate Gas Co.; Petition To Amend

August 14, 1980

Take notice that on July 28, 1980, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76-422 a petition to amend the order issued May 9, 1977,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to transport and deliver natural gas from the Windmill Draw Contract area for the account of Cities Service Company (Cities) and to file tariff revisions on an annual basis, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order issued May 9, 1977, in the instant docket authorizes it to transport and exchange natural gas from an area consisting of portions of Sweetwater and Carbon Counties in the Greater Green River Basin in South Central Wyoming. It is stated that this order only covers natural gas from wells completed prior to January 1, 1979. Petitioner asserts that it is authorized to transport and redeliver natural gas to Cities and Kansas-Nebraska Natural Gas Company, Inc. (K-N) for Cities' account pursuant to a gas purchase and exchange agreement dated March 11, 1976. Petitioner also states that it has the option to purchase up to 25 percent of all volumes delivered to it. According to Petitioner, the balance, less fuel and unaccounted for gas, is redelivered on a thermally equivalent basis to Cities and K-N at existing delivery points located in Kearny County, Kansas, and Beaver County, Oklahoma.

Petitioner proposes to add the Windmill Draw Contract area in Sweetwater County, Wyoming, to the area covered by the order issued May 9, 1977. It is stated that gas produced from this area would not be limited to wells completed prior to January 1, 1979. Any additional facilities required to connect Cities' supplies in the Windmill Draw Contract area would be constructed under budget-type authority or pursuant to a separate certificate application, it is stated.

Petitoner also proposes to submit annually a tariff filing to keep the Commission advised of any additions or deletions of delivery points and wells covered by the gas purchase and exchange agreement hereinbefore noted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 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) 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. 80-25572 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-21 (PGA80-4, IPR80-3, LFUT80-2, TT80-2, and AP80-2)]

Columbia Gas Transmission Corp.; Proposed changes in FERC Gas Tariff

August 14, 1980.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 31, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Sixty-second Revised Sheet No. 16
Tenth Revised Sheet No. 16A
Fifteenth Revised Sheet No. 64
Third Revised Sheet Nos. 64E through 64I

These proposed changes to be effective September 1, 1980, reflect an overall decrease in Columbia's rates and consistent of the following rate adjustments:

(1) A PGA rate adjustment, pursuant to Section 20 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover an increase in the cost of gas purchased of $103,324,665 based on six months ending February 28, 1981.

(2) A Commodity Surcharge, pursuant to Section 20.2 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to flow through a deferred purchased gas credit balance of $5,821,261 at June 30, 1980, over the six month period September 1, 1980 through February 28, 1981.

(3) A Louisiana First Use Tax Sales Adjustment (LFUT) of (0.09¢) and a surcharge to flow through a credit deferred balance of $1,250,547 at June 30, 1980. Such sales adjustment and surcharge is being filed pursuant to Section 22 of Columbia's FERC Gas Tariff, Original Volume No. 1.

(4) A Transportation Adjustment and Surcharge filed pursuant to Article XI of the Stipulation and Agreement in Docket No. RP78-19, *et al.*, approved by the Commission Order issued July 3, 1979. The transportation adjustment provides for an annual reduction of $1,872,254, while the surcharge provides for the flow through of the Deferred Transportation Cost Credit Balance at May 31, 1980 of $4,736,222 over the six month period September 1, 1980 through February 28, 1981.

(5) An Advance Payment Adjustment, pursuant to Article IX of the Stipulation and Agreement in Docket No. RP76-94, *et al.*, approved by Commission Letter Order issued March 16, 1978. Such Advance Payment Adjustment provides for an annual reduction of $1,595,862.

Copies of the filing were served upon the Company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1979 (10 CFR 100.1), it was transferred to the Commission.

or before August 29, 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. 80-25573 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-478]

Columbia Gas Transmission Corp.; Notice of Application

August 14, 1980.

Take notice that on August 1, 1980, Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in docket No. CP 80-478 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the relocation of an exchange point and the construction and operation of interconnecting facilities for the exchange of natural gas with national Fuel Gas Supply Corporation (National), 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 was authorized to construct a point of interconnection with National between Applicant's Line 1862 and a 12-inch National line at a point near Emporium, Cameron County, Pennsylvania. Subsequent to National's construction of a new section of 12-inch pipline, Applicant proposes herein to relocate the exchange point and construct and operate interconnecting facilities at Firstfork, Cameron County, Pennsylvania, approximately 4.3 miles southeast of the existing point of exchange. Applicant further states that the Emporium exchange point would be retired from service and the lease to operate measuring facilities there would be terminated.

Applicant estimates the cost of the proposed facilities to be $18,500 which would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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) 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. 80-25574 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF80-15]

Glen L. Custer; Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 14, 1980.

On July 24, 1980, Glen L. Custer filed with the Federal Energy Regulatory Commission (Commission) an application for certification of as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is located three miles east of Copan, Oklahoma. Glen L. Custer states that the plant is a 175 kilowatt generator powered by an internal combustion engine, wholly owned by applicant. The plant's energy will be waste natural gas from a stripper oil well. The gas is of such low quantities that it cannot be sold to consumers or commercial users.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 10 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25576 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC80-89]

El Paso Natural Gas Company; Notice Granting Petitions for Leave to Intervene Out of Time

August 14, 1980.

On June 20, 1980, the Commission issued an Order Accepting Tariff Sheets and Granting Petitions to Intervene in Docket No. TC80-89. That order accepted tariff sheets filed by El Paso Natural Gas Company (El Paso) effectively amending its FERC curtailment plan to permit El Paso to sell and deliver to its customers volumes of gas in excess of the customers' respective peak day entitlements, as presently prescribed in El Paso's curtailment plan. El Paso requested, and the Commission authorized, such sales and deliveries on any day when the total gas volumes available for sale equals or exceeds the volumes necessary to serve all customers' requests up to peak day entitlement and to meet El Paso's own storage injection needs.

Several petitions for leave to intervene out-of-time in this proceeding have been filed with the Commission. Southern Union Company (Southern Union) states that due to an unusually heavy work load, it inadvertently failed to file its petition by June 12, 1980, the due date set by the Commission. In view of the shortened notice period—notice of El Paso's tariff filings was published in the Federal Register June 3, 1980 (45 FR 37511)—and the fact that Southern Union's petition was filed only one day late, it is found that good causes exists

for allowing Southern Union to intervene.

The City of Willcox (Willcox) and Arizona Electric Power Cooperatives, Inc. (AEPCO), filed a petition to intervene July 2, 1980, almost a month after the tariff filing was noticed in the Federal Register and 12 days after the order accepting El Paso's tariff sheets was issued. The reason for the delay cited by Willcox and AEPCO is that "Counsel for AEPCO only recently were informed that the filing date for petitions to intervene had passed through the receipt of petitions to intervene from other parties." Because of the shortened notice period, however, it is found that good cause pursuant to section 1.8(d) of the Commission's Rules and Regulations exists to permit the late petition to intervene.

Pacific Gas and Electric Company (PG&E) filed a petition for leave to intervene on June 25, 1980. PG&E states that it had just learned of the Commission's action through the reading of industry news letters. PG&E also complains that it has yet to receive a copy of the notice from the Commission. PG&E is mistaken if it believes the Commission has an independent responsibility to serve all of the pipelines' customers whenever a new tariff filing is made.

Sections 154.16 and 154.22 of the Commission's Rules and Regulations require a natural gas company to mail to each of its customers a copy of any tariff filing made with the Commission. The Commission is informed that El Paso made such service on Willcox and AEPCO and PG&E in this instance. Further, the Commission publishes a notice of such filings in the Federal Register pursuant to sections 2.1 and 154.23 of the regulations but is not required to send a copy of such notice to each of the applicant's customers. It is the duty of those customers to read the Federal Register and to file petitions to intervene within the time provided by the Commission. [1] However, because of the shortened notice period, it is found that good cause exists to permit the late intervention of PG&E.

In view of the foregoing, participation in this proceeding by Southern Union, the City of Willcox and AEPCO, and PG&E may be in the public interest.

Southern Union Company, the City of Willcox and Arizona Electric Power Cooperative, Inc., and Pacific Gas and Electric Company are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided however*, that participation by such intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further*, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25577 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The Federal Register Act, 44 U.S.C. § 1506, states that the publication in the Federal Register of a notice of hearing or of opportunity to be heard is sufficient to give notice to all persons residing within the United States.

[Docket No. CP80-471]

Granite State Gas Transmission, Inc.; Application

August 14, 1980.

Take notice that on July 31, 1980, Granite State Gas Transmission, Inc. (Applicant), 120 Royall Street, Canton, Massachusetts 02021, filed in Docket No. CP80-471 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional 375 horsepower compressor unit on its main pipeline facilities in Plaistow, New Hampshire, all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant states that it purchases its entire supply of gas from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) and delivers such gas to its parent company, Northern Utilities, Inc. (Northern). It is stated that usually Tennessee can deliver Applicant's gas at an adequate pressure; however, under certain conditions Applicant must operate its existing Plaistow compressor unit to maintain high enough pressures for deliveries to Northern. Applicant states that should the Plaistow compressor unit go out of service, Northern's compressor unit at Wells, Maine, would be unable to bring the line back up to required pressure and service to approximately 15,000 Maine customers would be jeopardized.

Consequently, Applicant proposes to install and operate a second 375 horsepower compressor unit in its Plaistow Station to ensure system reliability. Applicant states it would transfer and install Northern's Wells Compressor unit which is no longer useful in its present location. Applicant estimates the total cost of relocating the unit at Plaistow would be $134,716 which would be financed by funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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) 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. 80-25578 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-588]

Kansas Gas and Electric Co.; Proposed Tariff Change;

August 14, 1980.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company on August 6, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff No's. 110, 113, 126, 128, 129, 132 and 134.

The proposed tariff change applies to the Economy and Emergency Service Schedules with nine (9) jurisdictional

partial requirements municipal customers and is necessary to eliminate the 10% adder to purchased power sales as ordered in FERC Rule 84.

Copies of the filing were served upon the Company's jurisdictional customers and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 September 5, 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. 80-25579 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER80-315 and ER80-450]

Kansas City Power & Light Co.; Order Denying Rehearing, Accepting for Filing and Suspending Proposed Increased Rates, Denying Request for Waiver of Notice Requirement, Denying Motion for Summary Judgment, Consolidating Proceedings, Granting Interventions and Establishing Procedures

Issued August 1, 1980.

Our April 1, 1980, Kansas City Power & Light Company (KCP&L) submitted for filing in Docket No. ER80-315 revised rates for firm power service to 16 wholesale customers resulting in an increase of $7.4 million for the 12-month period ending May 31, 1981. KCP&L's proposed rates were based on a cost of service which reflected, *inter alia,* inclusion of full-CWIP in rate base. By order issued May 30, 1980, the filing was rejected as a change in rate under Section 205 of the Federal Power Act (Act) and accepted as an application for prospective inclusion of full-CWIP in rate base under the severe financial difficulty exception of Section 2.16(b) of our regulations. On July 1, 1980, KCP&L filed an application for rehearing of that order urging reversal and acceptance of its filing Pursuant to Section 205 of the Act. Alternatively, KCP&L requests modification of the order to reflect its subsequent filing of revised rates in Docket No. ER80-450, which are stated to be identical in all respects to those filed in Docket No. ER80-315, with the exception of the exclusion of all nonqualifying CWIP from rate base. KCP&L urges the Commission to modify the order of May 30, 1980, by accepting the original filing, consolidating the CWIP and rate proceedings, and suspending the effective date of the Docket No. ER80-450 rates for a period of time deemed appropriate by the Commission under the circumstances of the case.

On June 6, 1980, KCP&L tendered for filing in Docket No. ER80-450 proposed increased rates for service to its 16 wholesale customers located in the states of Missouri and Kansas.[1] The proposed rates provide for an annual increase of $4.7 million based on KCP&L's cost of service for the 12-month period ending May 31, 1981. The rates reflect inclusion only of qualifying CWIP in rate base KCP&L requests that, in view of purported financial difficulties, the submittal in Docket No. ER80-450 be considered a supplement to its filing in Docket No. ER80-315, that it be assigned a retroactive filing date of April 1, 1980 (the filing date assigned in Docket No. ER80-315), and that it be permitted to become effective June 1, 1980, the date originally requested in Docket No. ER80-315. Alternatively, KCP&L requests that the rates proposed in Docket No. ER80-450 become effective August 6, 1980 (60 days after filing) and, in the event the Commission concludes that a hearing should be conducted, KCP&L requests a one day suspension.

Public notice of the filing was issued on June 16, 1980, with responses due on or before July 7, 1980. Timely petitions to intervene were filed by Missouri Power & Light Company (MPL); the Cities of Osawatomie, Ottawa, Garnett, Gardner, Powona, and Baldwin City, Kansas, and the Cities of Higginsville, Salisbury, and Slater, Missouri (Cities); and Coffey County Rural Electric Cooperative Association, Inc. and United Electric Cooperative, Inc. (Coops). A late notice of intervention was filed on July 22, 1980, by the Missouri Public Service Commission, which stated that the notice was filed late because of "administrative delays." The Missouri Commission did not request any time extensions and asserted that its participation will not unreasonably delay the proceeding. In its answer filed July 18, 1980, KCP&L urged the Commission to grant intervention to MPL, the Cities, and the Coops. Since participation in this proceeding by each of the petitioners, incuding the Missouri Public Service Commission, may be in the public interest, we shall grant the requests for intervention in this proceeding as hereinafter ordered.

In addition to their petition to intervene, the Cities protest the use of certain cost of service procedures by KCP&L and urge the Commission to suspend the proposal for the maximum five month period. Further, the Cities allege price squeeze, move for summary judgment on certain issues and for consolidation with the Docket No. ER80-315 proceeding. The Coops also protest certain cost of service procedures, request a five month suspension, allege price squeeze, and request consolidation with the proceeding in Docket No. ER80-315. In its answer, KCP&L supports the motion for consolidation, objects to the requests for summary judgment and for a five month suspension, and suggests that it is not yet appropriate to address the price squeeze issue.

Discussion

As previously indicated KCP&L's filing in Docket No. ER80-315 contained non-qualifying CWIP in rate base as support for its rate increase proposal in violation of Section 2.16 of our regulations. We, therefore, rejected the filing as a Section 205 rate change application, since it was a patent nullity as a matter of substantive law. In its application for rehearing, KCP&L alleges that the Commission's action on similar CWIP filings has been inconsistent and that its filing conformed to the method used by El Paso Electric Company, which the Commission previously accepted for filing with the requirement that El Paso refile rates excluding all non-qualifying CWIP from rate base.[2] KCP&L thus argues that the Commission's treatement of its filing is "an unlawful denial of equal protection" and should be reversed. Alternatively, KCP&L urges consolidation of the two subject proceedings, modification of our order of May 30, 1980, to accept the original filing and "suspend the effective date for such *revised* rates (i.e., those filed in Docket No. ER80-450) for a period of time deemed by the Commission to be appropriate under the circumstances of this case" (Application for Rehearing, p. 5).

Section 2.16 of our regulations reflected the Commission's policy for appropriate filing requirements for public utilities that sought full CWIP treatment for generating plants under construction. Because Section 2.16

[1] *See* Attachment A for a list of customers and rate schedule designations.

[2] *El Paso Electric Company,* Docket No. ER77-488, order issued July 19, 1977.

represents a substantive filing requirment, and tender that patently fails to comply is subject to rejection. *Municipal Light Boards of Reading and Wakefield, Massachussetts* v. *F.P.C.*, 450 F. 2d 341 (D.C. Cir., 1971). KCP&L does not challenge that proposition. Instead, it argues that its filing conforms to the *El Paso* situation and that it is, therefore, entitled to comparable treatment. However, *El Paso* was exceptional in that it was one of the first filings under Section 2.16 when the industry may have been uncertain as to the proper filing requirements for rate change proposals that included CWIP requests. The *El Paso* proceeding established a basis for the Commission to advise the industry of the appropriate procedures for future filings. If any reliance is to be placed on *El Paso* as precedent, it should be for the proposition that the Commission would not countenance a rate change filing based upon full inclusion of CWIP prior to Commission approval; hence, *El Paso* was required to refile its rates excluding non-qualifying CWIP from rate base. KCP&L, itself cites three cases[3] subsequent to *El Paso*, in which electric utilities filed either rates excluding non-qualifying CWIP or alternative rates. We must assume that KCP&L was on notice of the Commission's strong policy against permitting rate filings that fail to isolate non-CWIP rates for collection during the pendency of an investigation. Accordingly, KCP&L application for rehearing will be denied.

Our review of the filing in Docket No. ER80–450 and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful under the Federal Power Act. We will therefore accept the proposed rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that KCP&L's tendered rates are just and reasonable. Accordingly, we will suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on January 6, 1981.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here. Neither has good cause been shown to waive our notice requirements and assign a retroactive filing date to KCP&L's submittal in Docket No. ER80–450. The Commission must view this rate proposal on its individual merits and not on the impediment of the previously tendered and rejected submittal in Docket No. ER80–315.

The motions for consolidation of Docket Nos. ER80–315 and ER80–450 are based on the existence of common facts involved in both filings and are supported by all parties. We find that the consolidation of these cases is in the public interest and we will grant the motions.

In their pleadings, the Cities and the Coops allege that the proposed increased rates may create an unlawful price squeeze. Cities assert that phasing of the price squeeze issue is not appropriate in this proceeding because of the fundamental difference in principle between the retail rates that are about to go into effect in Missouri and Kansas and the wholesale rates. KCP&L responds that this issue is not appropriate to address because of the phasing procedures adopted by the Commission in *Arkansas Power and Light Company*, Docket No. ER79–339, order issued August 6, 1979. Consistent with prior practice, we will phase the price squeeze issue in this case. Moreover, in view of our consolidation of Docket Nos. ER80–315 and ER80–450, we anticipate that a separate initial phase will be necessary to expeditiously consider KCP&L's allegations of severe financial difficulty under Section 2.16 of the regulations. Accordingly, subject to modification by the presiding judge[6] upon a showing of good cause, this proceeding will be conducted in three phases as follows: Phase I—consideration of KCP&L's Section 2.16 application; Phase II—consideration of the rates proposed in Docket No. ER80–450; and Phase III—consideration of price squeeze in the event that the Commission determines this final phase to be necessary upon a showing by intervenors or staff that a price squeeze may continue to exist after a decision is reached on the CWIP, cost of service, capitalization and rate of return issues.

Cities move for summary determination on the issues of capital structure, rate of return, and demand allocation. KCP&L properly argues that those matters are issues of fact which should be resolved on the basis of a full evidentiary record. We agree and will deny Cities' motion for summary judgment of those issues.

The Commission orders

(A) KCP&L's application for rehearing of our order issued May 30, 1980, in Docket No. ER80–315, is hereby denied.

(B) KCP&L's request for waiver of the Commission's notice provisions to permit a retroactive filing date for its rates filed in Docket No. ER80–450 is hereby denied.

(C) The rates tendered by KCP&L on June 6, 1980, in Docket No. ER80–450 are hereby accepted for filing and suspended for five months from 60 days

[3] *Public Service Company of New Hampshire* (Docket Nos. EL78–15 and ER78–339), *Public Service Company of New Mexico (Docket No. ER77–533), and Louisiana Power & Light Company* (Docket No. ER77–533).

[4] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commision*, —— F.2d —— (D.C. Cir. May 30, 1980).

[5] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[6] We note that a presiding administrative law judge has already conducted an initial conference with respect to KCP&L's Section 2.16 application in Docket No. ER80–315.

after filing, to become effective January 6,
1981, subject to refund.

(D) Cities' motion for summary judgment of various cost of service issues discussed above is hereby denied.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and by 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 by KCP&L in Docket No. ER80-450.

(F) The proceedings is Docket Nos. ER80-315 and ER80-450 are hereby consolidated for purposes of hearing and decision.

(G) The Cities, Coops, MPL, and the Missouri Public Service Commission are hereby permitted to intervene in Docket No. ER80-450 subject to the Rules and Regulations of the Commission; *Provided, however,* that participation of such intervenors shall be limited to the matters specifically set forth in their petitions to intervene; and, *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders by the Commission entered in this proceeding.

(H) The Commission Staff shall serve top sheets on or before October 14, 1980.

(I) We hereby order initiation of price squeeze procedures.

(J) Subject to modification by the presiding judge upon a showing of good cause, this proceeding shall be conducted in three phases as follows: Phase I—consideration of KCP&L's Section 2.16 application, Phase II—consideration of the rates proposed in Docket No. ER80-450; and Phase III—consideration of price squeeze in the event that the Commission determines this final phase to be necessary, upon a showing by intervenors or staff that a price squeeze may continue to exist after a decision is reached on the CWIP, cost of service, capitalization and rate of return issue.

(K) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Kansas City Power & Light Co., Docket No. ER80-450

Filed: June 6, 1980.

Dated: Undated.

Designation and other party

(1) Supplement No. 10 to Rate Schedule FPC No. 73 (Supersedes Supp. No. 9 to R. S. FPC No. 73), Missouri Power & Light Company.
(2) Supp. No. 11 to R. S. FPC No. 74 (Supersedes Supp. No. 10 to R. S. FPC No. 74), Missouri Public Service Company.
(3) Supp. No. 12 to R. S. FPC No. 69 (Supersedes Supp. No. 11 to R. S. FPC No. 69), Coffey County Rural ECA.
(4) Supp. No. 8 to R. S. FPC No. 84 (Supersedes Supp. No. 7 to R. S. FPC No. 84), United Electric Cooperative.
(5) Supp. No. 15 to R. S. FPC No. 83 (Supersedes Supp. No. 14 to R. S. FPC No. 83), City of Marshall, Missouri.
(6) Supp. No. 3 to R. S. FPC No. 87 (Supersedes Supp. No. 2 to R. S. FPC No. 87), City of Salisbury, Missouri.
(7) Supp. No. 7 to R. S. FPC No. 81 (Supersedes Supp. No. 6 to R. S. FPC No. 81), City of Slater, Missouri.
(8) Supp. No. 6 to R. S. FPC No. 79 (Supersedes Supp. No. 5 to R. S. FPC No. 79), City of Gardner, Kansas.
(9) Supp. No. 7 to R. S. FPC No. 82 (Supersedes Supp. No. 6 to R. S. FPC No. 82), City of Pomona, Kansas.
(10) Supp. No. 10 to R. S. FPC No. 72 (Supersedes Supp. No. 9 to R. S. FPC No. 72), City of Higginsville, Missouri.
(11) Supp. No. 10 to R. S. FPC No. 76 (Supersedes Supp. No. 9 to R. S. FPC No. 76), City of Prescott, Kansas.
(12) Supp. No. 11 to R. S. FPC No. 85 (Supersedes Supp. No. 10 to R. S. FPC No. 85), City of Baldwin City, Kansas.
(13) Supp. No. 12 to R. S. FPC No. 78 (Supersedes Supp. No. 11 to R. S. FPC No. 78), City of Garnett, Kansas.
(14) Supp. No. 11 to R. S. FPC No. 77 (Supersedes Supp. No. 10 to R. S. FPC No. 77), City of Osawatomie, Kansas.
(15) Supp. No. 11 to R. S. FPC No. 86 (Supersedes Supp. No. 10 to R. S. FPC No. 86), City of Carrollton, Missouri.
(16) Supp. No. 9 to R. S. FPC No. 70 (Supersedes Supp. No. 8 to R. S. FPC No. 70), City of Ottawa, Kansas.

[FR Doc. 80-25568 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ID-1549]

Gerald P. Maloney; Filing

August 14, 1980.

Take notice that on July 22, 1980, Gerald P. Maloney (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice president and director, Appalachian Power Company, electric utility.
Vice president (principle financial officer), Columbus and Southern Ohio Electric Company, electric utility.
Vice president, Indiana-Kentucky Electric Corporation, electric utility.
Vice president and director, Indiana & Michigan Electric Company, electric utility.
Vice president, Kanawha Valley Power Company, electric utility.
Vice president and Director, Kentucky Power Company, electric utility.
Vice president and director, Kingsport Power Company, electric utility.
Vice president and director, Michigan Power Company, electric utility.
Vice president and director, Ohio Power Company, electric utility.
Vice president, Ohio Valley Electric Company, electric utility.
Vice president and director, Wheeling Electric Company, electric utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 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.

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[Docket Nos. CP80-135, etc.]

Northern Natural Gas Co., et al; Order Initiating Hearing, Consolidating Proceedings, and Granting Petitions To Intervene

August 1, 1980.

Northern Natural Gas Company, Lloyd V. Crum, Applicant, Docket No. CP80-135; Northern Natural Gas Company, Respondent, City of Tipton, Iowa, Applicant, Docket No. CP79-423; Northern Natural Gas Company, Respondent, Docket No. CP79-492.

I. Northern's Application

On December 13, 1979, Northern Natural Gas Company, Division of Internorth Inc., (Northern) [1] filed in

[1] Northern, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by order issued April 6, 1943 in Docket No. G-200 (3 FPC 967).

Docket No. CP80–135 an application, as amended on February 15, 1980, 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 and the transportation and sale of natural gas in interstate commerce. Northern seeks authority to provide increased volumes of seasonal service demand gas totaling 256,646 Mcf per day under the presently effective Rate Schedule SS–1 to certain customers purchasing gas under its Rate Schedules CD–1 and PL–1 for the 1980–81 and successive winter heating seasons. Seasonal service demand gas is available from November 27 through March 26 of each heating season to those customers of Northern who have executed a seasonal service demand service agreement. Rate Schedule SS–1 applies to volumes of gas delivered to customers in excess of the volumes delivered under the contract demand and pipeline rate schedules. Seasonal service is firm service. The proposed increased seasonal service is intended to serve Priority 1 requirements.[2]

To implement the proposed service, Northern proposes to construct and operate three compressor stations totaling 7,530 horsepower, approximately 65 miles of 4-inch through 8-inch pipeline, measurement facilities and appurtenances at an estimated cost of $15,350,800, to be financed from general corporate funds.

Northern further requests authority to realign peak day contract demand entitlements of certain of its customers within their total authorized volumes in order to permit them to maximize utilization of the additional peak day entitlements.

Notices of the application and amendment to the application were published in the Federal Register on January 11, 1980 (45 FR 2376–77), and March 4, 1980 (45 FR 14119), respectively. Petitions to intervene and notices of intervention were filed by numerous parties who are listed in the appendix to this order. The following parties filed late petitions to intervene or notices of intervention:

Wisconsin Power and Light Company
Department of Public Utilities of Virginia, Minnesota
Sac City Municipal Gas
Island Gas, Inc.
Natural Gas, Inc.
Railroad Commission of Texas
Public Utilities Commission of the City of Hibbing, Minnesota
Iowa State Commerce Commission

[2]Northern's presently effective curtailment plan was approved by order of November 30, 1979, in Docket No. RP76–52.

We find good cause to grant late intervention for each of these parties. Most of them were mailed to the Commission and arrived only a few days out of time. In addition, as stated below, the Railroad Commission of Texas filed a timely request for an extension of time to file a notice of intervention, which will be acted upon herein. The late-filed petition to intervene of Natural Gas, Inc., (NGI) will be granted since, as discussed below, it raises an issue to be pursued by NGI in this proceeding. The Public Utilities Commission of the City of Hibbing, Minnesota, provided good cause for accepting its late filing. We will grant intervention to the Iowa State Commerce Commission since it is the State agency that regulates natural gas service in the State of Iowa and since no other party is prejudiced by the granting of its intervention.

On January 29, 1980, the Railroad Commission of Texas filed a motion for an extension of 20 days to file a notice of intervention. We herein grant the Railroad Commisson's motion. The Railroad Commission filed a notice on February 19, 1980, stating its concern over the impact on existing customers if their rights to receive gas supplies are vitiated by approval of Northern's application. The Railroad Commission requests this Commission to examine fully the impact of this proposed service on existing customers and to deny the application "in the absence of clear and convincing evidence that those customers will continue to receive adequate service." On July 29, 1980, however, the Railroad Commission filed a letter stating that it has "no objection to the consideration of [Northern's application] without additional proceedings."

On January 29, 1980, a protest, petition to intervene and request for formal hearing was filed by the Brick People, Region VI of the Brick Institute of America, Dickey Clay Manufacturing Company and Griffin Pipe Products Company (Brick People), a group of industrial gas users on Northern's system. The Brick People assert that Northern's application raises several factual issues to be examined in a formal hearing. The first issue raised by the Brick People is the adequacy of Northern's gas supply over both the short and long terms to permit the proposed increase in winter season entitlements. The Brick People cite as the basis for their concern Northern's decline in net reserves, which they state is projected to continue in the future, and Northern's increased reliance on short-term Canadian imports. The second issue raised by the Brick People is the possible detriment to existing high-priority and other customers caused by the attachment of new customers resulting from approval of the new level of SS–1 service. The Brick People assert that Commission review of Northern's application must include consideration of the impact of the proposed new service on existing customers.

The third issue raised by the Brick People is whether it is economically preferable for high-priority customers to use alternate fuel rather than natural gas. The Brick People assert that in certain areas of the country electric utility companies have facilities designed to provide peak service in the summer and may be able to provide additional winter season service using existing facilities. The Brick People assert that a factual determination of the use of alternate fuels and relative benefits and detriments is appropriate.

Finally, the Brick People challenge an assertion made in Northern's application (at p. 3) that approval of the new service will reduce the North Central region's dependence on imported oil. The Brick People assert that the attachment of new high-priority customers by Northern's distributor-customers may result in curtailment of existing industrial gas users who may be forced to shift to imported oil.

On January 29, 1980, Terra Chemicals International, Inc. (Terra), a manufacturer on Northern's system, filed a petition to intervene in which it requested that an evidentiary hearing be held. Relying upon Northern's representation that its application is supported by sufficient gas supplies, Terra filed a motion on May 8, 1980, to withdraw its request for a hearing. We will grant Terra's motion below.

On April 7, 1980, and on May 12, 1980, respectively, comments were filed in this proceeding by the State of Minnesota, Office of the Governor, and the Minnesota Public Service Commission (collectively referred to as Minnesota). Minnesota, which supports Northern's application, reports that in recent years the average use of natural gas per customer has decreased in Minnesota. However, Minnesota further reports that the number of potential new gas customers is much greater than the number who can be served with gas available as a result of conservation efforts. Additionally, Minnesota foresees an energy shortage unique to that state beginning in the 1980–81 winter heating season. The causes of this shortage are the drastic decline in petroleum imports from Canada and the lack of capacity in oil pipelines to

increase domestic deliveries to Minnesota. Accordingly, Minnesota states that approval of Northern's application is critically needed by that state.

On March 28, 1980, NGI, a local distribution company on Northern's system operating in the town of New Richmond, Wisconsin, filed a petition to intervene in which it requested that its allotment of increased SS–1 service of 500 Mcf per day be amended to include 300 Mcf per day of SS–1 service and 200 Mcf per day of annual, CD–1 service, to satisfy summer requirements of its high-priority customers. We note that an increase in CD–1 service is not included in Northern's application so that the purpose of NGI's request appears to be to obtain an additional amount of annual service. Under § 1.8(c) of the Commission's rules of practice and procedure, when a local distribution company such as NGI seeks in a petition to intervene an additional gas supply for sale to the public it must comply with the requirements of Part 156 of the Regulations. NGI has failed to do this. However, we will grant NGI leave to supplement its filing in order to comply with the regulations.

Upon consideration of the various pleadings filed herein, we find it appropriate to set for formal hearing certain of the issues raised by the Brick People. We will set for hearing the first two issues concerning the adequacy of Northern's gas supply and the possible detriment to existing customers due to decreased reliability of service. The hearing on the latter issue requires an inquiry into projections of both customer requirements and supply. We set these issues for hearing out of a concern that we obtain a factual basis prior to making a determination on Northern's application, which seeks authorization for a substantial increase in winter season service.

The fact that Northern seeks authorization for an increase in the total level of authorized SS–1 service distinguishes the present case from *Michigan Wisconsin Pipe Line Company*, Docket No. CP79–289, November 1, 1979, *reh. den.*, May 14, 1980, appeal pending, *General Motors Corp.* v. *FERC*, D.C. Cir. No. 80–1776 (filed July 3, 1980). In *Michigan Wisconsin*, we declined to order an evidentiary hearing on the adequacy of the gas supply to support the proposal in Michigan Wisconsin's application. Although Michigan Wisconsin sought to increase peak day service to certain customers, we determined it was not seeking to provide additional annual service above the level of volumes authorized in existing and amended certificates. *See*, order of May 14, 1980, mimeo at p. 5. In *Michigan Wisconsin*, the effect of the increased peak day service was "basically to shift gas deliveries from one period of time to another period of time", without a change in annual limits set by outstanding certificates. *Id.* We decided that no new inquiry into gas supply on an annual basis was needed. *Id.* The present case, on the contrary, involves an application for an increase in the amount of gas authorized to be sold.

We decline to set for hearing the third and fourth issues raised by the Brick People concerning the preferability of electric power use by homeowners in place of natural gas and the effect of granting the application on the North Central region's dependence on imported oil.

Both the issues are virtually identical to two issues raised in the *Michigan Wisconsin* proceeding, which we declined to set for hearing. *See*, order of November 1, 1979, mimeo at p. 5; order of May 4, 1980, mimeo at p. 7. We are satisfied that the reasons we gave in that proceeding to decline to set for hearing these two issues apply to the present case. As stated there, the issue of alternate use of electric power is primarily one of state commission concern. Order of November 1, 1979, at 5. The issue of fuel oil imports was determined to be tangential to the certificate authorization and it was further determined that approval of the certificate authorization would reduce fuel oil imports. Order of November 1, 1979, at 5; Order of May 14, 1980, at 7.

The conerns raised by Minnesota and others regarding the need for approval of this service lead us to direct the presiding administrative law judge assigned to this proceeding and the parties to make every effort to conclude this proceeding in as short a time as possible consistent with the public interest.[3]

II. Section 7(a) Applications

On July 30, 1979, Lloyd V. Crum, an individual who owns and operates a gas distribution system, whose office is in Racine, Minnesota, and who is currently a customer of Northern's, filed in Docket No. CP79–423 an application, as amended on October 18, 1979, pursuant to Section 7(a) of the Natural Gas Act, for an order directing Northern to deliver to Mr. Crum an additional 300 Mcf of gas per day under Northern's Rate Schedule SS–1. Mr. Crum seeks the additional 300 Mcf of gas per day to serve residential and a few small commercial customers in the towns of Racine and Grand Meadow, Minnesota, and their immediately surrounding areas. Mr. Crum currently has contracted with Northern for up to 450 Mcf of gas per day under Northern's Rate Schedule CD–1 and 200 Mcf under Northern's Rate Schedule SS–1.

On September 18, 1979, the City of Tipton, Iowa (Tipton) an existing municipal customer of Northern, filed in Docket No. CP79–492 an application, as amended on October 9, 1979, pursuant to Section 7(a) of the Natural Gas Act, for an order directing Northern to deliver to Tipton an additional 80 Mcf of gas per day under Northern's Rate Schedule SS–1. Tipton currently has contracted with Northern for 1,406 Mcf of gas per day under the Rate Schedule CD–1, 214 Mcf of gas under Rate Schedule SS–1, and 80 Mcf of gas under peaking service Rate Schedule PS. The 80 Mcf of additional gas sought herein would be used by Tipton to serve residential and small commerical customer requirements.

On September 27, 1979, Northern filed in Docket No. CP79–423 its answer to Mr. Crum's application.[4] Northern objected to making gas available under the Rate Schedule CD–1, as Mr. Crum initially proposed, and limited the amount of SS–1 gas it would make available to 200 Mcf per day. Mr. Crum subsequently amended his application to request SS–1 service rather than CD–1 service.

On November 2, 1979, Northern filed in Docket No. CP79–492 its answer to Tipton's application in which Northern stated its willingness to deliver to Tipton an additional 80 Mcf of gas per day, as proposed by Tipton, under Northern's Rate Schedule SS–1.

After due notice by publication in the Federal Register on September 24, 1979 (44 FR 55041), protests to Mr. Crum's application were filed by Northern Illinois Gas Company (NI-Gas), Iowa-Illinois Gas and Electric Company (Iowa-Illinois), Iowa Power and Light Company (Iowa Power), and North Central Public Service Company, a Division of Donovan Companies (North Central). NI-Gas and North Central subsequently withdrew their protests and petitions to intervene. Iowa-Illinois subsequently amended its petition to intervene to state it does not oppose Mr.

[3] In this regard, we call attention to Order No. 90, issued June 23, 1980 in Docket No. RM80–57, which provides for the appointment of a settlement judge to preside over settlement negotiations. (18 CFR 1.18)

[4] Northern's answer was not filed within the 30 day time period prescribed in Section 156.7 of the Commission's Regulations. Northern requests a waiver of the filing deadline set by Section 156.7 on the ground that its late filing will not prejudice Mr. Crum or any other party. We shall grant Northern's requested waiver of the Section 156.7 filing time.

Crum's application so long as no increase in CD–1 service is involved. Iowa Power's opposition is in regard to Mr. Crum's initial request for an increase in CD–1 service. Its opposition is no longer material since, as stated above, Mr. Crum has amended his application to seek SS–1 service in lieu of CD–1 service. Iowa-Illinois' and Iowa Power's petitions to intervene will be granted herein.

After due notice by publication of Tipton's application in the Federal Register on October 11, 1979 (44 FR 58779), protests were filed by Interstate Power Company (Interstate Power) and NI-Gas. Interstate Power subsequently requested that its petition for leave to intervene be withdrawn. NI-Gas subsequently amended its protest stating that it did not oppose Tipton's application so long as CD–1 service was not involved. Additional petitions to intervene were filed in Docket No. CP79–492 by Iowa Power, Iowa Public Service Company (IPS), and Iowa-Illinois, each of which will be granted herein. Iowa-Illinois, each of which will be granted herein. Iowa-Illinois and IPS stated that they do not oppose Tipton's application if Tipton would receive SS–1 gas. Iowa Power takes the position that any increase in service should be made available and apportioned system-wide, but does not request a hearing on Tipton's application.

The applications of Mr. Crum and Tipton, as stated above, seek additional SS–1 service. Northern's application in Docket No. CP80–135 is for authorization to provide additional SS–1 service to numerous existing customer's including Mr. Crum and Tipton. We conclude that consolidation of Northern's application with that of Mr. Crum and Tipton's is appropriate since it will put those other customers of Northern who are proposed to receive increased SS–1 service on the same footing with Mr. Crum and Tipton and will, accordingly, avoid a potentially discriminatory result.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the application for a certificate of public convenience and necessity in Docket No. CP80–135 and the applications for a Section 7(a) order in Docket Nos. CP79–423 and CP79–492 be consolidated due to common questions of law and fact and set for evidentiary hearing in accordance with the procedure hereinafter detailed.

(2) Participation in the proceeding by all petitioners to intervene may be in the public interest.

The Commission orders:

(A) The motion of the Texas Railroad Commission for an extension of time to file a notice of intervention in Docket No. CP80–135 is hereby granted.

(B) The motion of Terra in Docket No. CP80–135 to withdraw its request for an evidentiary hearing is hereby granted.

(C) NGI is hereby granted leave to supplement its filing for the reason stated above.

(D) The filing deadline set by Section 156.7 of the Regulations is hereby waived in regard to Northern's answer in Docket No. CP79–423.

(E) Pursuant to the authority of the Natural Gas Act, particularly Section 7 and 15 thereof, the Commission's Rules of practice and procedure (18 CFR Part 1) and the regulations under the Natural Gas Act (18 CFR Chapter I, Subchapter (E)), a hearing is hereby ordered to be held on the applications in Docket Nos. CP79–423, CP79–492 and CP80–135 and those applications are consolidated for hearing.

(F) A Presiding Administrative Law Judge designated by the Chief Administration Law Judge shall preside at a prehearing conference and any subsequent hearing in these consolidated proceedings with authority to establish and change all procedural dates and to rule on all motions as provided by the rules of practice and procedure.

(G) The Presiding Judge shall convene a prehearing conference on August 13, 1980 at 10:00 a.m. in a hearing room of the Federal Energy Regulatory Commission, 825 Capitol Street, NE., Washington, D.C.

(H) Petitioners to intervene in Docket Nos. CP80–135, CP79–423 and CP79–492 are permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interest as specifically set forth in their petitions to intervene; *And, provided, further,* That the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix—Petitions To Intervene and Notices of Intervention Filed in Docket No. CP80–135

Northwestern Public Service Company
Minnesota Gas Company
Iowa-Illinois Gas and Electric Company
North Central Public Service Company, a Division of Donovan Companies, Inc.
Iowa Public Service Company
Northern States Power Company (Minnesota) and (Wisconsin)
Iowa Southern Utilities Company
Iowa Electric Light and Power Company
Metropolitan Utilities District of Omaha
Inter-City, Limited, Inc.
Northern Municipal Defense Group
Michigan Wisconsin Pipe Line Company
Iowa Power and Light Company
The Board of Trustees of the Municipal Gas Utilities of Cedar Falls, Iowa
Peninsular Gas Company
Great Plains Natural Gas Company
Greeley Gas Company
Lake Superior District Power Company
City of Duluth, Minnesota
Superior Water, Light and Power Company
Interstate Power Company
City of Watertown Municipal Utilities Department
Wisconsin Gas Company
Elroy Gas Inc.
High Plains Natural Gas Company
The Public Service Commission of Wisconsin
Brick People, et al.
Allied Chemical Corporation
Michigan Power Company
Nebraska Natural Gas Company
City of Tipton, Iowa
St. Croix Valley Natural Gas Company, Inc.
Farmland Industries, Inc.
Terra Chemicals International, Inc.
Minnesota Public Service Commission
Northern Illinois Gas Company
Wisconsin Power and Light Company
Department of Public Utilities, Virginia, Mn.
Sac City Municipal Gas
Island Gas, Inc.
Railroad Commission of Texas
Natural Gas, Inc.
Pubic Utilities Commission of the City of Hibbing, Minnesota
Iowa State Commerce Commission

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BILLING CODE 6450-85-M

[Docket No. CP78–123, etc.]

Northwest Alaskan Pipeline Co.; Filing of an Amendment to Partnership Agreement, and Order Inviting Comments

August 1, 1980.

Notice of the Filing of a Notice of Amendment

On February 6, 1980, Northwest Alaskan Pipeline Company (Northwest Alaskan) and Alaskan Northwest Natural Gas Transportation Company (Alaskan Northwest), a partnership formed under the laws of the State of New York (hereinafter referred to as the

Partnership), filed in Docket No. CP78–123, *et al.*, a document entitled "Notice of Amendment to Partnership Agreement," in which the Commission was advised that American Natural Alaskan Company (American Natural Alaskan), a subsidiary of American Natural Resources Company, has been admitted to the Partnership as of January 1, 1980. A copy of the amendment to the Partnership Agreement (Amendment No. 2) was attached to the filing.

As described by the Partnership in its filing, the instant amendment admits American Natural Alaskan to the Partnership pursuant to section 11 of the Partnership Agreement. Pursuant to that provision, the following terms and conditions were agreed to as the basis for the admission of American Natural Alaskan: (1) American Natural Alaskan agrees to abide by all conditions and obligations of the Partnership Agreement, unless specifically waived: (2) American Natural Alaskan will make a cash contribution to the capital account of the Partnership in an amount equal to that contributed by any individual Partner for the period between the formation of the Partnership and January 1, 1980, the date of admission to the Partnership of American Natural Alaskan. (3) American Natural Alaskan will have the right to submit to the Board of Partners for inclusion in the American Natural Alaskan Capital Account certain sums expended prior to admission, called Qualified Expenditures, that the Partners determine to be of value to the project. (4) American Natural Alaskan will be entitled to a representative on the following committees of the Partnership: Executive, Audit, and Compensation. (5) Solely for purposes of Section 5 of the Partnership Agreement, American Natural Alaskan will be deemed to have been a Partner on or before March 17, 1978. (According to the Partnership, this acts to waive the requirement of section 5.2 that a Partner admitted after that date is subject to a deduction from the allocation of profits, losses and credits.) (6) The admission of American Natural Alaskan is conditioned upon the approval by the Commission of the terms and conditions of admission.

In addition, the Partnership's Notice of Amendment also states that the Partnership is willing to provide other interested persons with the opportunity to join the Partnership on the same terms as those accepted by American Natural Alaskan. The Partnership Notice indicates that the Partnership has decided that this offer will remain open for a period of 30 days following the issuance by the Commission of this notice.

The Partnership's Notice of Amendment also states that should any person join the Partnership after the 30 day period, that person will be subject to a deduction from the allocation of profits, losses, and audits of the Partnership, and that as of January 1, 1980, the rate of the discount is 10 percent.

Background

In his *Decision and Report to Congress on the Alaska Natural Gas Transportation System (Decision),*[1] the President directed that the corporation building the Alaska Natural Gas Transportation System (ANGTS) be "open to ownership participation by all persons without discrimination, except producers of Alaska Natural Gas." Accordingly, the General Partnership Agreement among the partners [2] of the Alaskan Northwest Natural Gas Transportation Co., which agreement became effective January 31, 1978,[3] provides in section 11.2 for the admission of new partners "as freely as possible, with only such restrictions on admissions and capital contributions as are necessary to maintain the financial and operating integrity of the Partnership and to treat the existing Partners as equitably as possible." Section 5.2 of the Agreement established the terms and conditions for carrying out this admission policy. Specifically, section 5.2 provides that non-contemporaneous joinder will result in a partner being subject to "an unequal allocation of all net profits and net losses and credits in the Partnership, * * * in recognition of the greater degree of financial risk, Partnership responsibility and commitment" of resources made by the original partners. This allocation was to be accomplished by discounting the otherwise equal share of the new Partner as follows:

Admission date	Percent
After commitment date	15
11–1–78 through commitment date	10
9–1–78 through 10–31–78	9
8–1–78 through 8–31–78	8
7–1–78 through 7–31–78	7
6–1–78 through 6–30–78	6
5–1–78 through 5–31–78	5
4–1–78 through 4–30–78	4
3–1–78 through 3–31–78	2

The discounts thus deducted from the allocation of profits, losses and credits of the new Partner would then be distributed to the original partners.

On May 26, 1978, Northwest Alaskan and Alaskan Northwest jointly filed with the Commission a "Notice of Amendment of Partnership Agreement," which amendment had been in effect since May 19, 1978. The May 19, 1978 amendment (Amendment No. 1) revised the discount schedule in section 5.2 of the original Agreement "to encourage additional members in the Partnership during the period preceding the commencement of construction on the Alaska Gas Project," and thus to facilitate private financing. The new discount schedule was as follows:

Admission date	Percent
After commitment date	15
1–1–80 through commitment date	10
7–1–79 through 12–31–79	8
1–1–79 through 6–30–79	4
7–1–78 through 12–31–78	2
3–18–78 through 6–30–78	1

In its Order of June 20, 1978,[4] The Commission considered the admission policy and discounting mechanism of the agreement and found that the policy adopted under section 11.2 was consistent with the President's *Decision.* The Commission also found (at 4) that section 5 of the agreement provided a reasonable incentive to partiipation in the ANGTS, and further found (at 8) that:

The different returns on partnership investment resulting from the operation of the discount schedule do not constitute undue discrimination. The discount is a recognition of varying degrees of risk to be assumed by the partners dependent upon date of membership * * *

The Commission held (at 9) that the increase in the discount should be reasonably related to assumptions relative to the project planning events which

Reduce financial risk so as to afford potential future partners the opportunity to

[1] Executive Office of the President, Energy Policy and Planning (September, 1977), at pages 4–5.

[2] These parties to the agreement consist of Northern Arctic Gas Co., a subsidiary of Northern Natural Gas Co.; Northwest Alaskan, a subsidiary of Northwest Energy Co.; Pan Alaska Gas Co., a subsidiary of Panhandle Eastern Pipe Line Co.; Pacific Interstate Transmission Co. (Arctic), a subsidiary of Pacific Interstate Transmission Co.; and United Alaska Fuels Corp., a subsidiary of United Gas Pipe Line Co.

[3] A copy of the Partnership Agreement was filed with the Commission on April 19, 1978.

[4] "Order Transferring Conditional Certificate of Public Convenience and Necessity from Alcan Pipeline Company to Alaskan Northwest Natural Gas Transportation Company, Reviewing Relevant Portions of Underlying Partnership Agreement and Granting Intervention," Docket No. CP78–123.

assess the progress of the project before being subject to the next escalation of the discount schedule.

However, the Commision was unable to find sufficient correlation between the proposed discount schedule and actual events, particularly in later years.[5] Absent further explanation of this point by the applicants, the Commission deferred consideration of the properiety of the specific discount schedule and found (at 10–11).

Specifically, persons who join the partnership within 30 days of the date of this order shall not be subject to the discount schedule of Section 5.2. After this date, however, the then-current 2% discount rate will operate. In light of the aforementioned need for further information concerning the values in the discount schedule, however, we direct that this 2% discount rate remain in effect until such time as Alaskan Northwest has provided the Commission adequate information supporting the higher discount rates.

On February 6, 1980, Northwest Alaskan and Alaskan Northwest submitted their above described Notice of Amendment to the Partnership Agreement, for the purpose of admitting American Natural Alaskan Co. to the Partnership. This Amendment No. 2 proposes that section 5.2 (the discounting of profits, losses and credits for non-contemporaneous partners) be waived for the purposes of admitting American Natural. As described more fully above, the amendment further states that for a 30 day period following Commission notice of the amendment, any qualified entity would be accorded full partnership status on the same terms and conditions as those agreed to be the partners with American Natural. Anyone seeking partnership after the thirty day period would be subject to the 10% discount as provided for in Amendment No. 1. The amendment also provides a schedule for American Natural to fulfill its capital obligations to the partnership.

Subsequent to that date, Alaskan Northwest signed an agreement with the Alaska producers and the State of Alaska [6] for the design and engineering work for the Alaska segment of the pipeline. In this agreement, filed with the Department of Energy, the Partnership referred to its admission of American Natural Alaskan as a full partner, and reiterated its intention to allow other parties to join the Partnership on the same basis during a period of 30 Secretary of Energy forwarded a copy of this document to the Commission in July 1980.

In its June 30, 1978 Order, the Commission accepted in principle the concept of a discount schedule as a condition of partnership for new partners. Amendment No. 2 to the Partnership Agreement in effect waives this discount for the purpose of admitting American Natural to the Partnership on the same terms enjoyed by the original partners. The amendment evidently reflects the judgment of the original partners that the addition of American Natural as a partner is sufficiently valuable to warrant a waiver of the discount. Recognizing the uniquely judgmental nature of this matter, the Commissiuon is inclined to approve the waiver for American Natural Alaskan as a product of negotiation among the parties.[7] However, in light of our invitation for comment on related maters, as discussed below, the Commission will also afford an opportunity for comment on this subject as well.

Similarly, although the Commission reaffirms its 1978 determination of the appropriateness of a discount as a means of compensating the original partners for the risks they have taken, we are also inclined to accept the 30 day period for allowing a waiver of the discount (a 30 day "grace period") as a product of negotiations between the Partnership and American Natural, on the one hand, and between the Partnership and the producers and the State of Alaska, on the other; at the end of the grace period, the prevailing discount rate would once more become effective.[8] Again, in light of our invitation for comments on related matters, as discussed below, we will afford an opportunity for comment on this subject as well before making a final determination on this matter.

The 30 day grace period itself, however, will commence running on the date of issuance of this order, without waiting for the receipt of comments in response to this order. This determination is not inconsistent with our invitation for comments discussed below. We make no determination at this time as to what discount rate (or grace periods) might prevail in the future. Subject to receipt and analysis of comments, the determinations in our June 30, 1978 Order remain in effect (a maximum 2 percent discount rate, subject to waiver by the partnership if such waiver is approved by the Commission). The immediate commencement of the running of the 30 day grace period does not constitute advance approval by the Commission of any waiver that the Partnership might grant in response to its 30 day invitation; this order merely serves to provide public notice of the Partnership's offer, which offer, if accepted, would presumably result in a further filing by the Partnership with the Commission which the Commission would consider at that time.

Our publication of notice of the Partnership's offer, however, as well as its commencement on the date of issuance of this order (and its termination 30 days thereafter) is not without considerable significance. Subject to receipt and analysis of comments, the Commission has stated its inclination to approve the admission of American Natural Alaskan as a partner pursuant to the terms and conditions negotiated by the parties and submitted to the Commission in the February 6, 1980 filing; those terms and conditions include waiver of the discount rate for American Natural and any other prospective partner that responds to the Partnership's 30 day offer. Prospective partners who defer decision have no assurance as to whether the Partnership will be willing to waive the discount at any point in time in the future after the expiration of the 30 days, nor whether the Commission would approve such future waiver if offered. Nor is there any assurance as to what discount rates and schedules the Commission might approve in response to the comments received.

Regarding the appropriate discount schedule, in its Order of June 30, 1978 the Commission noted [9] that in the earlier years the discount schedule appeared to be related not only to precommitment capital investment, but also to such events as the enactment of the Natural Gas Policy Act of 1978, negotiation of Prudhoe Bay gas sales, and projections concerning the certification date. Alaskan Northwest, however, in its February 6, 1980 filing, declined to specify which events were linked to each phase of the schedule. The Partnership considers the discount schedule to be a reflection of their business judgement—their assessment

[5] In the lower range of the schedule, the discount appeared to relate to the amount of each partner's capital contribution at risk. See Order at 9, fn. 10.

[6] Cooperative Agreement for Design and Engineering of Alaska Gas Pipeline and Conditioning Plant, between Alaska Northwest Natural Gas Transportation Company, Prudhoe Bay Natural Gas Producers, and the State of Alaska, June 1980.

[7] In other words, the Commission is inclined to determine that the admission of American Natural Alaskan to the Partnership, on the terms set forth in Amendment No. 2 of the Partnership Agreement, is not inconsistent with the requirements set forth in the President's *Decision*.

[8] To be precise, the Commission reaffirms its determination that the discount rate scheme in principle is not inconsistent with the President's *Decision*.

[9] Order of June 30, 1978 at 9, fns. 9 and 10.

of the relative risk of their capital expenditures to date. One could consider the discount akin to a syndication fee, which is standard business practice in ventures such as this project. As with most fees, it is an arbitrary number, its reasonableness tested only by its acceptability to all parties affected by it.

Under the Commission's Order of June 30, 1978, the governing discount (i.e., the only discount then approved by the Commission pending submission of further data) is 2 percent. The Commission believes that, since that time, events have altered the risk inherent in the project sufficiently to warrant an additional discount. The Commission believes that sufficient progress has been made on the project that the 10 percent discount now applicable under Amendment No. 1 could be appropriate, although a discount of 5 percent might well be more appropriate.

Clearly, inasmuch as the prebuild portions of the project have been certificated and the producers have signed a participatory agreement with the Partnership and the State of Alaska for one phase of the Alaskan segment of the pipeline, much risk in the venture has been obviated. On the other hand, the risk perceptions of potential investors in the project may be different from ours. They could reason that the reduction in risk inherent in events that have transpired would warrant a lesser discount (i.e., less than 10 percent) at the end of the 30 day grace period. Accordingly, the Commission will seek comment on the appropriate level of discount to be put into effect at the end of the grace period (assuming that the grace period is approved). Parties wishing to comment on the appropriate discount schedule are commended to the Commission's Order No. 31, [10] and the accompanying material in the record of that proceeding (Docket No. RM78-12) on the appropriate methodology for calculating allowances for risk exposure.

As noted above, the Commission is supportive of the principle of increasing the discount rate when events result in reduction of risk. The Commission notes that the Partnership's discount schedule calls for an increase to 15 percent at the commitment date for equity contributions to construction. The Commission does not fully understand the significance of the commitment date in terms of risk exposure to the partners. However, the Commission certainly anticipates material changes in the risk exposure of partners at the time of certain future events which the Commission can foresee. Final Commission certification, and final design and cost estimate approval by the Federal Inspector, are examples of events at which the Commission would anticipate further changes to the discount schedule.[11] The Commission particularly invites comment on the appropriateness of utilizing particular events in determing the trigger points on the discount schedule

The Commission orders:

(A) Any person desiring to be heard or to make any protest with reference to the above described Notice of Amendment of Partnership Agreement should on or before August 22, 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 the instant proceeding must file a petition to intervene in accordance with the Commission's rules. (Persons who are already parties of record in Docket No. CP78-123, *et al.*, need not file additional petitions to intervene.)

(B) Parties of record in Docket No. CP78-123, *et al.* (including persons who have filed petitions to intervene which are pending for decision on the relevant deadlines) are invited to submit comments and reply comments on the matters discussed in this order. The Commission particularly desires comment on the appropriate level of the discount for prospective new partners in Alaskan Northewest, including appropriate rates and schedules for such discounts. Comments may also be submitted with respect to the Partnership's Amendment No. 2, including the waiver of discount for American Natural Alaskan as well as for any prospective partner that accepts the Partnership's 30 day grace period offer. Comments may be filed on or before August 22, 1980, and reply comments may be filed on or before September 5, 1980. Comments and reply comments should be served on all parties of record in Docket No. CP78-123, *et al.*

(C) The Secretary shall cause prompt publication of this notice and order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25583 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[10] "Order Setting Values for Incentive Rate of Return, Establishing Inflation Adjustment and Change in Scope Procedures, and Determining Applicable Tariff Provisions," Docket No. RM78-12 (June 8, 1979). *See*, especially, the discussion of the Project Risk Premium at pages 72-80.

[11] Because of our inability to anticipate fully the nature of risks at those junctures, the Commission would prefer to seek comment at those times on the appropriate changes to the discount schedule on each of those occasions.

[Docket No. ER80-454]

Ohio Edison Co.; Order Accepting for Filing and Suspending Proposed Rate Schedule Changes, Granting Intervention, Denying Motions, Establishing Hearing Procedures and Phased Price Squeeze Procedures

August 1, 1980.

On June 10, 1980, Ohio Edison submitted for filing a proposed increase in rates for full requirements service to its 21 municipal wholesale customers (Customers).[1] The proposed rates would result in increased revenues of $14,362,000 (37.6%) for the twelve months following the proposed effective date of August 8, 1980. Ohio Edison concurrently filed a proposed increase in rates for partial requirements wholesale service. Although Ohio Edison has offered to make such service available, none of the affected customers presently takes partial requirements service from Ohio Edison.

Ohio Edison currently renders full requirements service to Customers under separate rate schedules which provide for service either at a primary voltage level (below 15 kV) or a transmission level (above 15 kV).[2] Under the proposed full requirements rates, Customers would receive service under a single rate containing a surcharge provision applicable to Customers at primary voltage. Both the current and proposed rates are subject to tax and fuel adjustment clauses. As with the proposed full requirements rates, Ohio Edison proposes to convert its existing partial requirements rates for service at transmission voltage and primary voltage levels from separate rates to a single rate with a surcharge for service at primary voltage.

Notice of Ohio Edison's filing was issued on June 16, 1980, with comments required to be filed on or before July 7, 1980. On July 7, 1980, Customers jointly

[1] See Attachment for a list of customers and rate schedule designations.

[2] Three mumicipal cutomers are served at the primary voltage level while 18 are served at the transmission voltage level.

filed a timely protest, petition to intervene, motion to reject and motion for summary judgment.[3]

Customers allege a variety of filing requirements deficiencies [4] and therefore request that the Commission reject the filing for failure to comply with the Commission's regulations. In the alternative, Customers contend that the proposed rates should be suspended for the maximum statutory period of five months.

Customers further request summary disposition of several issues reflected in Ohio Edison's cost of service. These matters include:

(1) An alleged rate design error in the development of the primary voltage service rates;

(2) Use of a capital structure that includes the common equity of a subsidiary—Pennsylvania Power Company;

(3) Calculation of interest expense, for tax purposes, on a non-synchronized basis;

(4) Failure to synchronize fuel clause revenues and expenses for the test period;

(5) Use of beginning and end of year plant balance averages;

(6) An alleged improper allocation of administrative and general expenses and payroll taxes;

(7) Annualization of certain expenses (wages, pensions and nuclear fuel disposal costs); and

(8) An alleged failure to flow through certain investment tax credits in accordance with the company's election to flow through those investment tax credits.

In addition to the above-identified matters, Customers raise a number of cost of service issues and allege that Ohio Edison's proposed rates will create a price squeeze.

Discussion

Initially, we find that participation in this proceeding by Customers may be in the public interest. Consequently, we shall grant them intervenor status.

Our review of Ohio Edison's filing indicates that it substantially complies with the filing requirements contained in § 35.13 of the Commission's regulations. Customers' motion to reject will therefore be denied. However, according to our analysis the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rate schedules for full and partial requirements service for filing and suspend them as ordered below. Although Ohio Edison is not currently providing partial requirements service, the rates proposed for such service are based on the same cost data as those submitted in support of the full requirements rates, and the cost allocation methodologies utilized in developing each of the rates are essentially the same. Thus, the same suspension period is appropriate with respect to the rates for both types of service.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[5] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "any (emphasis added) rate or charge that is not just and reasonable is herby * * * declared unlawful." [6] This declaration places on the Commision a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that Ohio Edison's tendered rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effet subject to refund thereafter on January 10, 1981.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

Based upon our review of the information provided by Customers in support of their motion for summary disposition, we find that such action is not warranted with respect to the issues raised. As with the other cost of service issues identified by Customers, these matters should be considered on the basis of an evidentiary record compiled at the hearing ordered below.

In accordance with the Commission's policy established in *Arkansas Power & Light Company*, Docket No. ER79-339, order issued August 6, 1979, we shall phase the price squeeze issue raised by Customers. As we have noted in previous orders, this procedure will allow a decision first to be reached on the cost of service, capitalization and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

As previously indicated, Ohio Edison's proposed rates are subject to a tax adjustment clause provision. Implementation of any change under the tax adjustment clause will require a timely filing with the Commission pursuant to § 35.13 of the Commission's regulations.

The Commission orders:

(A) Ohio Edison's proposed full and partial requirements rates are hereby accepted for filing and suspended for five months to become effective, subject to refund, on January 10, 1981.

(B) Customers' motion to reject the filing is hereby denied.

(C) Customers' motion for summary disposition of various cost of service issues is hereby denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and the

[3] Ohio Edison responded to Customers' contentions in an answer filed under a miscaptioned docket on July 22, 1980. Since nothing raised in Ohio Edison's answer would suggest determinations other than those expressed in this order, we will not separately address that answer.

[4] The purported deficiencies relate primarily to the sufficiency of Ohio Edison's explanations of the derivation of certain Period II estimates.

[5] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*, —— F.2d —— (D.C. Cir. May 30, 1980).

[6] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a formal settlement conference in this proceeding to be held within 10 days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. 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.

(F) 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.

(G) Customers are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act: *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 the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(H) The Commission staff shall serve top sheets in this proceeding on or before October 27, 1980.

(I) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

Ohio Edison Company

[Docket No. ER80-454]

Filed: June 10, 1980.

Designation and other party

(1) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 142 (Supersedes Supplement No. 2 to Supplement No. 2)—Amherst

(2) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 2 to Supplement No. 2)—Beach City

(3) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 2 to Supplement No. 2)—Brewster

(4) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 2 to Supplement No. 2)—Columbiana

(5) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 126 (Supersedes Supplement No. 2 to Supplement No. 2)—Cuyahoga Falls

(6) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 127 (Supersedes Supplement No. 2 to Supplement No. 2)—Galion

(7) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 128 (Supersedes Supplement No. 2 to Supplement No. 2)—Grafton

(8) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 129 (Supersedes Supplement No. 2 to Supplement No. 2)—Hubbard

(9) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 130 (Supersedes Supplement No. 2 to Supplement No. 2)—Monroeville

(10) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 131 (Supersedes Supplement No. 2 to Supplement No. 2)—Husdon

(11) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 132 (Supersedes Supplement No. 2 to Supplement No. 2)—Lodi

(12) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 133 (Supersedes Supplement No. 2 to Supplement No. 2)—Lucas

(13) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 134 (Supersedes Supplement No. 2 to Supplement No. 2)—Milan

(14) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 135 (Supersedes Supplement No. 2 to Supplement No. 2)—Prospect

(15) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 136 (Supersedes Supplement No. 2 to Supplement No. 2)—Seville

(16) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 137 (Supersedes Supplement No. 2 to Supplement No. 2)—South Vienna

(17) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 138 (Supersedes Supplement No. 2 to Supplement No. 2)—Wadsworth

(18) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 139 (Supersedes Supplement No. 2 to Supplement No. 2)—Wellington

(19) Supplement No. 3 to Supplement No. 3 to Rate Schedule FPC No. 140 (Supersedes Supplement No. 2 to Supplement No. 3)—Oberlin

(20) Supplement No. 3 to Supplement No. 3 to Rate Schedule FPC No. 141 (Supersedes Supplement No. 2 to Supplement No. 3)—Niles

(21) Supplement No. 3 to Supplement No. 3 to Rate Schedule FPC No. 122 (Supersedes Supplement No. 2 to Supplement No. 3)—Newton Falls

(22) Original Sheet Nos. 18 through 21 Under FERC Electric Tariff, Original Volume No. 1 (Supersedes Original Sheet Nos. 10 through 17)—Partial Requirements Tariff Customers

[FR Doc. 80-25504 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-137]

Oklahoma Natural Gas Gathering Corp.; Application for Staff Adjustment

August 14, 1980.

On July 29, 1980, Oklahoma Natural Gas Gathing Corporation (ONGG) filed an application for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). The requested adjustment would exempt ONGG from making filing under the Commission's incremental pricing regulations, 18 CFR Part 282. ONGG states that the requested relief is necessary to prevent hardship, inequity and unequal distribution of burdens.

ONGG maintains that it sells all of the gas which it purchases to Cities Service Gas Company (Cities Service) and to eight residential farm tap customers. ONGG also maintains that since the only customer to which ONGG's incremental gas costs flow is Cities Service, it serves no useful purpose to require ONGG to receive and determine the maximum surcharge absorption capacity (MSAC) against which the incremental pricing surcharges will have to be assessed on a monthly basis and make reports pursuant to § 282.603 of the Commission's regulations. ONGG alleges that the subject requirements are overly burdensome given its unique situation and that no purpose will be served by requiring it to duplicate the information which Cities Service has and reports.

Accordingly, ONGG requests that it be permitted to (1) determine the incremental natural gas costs that would require a surcharge above a base rate on its system each month and report those costs to Cities Service so that Cities Service can use those costs in determining the allocations of incremental costs to its MSAC's, (2) be exempt from performing all other tasks required by the incremental pricing rules.

Any person desiring to be heard or to protest this adjustment shall file a petition to intervene or protest in accordance with the provisions of § 1.8 or § 1.10 of the Commission's rules of practice and procedure. All petitions to

intervene or protest shall be filed with the Secretary of the Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426, and must be filed on or before September 8, 1980. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make the protestant a party to the proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25585 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. EL80-38; Project Nos. 405, 1025, 1881 and 1888]

Philadelphia Electric Power Co. & Susquehanna Power Co., Safe Harbor Water Power Co., Pennsylvania Power & Light Co., York Haven Power Co.; Order Providing for Hearing

August 14, 1980.

By separate orders issued this same day, the Commission has granted new licenses for the four licensed hydroelectric projects on the Susquehanna River: Conowingo Project No. 405 (Philadelphia Electric Power Co. & Susquehanna Power Co.); Safe Harbor Project No. 1025 (Safe Harbor Water Power Co.); Holtwood Project No. 1881 (Pennsylvania Power & Light Co.); and York Haven Project No. 1888 (York Haven Power Co.), hereinafter referred to collectively as "the licensed Susquehanna projects."[1] A common question raised by intervenors, state and federal agencies, and others with respect to each of the licensed Susquehanna projects was whether or not the respective licensees should be required to construct and operate fish passage facilities at their projects.[2]

Large numbers of anadromous fish once migrated up the Susquehanna River through Maryland and Pennsylvania and as far upstream as New York. Records of the National Marine Fisheries Service indicate that over 7 million pounds of American shad were taken commercially in Maryland in 1889, prior to major dam construction on the Susquehanna. The construction of York Haven Project No. 1888 in 1904, Holtwood Project No. 1881 in 1910, Conowingo Project No. 405 in 1928 and Safe Harbor Project No. 1025 in 1928 blocked access to spawning areas for anadromous fish stocks. Since that time the American shad fishery in the Susquehanna River has declined to extremely low levels. In addition to the physical obstruction of migration, problems of water quality and fishery management also appear to have contributed to the decline of anadromous fish in the Susquehanna River Basin.

A number of studies of the decline of the anadromous fishery resources and the feasibility of fish passage facilities have been conducted by state and federal agencies, the licensees of the licensed Susquehanna projects and others. The various interested parties have held differing positions on the suitability of the Susquehanna for restoring anadromous fish stocks and the technical and economic feasibility of installing fish passage facilities at the licensed Susquehanna projects. The licensees of these projects maintain that the evidence to date does not justify the installation of fish passage facilities. The licensees question whether the anadromous fish would utilize fish passage facilities and whether the cost of installing such facilities would be justified in light of any benefit to the anadromous fishery that could be derived. Philadelphia Electric Power Company, licensee for Conowingo Project No. 405, stated that, as a compromise, it would accept a condition in the Conowingo Project license requiring the construction of fish passage facilities at a maximum cost of $5 million, provided such a condition were included in the license as a result of such studies as are deemed necessary by the FERC. The licensees for the Safe Harbor, Holtwood and York Haven Projects recommended that the issue be placed into a separate docket for Commission consideration following the relicensing of the Susquehanna licensed projects.

In light of the unresolved questions regarding the feasibility and cost of installing fish passage facilities or undertaking other mitigative measures at the licensed Susquehanna projects, we find that this matter will be best resolved in a hearing. The hearing should focus on the status of the anadromous fishery in the Susquehanna River Basin and its environs, the effects of project operations on the anadromous fishery, and the feasibility, including costs and benefits, of measures to protect or enhance those fishery resources. In addition to the consideration that must be given to the feasibility, design and cost of fish passage facilities, the proceeding should investigate, as well, any other measures that would be required for the restoration of a viable anadromous fishery in the Susquehanna River Basin, including but not limited to, hatchery programs and flow releases.

At such time as the scope of the proposed action on the fishery resource matters is sufficiently defined, the Commission staff shall determine the need, if any, for the preparation of an environmental impact statement.

Deferring resolution of the anadromous fisheries question while going forward with issuing new licensees for the licensed Susquehanna projects will not in any way diminish our authority to resolve this question. The Commission has reserved sufficient authority in the new licenses concurrently issued for the licensed Susquehanna projects to require the licensees to undertake any appropriate measures related to the fishery resources of the project area.

The Commission orders:

(A) Pursuant to the provisions of the Federal Power Act, particularly Sections 10(a), 10(g), 308, and 309, the Commission's rules of practice and procedure, and the licenses for FERC Project Nos. 405, 1025, 1881 and 1888, a hearing shall be held to determine the status of the anadromous fishery in the Susquehanna River Basin and what measures, if any, should be required of the licensees of FERC Project Nos. 405, 1025, 1881 and 1888 to protect or enhance that anadromous fishery. Such measures shall include, but not be limited to, fish passage facilities, hatcheries, flow releases, and other operational constraints.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall preside at the hearing in this proceeding. The Presiding Judge shall convene a prehearing conference in this proceeding at 10:00 a.m. on September 30, 1980 at the Commission's offices, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) All parties to the relicensing proceedings for FERC Project Nos. 405, 1025, 1881 and 1888 shall be parties to this proceeding. Others who desire to participate as a party in the hearing

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[1] The Conowingo Project is the first dam on the Susquehanna River 10.0 miles upstream from the mouth of the river on Chesapeake Bay. The Holtwood Project, Safe Harbor Project and York Haven Project are located upstream from Conowingo in that order.

[2] Comments in favor of installing fish passage facilities at the licensed Susquehanna projects now or at sometime in the future were offered by, *inter alia*, Susquehanna River Basin Commission, Pennsylvania Fish Commission, Pennsylvania Department of Environmental Resources, Pennsylvania Federation of Sportsman's Clubs, U.S. Department of the Interior-U.S. Fish & Wildlife Service, U.S. Environmental Protection Agency and U.S. Department of Commerce-National Marine Fisheries Service.

must file on or before September 15, 1980 a petition to intervene in accordance with § 1.8 of the Commission's rules of practice and procedure.

(D) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25586 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-447]

Public Service Co. of Colorado; Order Accepting for filing and Suspending Rates, Granting Intervention, Initiating Hearing and Establishing Procedures

August 1, 1980.

On June 5, 1980, Public Service Company of Colorado (Company) tendered for filing proposed rates for electric service to its ten wholesale customers who are each served by a separate rate schedule. [1] The cost of service submitted in support of the proposed increased rates reflects inclusion in the Company's rate base of construction work in progress (CWIP) for (1) pollution control facilities and (2) the Company's Pawnee Electric Generating Station. The latter CWIP item is proposed to be included in rate base on a showing of "severe financial stress" after a final order on rehearing in this proceeding. The proposed rates, which include both CWIP items in rate base, would increase revenues by $16,884,000 (53.7%) for the test period ending December 31, 1980. However, in view of § 2.16(b) of the Commission's regulations, [2] the Company included alternate revised rates which did not reflect inclusion in rate base of CWIP related to the Pawnee Station. Such alternate rates result in an increase in revenues of $10,721,348 (34.1%). The Company requests that if the alternate rates are accepted and suspended, the suspension period be limited to one day.

Notice of the filing was issued June 11, 1980, with responses due on July 3, 1980. Petitions to intervene and protests were filed by Central Telephone and Utilities Corporation, Southern Colorado Power Division (CTU) on June 30, 1980, and by Intermountain Rural Electric Association (IREA) on July 2, 1980. On July 1, 1980, the City of Glenwood Springs filed a petition to intervene. Protests were filed on June 30, 1980, by the City of Burlington and on July 2, 1980, by the Town of Julesburg. An untimely notice of intervention was filed by the Public Service Commission of Colorado on July 7, 1980.

Discussion

We will treat the Company's filing which included CWIP for the Pawnee Electric Generating Station in rate base as an application under § 2.16(b) of the Commission's regulations. Accordingly, we will consider the alternate rates which do not include CWIP for the Pawnee Station in rate base to be the rates tendered for filing in this docket.

Our review indicates that the Company's alternate rates may produce excessive revenues [3] and have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Thus, we will accept the alternate rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings. [4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that *"any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful. [5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that the Company's alternate rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on January 4, 1981.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

Our review also reveals that the Company functionalized general plant on a basis other than wage and salary ratios. In accordance with our policy on this matter, the Company shall have the burden—in the hearing to be ordered in this proceeding—of showing that the use of wage and salary ratios is unreasonable as applied to the Company. [6]

The application under § 2.16(b) is also accepted for filing and the matters raised in the application will be considered at the hearing to be held pursuant to this order. Additionally, the hearing will be phased, and this application will be considered in Phase I of the proceeding, subject to modification of this procedure by the presiding judge upon a showing of good cause.

All petitions to intervene are hereby granted. Such petitions have been filed by wholesale customers which have a direct interest in this proceeding. [7] In

[1] See Attachment for rate schedule designations.

[2] Section 2.16(b) provides in pertinent part that "(i)n no event shall a utility collect amounts related to CWIP under this subsection, subject to refund, prior to the issuance of a final order on rehearing approving inclusion of such amounts in rate base."

[3] Our analysis indicates that the proposed increased rates result in excess revenues for all customers except Colorado-Ute. However, we will also suspend the proposed increase to Colorado-Ute since, under the terms of an agreement with the Company, the amount of the proposed increase to Colorado-Ute must be decreased if a settlement lowers the rate increases to the other wholesale customers. *See Public Service Company of Colorado,* Order Approving Settlement, Docket No. ER78-507 (October 9, 1979).

[4] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* —— F.2d —— (D.C. Cir. May 30, 1980).

[5] Section 205(a) of the Federal Power Act, section 4(e) of the Natural Gas Act, and section 15 of the Interstate Commerce Act.

[6] *Minnesota Power & Light Co.,* Docket Nos. E-9499, E-7502, ER76-20 (October 30, 1979); *Missouri Public Service Co.,* Docket No. ER80-108 (January 22, 1980).

[7] The pleadings submitted by the City of Burlington and the Town of Julesburg are construed as being protests under § 1.10 of the Commission's regulations. Thus, they are not granted intervenor status in this proceeding.

addition, we find that good cause exists to authorize late intervention by the Colorado Public Service Commission.

Numerous issues were raised in the petitions to intervene and protestss filed by CTU and IREA. They will have full opportunity to have these issues explored at the hearing.

The Commission orders: (A) Public Service Company of Colorado's proposed rates which included CWIP for Pawnee Electric Generating Station in rate base are hereby considered to be an application for the inclusion of CWIP in rate base under § 2.16(b) of the Commission's regulations. The application will be considered at the hearing herein ordered to be convened in this proceeding, but the rates proposed therein shall not become effective, if at all, until after the Commission approves such application.

(B) This proceeding shall be phased, with the application under § 2.16(b) to be considered in Phase I. The presiding judge may order a change in this schedule for good cause.

(C) Public Service Company of Colorado's proposed alternate rates which do not include CWIP for the Pawnee Electric Generating Station in rate base are hereby accepted for filing and suspended for five months, to become effective January 4, 1981, subject to refund at the outcome of this proceeding.

(D) The Public Utilities Commission of Colorado; Central Telephone and Utilities Corporation, Southern Colorado Power Division, Intermountain Rural Electric Association, and the City of Glenwood Springs are hereby allowed to intervene in this proceeding; *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petitions to intervene or notices of intervention; *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.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(A) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and to 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 by Public Service Company of Colorado as well as the issues raised in the application for inclusion of CWIP in rate base under § 2.16(b).

(F) 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 15 days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. This conference shall be held for purposes of establishing a schedule for expeditious consideration of the application for CWIP relief under § 2.16(b). A second prehearing conference shall be scheduled within 10 days of the service of top sheets. 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.

(G) Public Service Company of Colorado must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalizing its general plant.

(H) Staff shall serve top sheets in this proceeding by October 23, 1980.

(I) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Public Service Co. Colorado Rate Schedule Designations

Filing Date: June 5, 1980.

Dated: Undated.

Other Parties: Wholesale Customers, as indicated.

Designation	Description
City of Aspen, Colo.:	
Supplement No. 9 to Rate Schedule FPC No. 3 (Supersedes Supp. No. 8).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 3 (Redesignation of Supp. No. 1 to Supp. No. 8).	Fuel Cost Adjustment Clause.
Town of Lyons, Colo.:	
Supplement No. 9 to Rate Schedule FPC No. 6 (Supersedes Supp. No. 8).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 6 (Redesignation of Supp. No. 1 to Supp. No. 8).	Fuel Cost Adjustment Clause.
Home Light and Power Co.:	
Supplement No. 13 to Rate Schedule FPC No. 9 (Supersedes Supp. No. 12).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 13 to Rate Schedule FPC No. 9 (Redesignation of Supp. No. 1 to Supp. No. 12).	Fuel Cost Adjustment Clause.
City of Glenwood Springs, Colo.:	
Supplement No. 8 to Rate Schedule FPC No. 11 (Supersedes Supp. No. 7).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 8 to Rate Schedule FPC No. 11 (Redesignation of Supp. No. 1 to Supp. No. 7).	Fuel Cost Adjustment Clause.
Colorado-Ute Electric Association, Inc.:	
Supplement No. 15 to Rate Schedule FPC No. 12 (Supersedes Supp. No. 13).	Schedule of Rates for Service (Including Transmission Agreement).
Supplement No. 1 to Supplement No. 15 to Rate Schedule FPC No. 12 (Redesignation of Supp. No. 1 to Supp. No. 13).	Fuel Cost Adjustment Clause.
Central Telephone & Utilities Corp.: (Southern Colorado Power Division):	
Supplement No. 9 to Rate Schedule FPC No. 13 (Supersedes Supp. No. 8).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 13 (Redesignation of Supp. No. 1 to Supp. No. 8).	Fuel Cost Adjustment Clause.
Intermountain Rural Electric Association:	
Supplement No. 3 to Supplement No. 2 to Rate Schedule FERC No. 21 (Supersedes Supplement No. 2 to Supplement No. 2 to FERC No. 21).	Schedule of Rates for Service.
City of Burlington, Colo.:	
Supplement No. —— to Rate Schedule FPC No. 15 (Supersedes Supp. No. ——).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. —— to Rate Schedule FPC No. 15 (Redesignation of Supp. No. 1 to Supp. No. ——).	Fuel Cost Adjustment Clause.
Town of Center, Colo.:	
Supplement No. —— to Rate Schedule FPC No. 17	Schedule of Rates for Service.

[FR Doc. 80-25587 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-73]

S&R Shell Service Station; Filing of Petition for Review

August 14, 1980.

Take notice that S&R Shell Service Station on July 14, 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 August 28, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Ave. SW., Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25588 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-60]

Shoreline Texaco; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

August 14, 1980.

Take notice that Ahmad Avash d.b.a. Shoreline Texaco on June 17, 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 August 28, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 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 as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Ave. SW., Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25565 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-110]

State of Ohio § 108 NGPA Determination; BSC Natural Resources Corp. Pallant #1 Well et al. (JD80-42000 through JD80-42003 and JD80-42008 through JD80-42013); Notice of Preliminary Finding

Issued August 4, 1980.

On June 20, 1980, the Ohio Department of Natural Resources (Ohio) notified the Commission of its determinations that the subject wells [1] of BCS Natural Resources Corporation qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.*

Section 108(b)(1) of the NGPA provides that in order for natural gas to qualify as stripper well natural gas, the well must have produced nonassociated natural gas at its maximum efficient rate of flow (MER) and production must not have exceeded 60 Mcf per production day for the 90-day production period preceding the date on which the application for determination under section 108 was made.

The records submitted with the Ohio determinations indicate only the total annual volumes of natural gas produced by the subject wells in 1979. Monthly production records, required under § 274.206(a)(2), which cover the 90-day production periods upon which the applications were based, were not included in the record. Thus the applications failed to satisfy section 108(b) in that this section specifically requires such production data for this 90-day period. Furthermore, crude oil production data for the 90-day period required under § 274.306(a)(8) were also omitted.

Finally, section 274.206(a)(7) (i) and (ii) require the applicant to state the number of days during the 90-day qualifying period in which a well did not produce natural gas and the reasons for the failure to produce. The applications covering the subject wells contained only the following statement in reference to the days of non-production:

Various days throughout the year. No record kept as to exactly when or how many. A year's production should be enough.

Inasmuch as the applications for determination filed for the subject wells do not contain production records for the 90-day production periods required to be filed by §§ 274.206(a)(2) and 274.206(a)(8), nor do the applications contain any information regarding the number of days in which the subject wells did not produce natural gas during the 90-day qualifying period, the Commission finds that information which is necessary to support an eligibility determination under section 108 is missing in the record.

Accordingly, on the basis of the record submitted with the determinations, the Commission hereby makes a preliminary finding, pursuant to § 275.202(a)(1)(i) of the Commission's regulations, that the determinations submitted by the Ohio Department of Natural Resources that the subject wells qualify as stripper wells under section 108 of the NGPA, are not supported by substantial evidence in the record upon which the determinations were made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25569 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The subject wells are as follows:
Pallant No. 1, JD80-42000, State File No. 7480.
Hayford Unit No. 1, JD80-42001, State File No. 7483.
Bitala No. 1, JD80-42002, State File No. 7482.
Phillips No. 1, JD80-42003, State File No. 7481.
Blauman No. 1, JD80-42008, (no state file number).
Girard No. 1, JD80-42009, State File No. 7479.
Kindig-Shimandle No. 1, JD80-42010, State File No. 7487.
Kasdan *et al.* No. 3, JD80-42011, State File No. 7486.
Evans Unit No. 1, JD80-42012, State File No. 7485.
Cohodus, JD80-42013, State File No. 7484.

[Docket No. CP80-472]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

August 14, 1980.

Take notice that on July 31, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-472 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition of compression and related facilities on South Marsh Island Block 257, offshore Louisiana (Block 257), all as more fully described in the application which is on file with the Commission and open to public inspection.

Pursuant to an April 1, 1978, gas purchase and sales agreement, Applicant has acquired the reserves underlying Block 257 which are produced by Houston Oil and Mineral

Corporation (HOM) and has agreed to furnish at its own expense the necessary compressor facilities on the production platform. It is stated that HOM has subsequently installed a 360 horsepower compressor unit on the Block 257 production platform in order to create the line pressure necessary for the gas to enter Applicant's system. Applicant, therfore, proposes herein to purchase the 360 horsepower compressor unit, to reimburse HOM for all appropriate operating and maintenance expenses including the cost of fuel gas, and to lease from HOM the platform space to be occupied by such compressor facilities.

Applicant estimates the total cost to acquire the compressor unit and related facilities to be $448,224 which would be financed by funds on hand, revolving credit arrangements, or permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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) 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. 80-25589 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-228]

Transcontinental Gas Pipe Line Corp.; Rejection of Filing

August 14, 1980.

On July 21, 1980, the Energy Users Group filed an application for rehearing of a denial by the presiding administrative law judge of its petition to intervene. The application for rehearing, however, was erroneously filed directly with the Commission relying upon § 1.34 of the rules of practice and procedure. The rehearing is in the nature of an appeal from a ruling of a presiding officer. Procedures recently adopted in Order No. 82 revising §1.28 of the rules provide that no appeal may be taken from a ruling of a presiding officer without first presenting a request to him for referral of the ruling to the Commission and then following the procedures set forth in § 1.28 (b) and (c). The matters presented in the application, therefore, should have first been presented to the presiding administrative law judge for his consideration in determining whether to refer his ruling pursuant to § 1.28.

Since the application filed July 21, 1980, does not meet the procedural rules of the Commission, it is hereby rejected.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25590 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-29]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

August 14, 1980.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on August 17, 1980 Third Substitute Eighteenth Revised Sheet No. 12, Third Substitute Eighteenth Revised Sheet No. 15 and Second Revised Sheet No. 16 to Second Revised Volume No. 1, and Third Substitute Twenty-Fourth Revised Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective Septemer 1, 1980, reflect a net increase of 55.5¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S-2 rate schedules, a net increase of 55.7¢ per dt in the commodity charge under the ACQ rate schedule, and a net decrease of 2.7¢ per dt in the delivery charge of the X-20 rate schedule.

Transco states that these changes have been computed in accordance with the tracking provisions contained in the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The tracking rate change under the PGA clause (section 22) amounts to an increase of 58.2¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S-2 and ACQ rate sechedules. The tracking rate change to reflect curtailment credits (section 20) is a decrease of 0.2¢ per dt in the commodity or delivery charge under Transco's CD, G, OG, E, PS, S-2 and X-20 rate schedules. The tracking rate change for Louisiana First Use Tax (section 25) is a decrease of 2.5¢ per dt in the commodity or delivery charge of Transco's CD, G, OG, E, PS, S-2, ACQ and X-20 rate schedules.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

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 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 August 29, 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. 80-25591 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP74-33]

Transcontinental Gas Pipe Line Corp.; Petition to Amend

August 14, 1980.

Take notice that on July 21, 1980, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-33 a petition to amend the

order issued February 26, 1975[1], as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the top storage capacity of Petitioner's Washington Storage Field, St. Landry Parish, Louisiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner proposes to increase the top storage capacity of the field from 66,000,000 dekatherms (dt) equivalent, the present level of top storage capacity as authorized in the amending order of September 1, 1978, to 75,000,000 dt equivalent. It is stated that no additional facilities would be required to increase the top storage capacity. Petitioner states that the base gas requirement to support the 75,000,000 dt equivalent of top storage capacity would remain at 45,000,000 dt equivalent because the performance characteristics of the field have exceeded Petitioner's earlier expectations.

Petitioner asserts that the additional 9,000,000 dt equivalent of top capacity would be used during the 1980–81 winter season to provide for the husbanding, of gas supplies in an effort to satisfy its potential "take or pay" gas purchase obligations or to provide flexibility for Petitioner's general system depending upon operating circumstances during the forthcoming winter.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 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) 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. 80-25592 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the Federal Power Commission. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. QF80-17]

Vermont Marble Co.; Application for Commission Certification of Qualifying Status of Four Small Power Production Facilities

August 14, 1980.

On August 6, 1980, Vermont Marble Company filed with the Federal Energy Regulatory Commission (Commission) an application for certification of four small hydroelectric facilities as qualifying small power production facilities pursuant to § 292.207 of the Commission's rules.

The first facility, Center Rutland Station, is located on Otter Creek in Center Rutland, Vermont. The Vermont Marble Company states that the existing capacity is 275 kilowatts and the improved capacity will be 2400 kilowatts.

The second facility, Proctor Station, is located by Sutherland Falls, on Otter Creek in Proctor, Vermont. The existing capacity is 4050 kilowatts. Vermont Marble Company states that an additional 3000 kilowatt station will be attached alongside the existing station for a total capacity of 7050 kilowatts.

The third facility, Beldens Station, is located on Otter Creek in New Haven, Vermont. The company states that the existing capacity is 1600 kilowatts and it projects the improved capacity to be 4200 kilowatts.

The fourth facility, Huntington Falls Station, is located on Otter Creek in Weybridge, Vermont. Vermont Marble Company states that the existing capacity is 1600 kilowatts. The company asserts that the improved capacity will be 4800 kilowatts if no changes are made to the dam, or 6400 kilowatts if the dam is raised 12 feet.

The primary energy source is water power at all facilities. Vermont Marble Company states that the four hydroelectric stations are located on Otter Creek in west central Vermont and are scattered along a 40 mile stretch. No two of these stations are within one mile of each other. It further states that there is no intention to use any other energy source such as natural gas, oil or coal.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed within 10 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25593 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1598]

Willis S. White, Jr.; Filing

August 14, 1980.

Take notice that on July 22, 1980, Willis S. White, Jr. (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board & Director, Appalachian Power Company, Electric Utility
President & Director, Beech Bottom Power Company, Electric Utility
President & Director, Cardinal Operating Company, Electric Utility
Chairman of the Board (chief executive officer), Columbus and Southern Ohio Electric Company, Electric Utility
President & Director, Indiana-Kentucky Electric Corporation, Electric Utility
Chairman of the Board & Director, Indiana & Michigan Electric Company, Electric Utility
President & Director, Kanawha Valley Power Company, Electric Utility
Chairman of the Board & Director, Kentucky Power Company, Electric Utility
Chairman of the Board & Director, Kingsport Power Company, Electric Utility
Chairman of the Board & Director, Michigan Power Company, Electric Utility
Chairman of the Board & Director, Ohio Power Company, Electric Utility
President & Director, Ohio Valley Electric Company, Electric Utility
Chairman of the Board & Director, Wheeling Electric Company, Electric Utility

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, and 1.10. All such petitions or protests should be filed on or before September 5, 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. 80-25594 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-591]

Wisconsin Power & Light Co.; Filing

August 14, 1980.

The filing Company submits the following:

Take notice that on August 8, 1980, Wisconsin Power and Light Company (WPL) tendered for filing a Common Use Transmission Facility Agreement dated March 25, 1980, between the Adams-Marquette Rural Electric Cooperative and MPL. WPL states that this Agreement is a new Agreement between itself and the REC.

WPL requests a proposed effective date of March 25, 1980 and, therefore, requests waiver of the notice requirements of the Commission's regulations. WPL states that a copy of the Common Use Transmission Facility Agreeement and the filing have been provided to the Adams-Marquette Electric Cooperative and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 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. 80-25595 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-373]

Arkansas Power & Light Co.

Order Accepting for Filing and Suspending Proposed Rate Changes, Waiving Notice Requirements, and Establishing Procedures

Issued August 1, 1980.

The Arkansas Electric Cooperative Corporation (AECC) and the municipally-owned utilities of Conway, Jonesboro and West Memphis, Arkansas (municipals) have become part owners of the White Bluffs coal-fired generating units, now being constructed by Arkansas Power & Light Company (AP&L).[1] As part of this transaction, AP&L has submitted for filing power coordination, interchange and transmission agreements with AECC and each municipal.[2] The agreements contain formula rates for determining the monthly charges for transmission and distribution services provided by AP&L, demand and energy charges for any partial requirements service which is rendered to Conway and West Memphis,[3] and a monthly dispatching charge to AECC.[4] AP&L initially tendered these agreements on May 6, 1980. However, the filing was not completed until July 14, 1980. AP&L requested an effective date coincident with the anticipated date of commercial operation of White Bluff Unit No. 1, the first of the units for which the parties have joint ownership entitlements.[5]

Notice of the filing was issued by the Secretary on May 13, 1980, with comments protests or petitions to intervene due by June 3, 1980. No responses were received.

Analysis of the production demand and energy charge formula rates for partial requirements service to Conway and West Memphis and the proposed charges for such services during 1980 indicates that the use of such formulas may produce excessive revenues and may therefore produce results that are unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Therefore, these rates for partial requirements service will be accepted for filing and suspended as ordered below. Additionally, the cost of service formula used to determine these rates will be investigated during an evidentiary hearing which we shall order to be convened.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[6] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[7] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Special circumstances will often warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission notes that with the commencement of commercial operation of White Bluff Unit No. 1, the ownership interests of the parties will become effective. Because existing agreements do not accommodate this change in

[1] The proportionate ownership shares are: AP&L—57%, AECC—35%, Jonesboro—5%, Conway—2%, and West Memphis—1%.

[2] See Attachment A for rate schedule designations.

[3] AECC, which owns generating facilities and purchases peaking hydro electric capacity from Southwestern Power Administration, will become self-sufficient with its ownership interest in White Bluff Unit No. 1. Jonesboro currently purchases partial requirements service from AP&L pursuant to a January 23, 1973 contract. However, on July 2, 1980, in Docket No. ER80-507, APL filed a notice of cancellation of that contract effective on the date of commercial operation of White Bluff Unit No. 1.

[4] Under the terms of its present (and proposed) agreement with AECC, AP&L dispatches the generating resources of AECC together with its own generating resources to achieve maximum combined efficiency of the two systems. The municipals have not contracted for such service from AP&L.

[5] The originally anticipated commercial operation date was July 15, 1980. Accordingly, AP&L specified that date as the proposed effective date. However, it now appears that White Bluff Unit No. 1 is expected to become commercially operable between July 30 and August 5, 1980. We construe the proposed effective date to be that date upon which the unit begins commercial operation.

[6] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*,—— F.2d——(D.C. Cir. May 30, 1980).

[7] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate.

operating circumstances, *i.e.*, the ownership interests that will arise, it is desirable to permit the proposed agreements to become effective on or about the commercial operation date of the White Bluff unit. Absent such treatment of the proposed agreements, there would be no suitable rate schedule on file to reflect the service contemplated. Furthermore, the affected parties have agreed to the entire arrangement, including the proposed effective date. Accordingly, we believe we should exercise our discretion to suspend the proposed rates for production demand and energy service for only one day permitting the rates to take effect, subject to refund, one day following the commencement of commercial operation of White Bluff Unit No. 1.

Our analysis of the rates proposed for 1980 for transmission and distribution service, bulk power management service to AECC, and replacement energy service to AECC and Jonesboro indicates that such charges are cost justified. Accordingly, we shall accept these 1980 rates for filing without suspension.

All of the cost of service formulas used to derive the rates discussed above except for the formulas used to derive replacement energy charges and charges for the White Bluff output have not been shown to be just and reasonable, and may produce results that are unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, these formulas will be investigated at the hearing.

Because AECC and the municipals have purchased ownership interests in White Bluff Unit No. 1 and the present agreements will be inapplicable for the services to be provided after that date, the notice requirements of Section 35.3 of the Commission's regulations will be waived.

Additionally, (1) changes in the charges resulting from the operation of the proposed formula rates other than changes in the replacement energy charge or the energy charges for White Bluff output,[8] and (2) changes in the formula components shall be considered changes in rate schedules pursuant to Section 35.13 of the Commission's regulations which must be timely filed with the Commission together with appropriate cost support as required by that section.[9]

However, with respect to changes in the production energy charges to Conway and West Memphis resulting from operation of the formula rates, we shall waive the full filing requirements of Section 35.13 provided that AP&L agrees to collect any increase in the rate under the formula subject to refund pending the outcome of the hearing convened pursuant to this order.[10]

The Commission orders:

(A) The proposed rates for services during 1980, other than for production demand and energy service to Conway and West Memphis, are hereby accepted for filing to become effective on the date of commercial operation of White Bluff Unit No. 1.

(B) The proposed rates for production demand and energy service to Conway and West Memphis during 1980 are hereby accepted for filing and suspended for one day to become effective subject to refund one day following the commencement of commercial operation of White Bluff Unit No. 1.

(C) The notice requirement of Section 35.3 is hereby waived.

(D) All of the cost of service formulas except for the formulas used to derive (1) replacement energy charges and (2) charges for the White Bluff output shall be considered at the hearing to be held pursuant to this order.

(E) Changes in (1) the charges resulting from the operation of the forumula rates contained in AP&L's submittal, other than changes in the replacement energy charges or the energy charges for White Bluff output, and (2) changes in the formula components constitute changes in rate schedule pursuant to Section 35.13 of the Commission's regulations, which must be timely filed with this Commission together with appropriate cost support as required by that section.

(F) The full filing requirements of Section 35.13 with respect to changes in the production energy charges to Conway and West Memphis resulting from operation of the formula rates are hereby waived provided that AP&L agrees to collect any increases in the rate under the formula subject to refund pending the outcome of the hearing convened pursuant to this order. Additionally, this waiver in no way relieves AP&L from filing changes in the formula components pursuant to Section 35.13.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commision by Section 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 to 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 and formulas proposed by AP&L.

(H) 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 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.

(I) The Secretary shall promptly publish this order in the Federal Register.

Kenneth F. Plumb,

Secretary

Arkansas Power & Light Company, Docket No. ER80-373, Rate Schedule Designations

Designation	Other party	Description
Rate Schedule FERC No. 79 (supersedes Rate Schedule FPC No. 57 as supplemented.	Conway, Ark.....	Power Coordination, Interchange and Transmission Agreement.
Supplemental No. 1 to Rate Schedule FERC NO. 79.	.....do.....	Exhibit A Delivery Points.
Supplement No. 2 to Rate Schedule FERC NO. 79.	.....do.....	Production Demand Charge Formula.
Supplement No. 3 to Rate Schedule FERC NO. 79.	.....do.....	Transmission and Distribution Service Demand Charge Formulas.

[8] It is noted that charges for replacement energy, energy charges to Conway and West Memphis, and charges for White Bluff energy are calculated monthly based upon average system or incremental cost procedures. Such charges will change from month to month (or hour to hour); however, the calculation of these costs generally reflects standard procedures for determining such costs.

[9] *See Central Power & Light Company*, Declaratory Order Granting Motion to Consolidate, Granting Petition to Intervene and Denying Motion for Summary Disposition and Refund Order, or in the Alternative, a Hearing, Docket Nos. EL79-26 and ER79-600, issued October 12, 1979.

[10] *See Southern Company Services, Inc.*, Docket Nos. ER80-243, ER80-160, *et al.* (April 23, 1980).

Arkansas Power & Light Company, Docket No. ER80-373, Rate Schedule Designations—Continued

Designation	Other party	Description
Rate Schedule FERC NO. 80 (supersedes Rate Schedule FPC No. 55 as supplemented).	West Memphis, Ark.	Power Coordination Interchange and Transmission Agreement.
Supplement No. 1 to Rate Schedule FERC NO. 80.	....do	Exhibit A Delivery Points.
Supplemental No. 2 to Rate Schedule FERC NO. 80.	....do	Production Demand Charge Formula.
Supplement No. 3 to Rate Schedule FERC NO. 80.	....do	Transmission and Distribution Service Demand Charge Formulas.
Rate Schedule FERC NO. 81.	Jonesboro, Ark.	Power Coordination, Interchange and Transmission Agreement.
Supplement No. 1 to Rate Schedule FERC NO. 81.	....do	Transmission Service Demand Charge Formula.
Rate Schedule FERC NO. 82 (supersedes Rate Schedule FPC No. 72 as supplemented).	Arkansas Electric Cooperative Corp.	Power Coordination Interchange and Transmission Agreement.
Supplement No. 1 to Rate Schedule FERC NO. 82.	....do	Exhibit A Delivery Points.
Supplement No. 2 to Rate Schedule FERC NO. 82.	....do	Exhibit B Points of Receipt.
Supplement No. 3 to Rate Schedule FERC NO. 82.	....do	Transmission and Distribution Service Demand Charge Formulas.
Supplement No. 4 to Rate Schedule FERC NO. 82.	....do	Bulk Power Management Service Charge Formula.
Supplement No. 5 to Rate Schedule FERC NO. 82.	....do	Redispatching Principles.
Supplement No. 6 to Rate Schedule FERC No. 82 (supersedes Supplement No. 5 to FERC No. 82).	....do	First Amendment Revised Redispatching Principles.
Supplement No. 7 to Rate Schedule FERC NO. 82 (supersedes Supplement No. 1 to FERC No. 82).	....do	Second Amendment Amended Exhibit A Delivery Points.
Supplement No. 8 to Rate Schedule FERC NO. 82 (supersedes Supplement No. 2 to FERC No. 82).	....do	Amended Exhibit B Points of Receipt.

[FR Doc. 80-25587 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of June 30 through July 7, 1980

During the week of June 30 through July 7, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written Notice of Objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice (August 22, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objections within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed Statement of Objections within 30 days of the date of service of the proposed decision and order. In the Statement of Objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George Breznay,

Deputy Director, Office of Hearings and Appeals.

August 18, 1980.

A. O. Smith Corp., Kankakee, Ill., BEE-1128, furnaces

A. O. Smith Corporation filed an Application for Exception from the test procedures specified in 10 C.F.R. Part 430 (the Energy Conservation Program for Consumer Appliances). The exception request, if granted, would exempt A. O. Smith Corporation from testing in accordance with the test procedures specified in 10 CFR Part 430 the finned copper tubed boilers with modulating controls which it manufactures. On July 2, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Caribou Four Corner's Inc., Afton, Wyo., BEE-1067, crude oil

Caribou Four Corner's, Inc. filed an Application for Exception from the provisions of 10 CFR § 211.67 (the Entitlements Program). The exception request, if granted, would relieve Caribou of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Illinois Ayers Oil Co., Quincy, Ill., BEE-0562, gasohol

Illinois Ayers Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Illinois Ayers to purchase 250,000 gallons of unleaded gasoline over and above its base period allocation in order to expand its gasohol marketing program. On July 2, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part, and that Illinois Ayers' base period allocation of unleaded gasoline be increased by 100,000 gallons per month.

L. H. Smith Oil Corp., Indianapolis, Ind., BEE-0913, motor gasoline

L. H. Smith Oil Corporation filed an Application for Exception from the privisions of 10 CFR Part 211. The exception request, if granted, would permit Smith to supply motor gasoline to specified federal installations under the provisions of Section 8(A) of the Small Business Act of 1958. On July 1, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Plateau, Inc., Washington, D.C., BEE-1049, crude oil

Plateau, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Plateau of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 to account for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Priest Explorations, Inc., Oklahoma City, Okla., BXE-0818, crude oil

Priest Explorations, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Choate Well 3A and the Choate Well 4A for the benefit of the working interest owners at market price levels. On July 1, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Region Oil Co., Inc., Bloomsburg, Pa., BEE-0405, gasohol

Region Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Region to receive an additional allocation of unleaded gasoline for the purpose of producing and marketing gasohol. On July 1, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Sage Creek Refining Co., Cowley, Wyo., BEE-0604, crude oil

Sage Creek Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Sage Creek of a portion of its entitlement purchase obligations during the period June 1980 through October 1980 to account for crude oil receipts and runs to stills during the period April 1980 through August 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Southland Oil Co., Jackson, Miss., BXE-1021 crude oil

Southland Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Southland of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Thriftway Co., Washington, D.C., BEE-1206, crude oil

Thriftway Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Thriftway of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 to account for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Warrior Asphalt Co. of Alabama, Tuscaloosa, Ala., BXE-1051, crude oil

Warrior Asphalt Company of Alabama filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Warrior of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Young Refining Corp., Washington, D.C., BEE-1038, crude oil

Young Refining Corporation filed an Application for Exception from the provisions of 10-CFR 211.67 (the Entitlements Program). The exception request, if granted, would relive Young of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

O.K. Petroleum Products Corp., DEE-6685, New York, NY.
R&W Motor Sales, DEE-6770, Taunton, MA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Beaver's Texaco, DEE-5008, Washington, DC.
E & B Oil Co. of Burgaw, Inc., DEE-7260, Burgaw, NC.
L. W. Green, DEE-7081, Oxford, KS.
Lou Nargiso Service Center, DEE-7095, Danbury, CT.
North Side Center, DEE-7919, Hamilton, MT.
SPC Service Company, Inc., DEE-7426, Dudley, MA.

[FR Doc. 80-25646 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-01-M

Objection To Proposed Remedial Orders Filed Week of July 7 through July 11, 1980

During the week of July 7 through July 11, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Enegy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 September 11, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

August 18, 1980.

George B. Breznay,
Deputy Director, Office of Hearings and Appeals.

Allen Union, San Leandro, Calif., BRO-1266 Motor Gasoline

On July 9, 1980, Allen Union, 1903 Doolittle Drive, San Leandro, California 94577 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on May 20, 1980. In the PRO the Western District found that during the period August 1, 1979 to November 13, 1979, Allen Union had charged prices in excess of the maximum lawful selling prices for motor gasoline pursuant to 10 CFR 211.93. According to the PRO the Allen Union violation resulted in $2,793.79 of overcharges.

Crow Canyon Shell, San Ramon, Calif., BRO-1265, Motor Gasoline

On July 9, 1980, Andrew R. Krissovich d.b.a. Crow Canyon Shell, 2735 Crow Canyon Road, San Ramon, California 94583, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District of Enforcement issued on June 27, 1980. In the Proposed Remedial Order, the Enforcement District found that during the time August 1, 1979 to April 11, 1980, Crow Canyon Shell committed pricing violations in the State of California in connection with the sale of motor gasoline. The Proposed Remedial Order would require Crow Canyon Shell to roll back its motor gasoline prices until a total of $6,725.78 in overcharges is refunded to its customers.

Gary Pfister Mobil, Pinole, Calif., BRO-1267, Motor Gasoline

On July 9, 1980, Gary Pfister Mobil, 2298 Appian Way, Pinole, California 94564 filed a

Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 27, 1980. In the PRO the Western District found that during the audit period from August 1, 1979 to January 11, 1980, Gary Pfister had charged prices in excess of the maximum lawful selling price for motor gasoline pursuant to 10 CFR 211.93. According to the PRO the Gary Pfister violation resulted in a $4,029.11 of overcharges.

Ken's No. 2 Shell, Los Angeles, Calif., BRO-1261, Motor Gasoline

On July 7, 1980, Ken's No. 2 Shell, 3155 S. Cahuenga Boulevard, Los Angeles, California 90028 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1,

1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO the Ken's No. 2 Shell violation resulted in $630.05 of overcharges.

Marine Enterprises, Inc., Lake Perry, Kans., BRO-1255, Motor Gasoline

On July 7, 1980, Marine Enterprises, Inc., Lake Perry, Kansas 66073, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on June 19, 1980. In the PRO the Central District found that from March 1, 1980 through June 4, 1980, Marine Enterprises, Inc. charged prices for certain grades of gasoline in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93. According to the PRO the Marine Enterprises, Inc. violation resulted to $841.20 in of overcharges.

North Oak Shell, Sangus, Calif., BRO-1260, Motor Gasoline

On July 7, 1980, North Oak Shell, 19223 Soledad Cyn., Sangus, California 91350 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO the North Oak Shell violation resulted in $1,096.01 of overcharges.

Olympic Shell, Los Angeles, Calif., BRO-1258, Motor Gasoline

On July 7, 1980, Olympic Shell, 955 S. Alvarado Street, Los Angeles, California 90006 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO the Olympic Shell violation resulted in $1,287.49 of overcharges.

Petersen & Hill, Alamo, Calif., BRO-1264, Motor Gasoline

On July 9, 1980, Petersen & Hill, 3151 Danville Boulevard, Alamo, California 94507 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 27, 1980. In the PRO the Western District found that during April 1, 1980 to April 30, 1980, the firm committed pricing violations on $2,565.47 in connection with the sale of motor gasoline in the State of California.

Robbins Shell, Granada Hills, Calif., BRO-1259, Motor Gasoline

On July 7, 1980, Robbins Shell, 16205 Devonshire Street, Granada Hills, California 91344 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO the Robbins Shell violation resulted in $867.39 of overcharges.

Tom's Shell, Sherman Oaks, Calif., BRO-1257, motor gasoline.

On July 7, 1980, Tom's Shell, 13261 Riverside Drive, Sherman Oaks, California 91403 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR § 212.93. According to the PRO the Tom's Shell violation resulted in $1,431.58 of overcharges.

Union Shell, Los Angeles, Calif., BRO-1256, motor gasoline.

On July, 1980, Union Shell, 1551 West 7th Street, Los Angeles, California 90017 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades fo gasoline in violation of 10 CFR § 212.93. According to the PRO the Union Shell violation resulted in $344.68 of overcharges.

Ventura Shell, Woodland Hills, Calif., BRO-1262, motor gasoline.

On July 7, 1980, Ventura Shell, 21347 Ventura Boulevard, Woodland Hills, California 91364 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR § 212.93. According to the PRO the Ventura Shell violation resulted in $845.35 of overcharges.

Village Parkway Mobil, Dublin, Calif., BRO-1263, motor gasoline.

On July 8, 1980, Village Parkway Mobil, 7197 Village Parkway, Dublin, California filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 12, 1980. In the PRO the Western District found that during the period December 1, 1979 to May 21, 1980, Village Parkway had charged prices in excess of the maximum lawful selling price for motor gasoline pursuant to 10 CFR § 211.93. According to the PRO the Village Parkway Mobil violation resulted in $483.28 of overcharges.

Walt's Danville Chevron, Danville, Calif., BRO-1254, motor gasoline.

On July 7, 1980 Walt's Danville Chevron, 530 San Ramon Valley Boulevard, Danville, California 94526 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 27, 1980. In the PRO the Western District found that during December 1, 1979 to May 22, 1980, the firm committed pricing violations of $12,134.16 in connection with the sale of motor gasoline in the State of California.

[FR Doc. 80-25647 Filed 8-21-80; 8:45 am]
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Issuance of Proposed Decisions and Orders Week of July 21 through July 25, 1980

During the week of July 21 through July 25, 1980, the proposed decisions and orders summarized below were issued by the Office of hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice August 22, 1980 or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of

the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

August 18, 1980.

Requests for Exceptions

Acme Inc., Lincolnton, N.C., BEE-0635, Gasohol.

Acme Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Acme to receive an increased allocation of unleaded gasoline for the express purpose of blending and marketing gasohol. On July 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Alger Oil Company, Rising Sun, MD., BEE-0920, Gasohol.

Alger Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Alger to purchase 63,000 gallons of unleaded gasoline in addition to its base period allocation in order to maintain and expand its gasohol marketing operations. On July 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part, and that Alger's base period allocation be increased by 42,000 gallons of unleaded gasoline per month.

Brock Exploration Corp., Washington, D.C., BEE-0066, BES-0066, crude oil.

Brock Exploration Corporation filed an Application for Exception from the provisions of 10 CFR 212.75 and 212.79. The exception request, if granted, would permit Brock to classify the crude oil that it produces from three unitized properties as newly discovered crude oil. On July 22, 1980, a Proposed Decision and Order was issued in which the DOE preliminarily determined that the exception request should be granted.

Drug Abuse Preventive Center, San Luis Obispo, Calif., BEL-0050, motor gasoline.

Drug Abuse Preventive Center (Center) has been deemed to have filed an Application for Exception from the provisions of the Mandatory Allocation Program for motor gasoline. The exception request, if granted, would permit Center to receive an allocation of motor gasoline for the express purpose of marketing gasohol. On July 24, 1980, the Department of Energy issued a decision which was deemed to be a Proposed Decision and Order. That decision determined that the exception request be granted.

Ferel Little Oil Co., San Augustine, Tex., BEE-1258, motor gasoline.

Ferel Little Oil Company filed an Application for Exception in which it sought to be relieved of the requirement that it irrevocably elect one of two regulatory pricing mechanisms for motor gasoline by July 1, 1980. On July 23, 1980, the Department of Energy issued a Proposed Decision and Order in which it concluded that the request should be denied.

Independent oil & Tire Co., Elyria, Ohio, BEE-0947, gasohol.

Independent Oil and Tire Company requested an exception from the provisions of 10 CFR Part 211. The exception request, if granted, would result in an increase in the firm's base period allocation of unleaded motor gasoline for the express purpose of blending and marketing gasohol. On July 24, 1980, the DOE issued a Proposed Decision and Order which tentatively determined that the exception request be granted.

Indiana Farm Bureau Cooperative Assoc., Inc., Indianapolis, Ind., BEE-0239, gasoline and propane

The Indiana Farm Bureau Cooperative Assoc., Inc. filed an Application for Exception from the provisions of 10 CFR 210.62(a). The exception request, if granted, would permit Indiana Farm Bureau to alter the credit terms of discounts for early payment which the firm offered to certain of its customers on May 15, 1973. On July 23, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Mallard Resources, Inc., Cameron Parish, La., BEE-0537 crude oil

Mallard Resources, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would permit Mallard to be relieved of its obligation to purchase entitlements with respect to certain of its initial crude oil receipts used to build a starting inventory. On July 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that exception relief in the form of additional entitlements reflecting the volumn of Mallard's permanent inventory be granted.

Martinoil Company, Fresno, Calif., BEE-0078, gasohol

Martinoil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Martinoil to purchase unleaded gasoline over and above its base period allocation in order to expand its gasohol operations. On July 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

O'Meara Brothers, New Orleans, La., BXE-1081, crude oil

O'Meara Brothers filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Louisiana State Lease 2192 for the benefit of the working interest owners at market price levels. On July 24, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

The Oasis, Catheys Valley, Calif., DEE-7216, motor gasoline

The Oasis filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit the Oasis to purchase motor gasoline in excess of its base period allocation. On July 25, the Department of Energy issued a Proposed Decsion and Order which determined that the exception request be granted.

Pennzoil Producing Co., Houston, Tex., BXE-1148, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell all of the crude oil which it produces from the McGraw-Stevens Waterflood Unit for the benefit of the working interest owners at upper tier ceiling prices. On July 23, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

United Company, Overland Park, Kans., BEE-0713, gasohol

United Company filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit United to receive an increased allocation of motor gasoline for gasohol production. On July 23, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

City of Phila./Bur. of Invest.—BEE-1080—Philadelphia, PA
Ft. Oglethorpe Tire & Serv. Center, Inc.—DEE-6300—Rossville, GA
Melvin's Sunoco—DEE-4948—Crisfield, MD
Southern Oil Co.—DEE-3876—Geiger, AL

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determine that the exception requests be denied.

Company name, Case No., and Location

Acme Rubbish—DEE-5965—Montebello, CA
Interstate United—DEE-6173—Gary, IN
City of Naples, FL—DEE-7744—Naples, FL
Central Ave. Friendly—DEE-6836—Dover, NH

Mid-Atlantic Pet. Corp.—DEE-7881—Washington, DC
Northland Oil Co.—DEE-7737—Ely, MN
P F & E Oil Co.—DEE-6411—Brownwood, TX
Vantage Pet. Corp.—DEE-6605, DEE-1732—Bohemia, NY

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BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders Week of July 28 through August 1, 1980

During the week of July 28 through August 1, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedual regulations, the date of service is deemed to be the date of publication of this Notice (August 22, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objections within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. except federal holidays.

August 18, 1980

George b. Breznay,

Deputy Director, Office of Hearings and Appeals

Proposed Decisions and Orders

Chevron U.S.A. Inc., San Francisco, Calif., BEE-0576 motor gasoline

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 CFR 212.83(c)(2)(iii)(E), which govern the amount of non-product marketing cost increases a refiner may include in establishing a maximum lawful selling price for motor gasoline. The request, if granted, would permit Chevron to reduce its non-product marketing cost base by eliminating that portion of May 1973 non-product marketing costs which are attributable to the firm's commission agents which are being converted to branded independent jobbers. On August 1, 1980, the Department of Energy issued a Proposed Decision and Order which it tentatively determined that the exception request should be granted.

Chevron U.S.A. Inc., San Francisco, Calif., DEE-8033, crude oil

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Greeley Unit located in Kern County, California, at upper tier ceiling prices. On July 31, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that exception relief should be denied.

Colony Oil Service, Newport News, Va., DEE-6945 gasohol

Colony Oil Service filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit the firm to receive an allocation of unleaded gasohol for the express purpose of blending and marketing gasohol. On July 31, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Holland Oil Company, Newark, Calif., BEE-0567, gasohol

Holland Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Holland to receive an increased allocation of motor gasoline for the express purpose of blending and marketing gasohol. On July 31, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Pennzoil Producing Company, Houston, Tex., BXE-1179, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell all of the crude oil which it produces from the Woodruff Sand Waterflood Unit for the benefit of the working interest owners at market price levels. On July 28, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

W. H. Price, Granbury, Tex., DEE-1949, crude oil

W. H. Price filed an Application for Exception from the provisions of 10 CFR Part 212, Subparts D and I. The exception request, if granted, would permit Price to recertify as stripper well crude oil the crude oil which he produced and sold at upper tier levels during the period September 1, 1976 through March 31, 1978. On July 28, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Redding Petroleum, Inc., Concord, Calif., BEE-0721, gasohol

Redding Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Redding to receive an increased allocation of motor gasoline for the purpose of blending and marketing gasohol. On July 28, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Reserve Oil, Inc., Denver, Colo., BEE-0325, crude oil

Reserve Oil, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil which it produces from the SL-071595A Lease and the SL-068551 Lease for the benefit of the working interest owners at prices in excess of the applicable ceiling price levels. On July 28, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

Rhodes, Inc., Reedley, Calif., BEE-0768, gasohol

Rhodes, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Rhodes to receive an increased allocation of motor gasoline for the purpose of blending and marketing gasohol. On July 30, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Southern Farmers Assoc., North Little Rock, Ark., BEE-0665, gasohol

Southern Farmers Association filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Southern to receive an increased allocation of motor gasoline for the purpose of blending and marketing gasohol. On July 30, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Texas Oil Marketers Assoc., Austin, Tex., BEE-0436, motor gasoline

The Texas Oil Marketers Association (TOMA) filed an Application for Exception from the provisions of 10 CFR 212.93, the price rule applicable to resellers of motor gasoline. The exception request, if granted, would permit members of TOMA to charge prices for motor gasoline which are in excess of applicable maximum allowable selling prices under DOE regulations. On August 1, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Vicksburg Refining, Inc., Vicksburg, Miss., BEE-0116, crude oil

Vicksburg Refining, Inc. filed an Application for Exception from the provisions

of 10 CFR § 211.65. The exception request, if granted, would have permitted Vicksburg to participate in the DOE Crude Oil Buy-Sell Program. On August 1, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Young Refining Co., Washington, D.C., BEE-1296, crude oil

Young Refining Company filed an Application for Exception from the provisions of 10 CFR § 211.67 (the Entitlements Program). The exception request, if granted, would relieve Young of a portion of its entitlement purchase obligations during the period July 1980 through November 1980 for crude oil receipts and runs to stills during the period May 1980 through September 1980. On July 29, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Wherrell Oil Co., DEE-6498; DES-6498, Okeechobee, FL.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Blue Ridge Oil Co., DEE-6946, Wash., DC.
Carl's Sunoco, DEE-6780, Cambridge, MA.
Howell Insulation, DEE-1265, Birmingham, AL.
National Car Rental System, DEE-6576, Honolulu, HI.
Oliver's Exxon, DEE-3109, Lafayette, TN.
Ron's Sunoco, DEE-6088, Covington, KY.
Shell Oil Co., DEE-1016, Anaheim, CA.

[FR Doc. 80-25644 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of July 28 Through August 1, 1980

During the week of July 28 through August 1, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before September 11, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in this proceeding and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

August 18, 1980.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

Proposed Remedial Orders

Doug Davidson, Santa Ana, Calif. BRO-1285, motor gasoline

On August 1, 1980, Doug Davidson d.b.a. Davidson's Service, 224 E. First Street, Santa Ana, California 92701 filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Western District Office of Enforcement issued to him on July 9, 1980. In the PRO the Western District found that during the period December 15, 1979 through May 8, 1980, Mr. Davidson sold motor gasoline in the State of California at prices in excess of the maximum lawful selling prices allowed by Part 212 of the Mandatory Petroleum Price Regulations. According to the PRO these violations resulted in $2,307.23 of overcharges.

Mallard Resources, Inc., Houston, Tex. BRO-1277, crude oil

On July 29, 1980, Mallard Resources, Inc., 2800 North Loop West, No. 314, Houston, Texas 77092 filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Program Manager for Entitlements issued to the firm on June 27, 1980. In the PRO the Program Manager found that for the months of July and August 1979 Mallard filed Refiner's Monthly Reports which failed to include as part of the firm's crude oil receipts certain volumes of crude oil which it processed. According to the PRO, Mallard received unwarranted entitlements benefits of $1,482,637.

Taylor Oil Co., Sioux Falls, S. Dak., BRO-1284 Residual fuel oil

On July 28, 1980, Taylor Oil Co., 3600 So. Minnesota Ave., Sioux Falls, South Dakota, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Rocky Mountain District Office of Enforcement issued to the firm on June 26, 1980. In the PRO the Rocky Mountain District found that during the period November 1, 1973 to April 030, 1975, Taylor committed pricing violations in connection with the resale of residual fuel oil in the State of South Dakota. According to the PRO the Taylor Oil Company violation resulted in $147,055.43 of overcharges.

Frederick Walentynowicy, Buffalo, N.Y., BRO-1283, motor gasoline

On July 28, 1980, Frederick Walentynowicy, 460 Elmwood Avenue, Buffalo, New York filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Northeast District Office of Enforcement issued to the firm on May 22, 1980. In the PRO the Northeast District found that from August 1, 1979 through October 30, 1979, Frederick Walentynowicy committed pricing violations in the sale of motor gasoline in the State of New York. According to the PRO the Frederick Walentynowicy violation resulted in $802.71 of overcharges.

[FR Doc. 80-25645 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of August 4 Through August 8, 1980

During the week of August 4 through August 8, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service is deemed to be the date of publication of this Notice (August 22, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objections within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W.,

Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

August 18, 1980.

Proposed Decisions and Orders

Bratz Oil Corporation, Centerville, Iowa, Bee-0489, gasohol

Bratz Oil Corporation filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Bratz to receive an increased allocation of unleaded gasoline for the purpose of blending and marketing gasohol. On August 6, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted in part.

DeMartin Truck Lines, Inc., Bakersfield, California, DEE-1420, propane/butane.

DeMartin Truck Lines, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would excuse DeMartin from refund obligations arising from overcharges in propane and butane sales during the period November 1, 1973 through June 1978. On August 6, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that exception request should be granted in part.

Parker Energy & Petroleum Co., Richmond, Virginia, BEE-1234, motor gasoline

Parker Energy & Petroleum Co. filed an Application for Exception from the provisions of 10 CFR 212.62. The exception request, if granted, would require Cities Service Company to permit Parker to deliver motor gasoline to a retail outlet which Parker owns. On August 5, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

PMM Corporation, Mansfield, Massachusetts, BEE-0217, motor gasoline

The PMM Corporation filed an Application for Exception from the provisions of 10 CFR 211.102. The exception request, if granted, would permit PMM to receive an allocation of unleaded motor gasoline for the purpose of blending and marketing gasohol. On August 8, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted in part.

S. M. Scwartz Oil Co., Blytheville, Alaska, BEE-0555, gasohol

S. M. Scwartz Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Scwartz to receive an increased allocation of unleaded gasoline for the purpose of blending and marketing gasohol. On August 4, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Hull Grocery, Inc., DEE-7127, Hull, GA
Martin County, FL, BEE-1025, Stuart, FL

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase of the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

McMahon Oil Co., DEE-2904, Cleveland, TX
Menard & Holmberg Car Wash, DEE-8155, Chicopee, MA
Modern Oil Co., Inc., DEE-6265, Shawnee, OK
Henery Reese, DEE-6158, Cheektowaga, NY

[FR Doc. 80-25506 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1579-7]

Adequacy of Attention to Conservation and the Environment by the Department of Energy; Public Hearing

The Environmental Protection Agency (EPA) announces a Public Hearing on the Department of Energy's (DOE's) Conservation and Solar Energy Program. The Hearings will be held at the Office of Personnel Management's Auditorium, 1900 E Street NW., Washington, DC from 9 am to 5 pm, on September 24 and 25, 1980. The public is invited.

A pre-hearing document is also available for public review and comment. Requests for copies of this document and for more information on the Hearing should be addressed to the Environmental protection Agency at the address below.

Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577) directs the responsible agency (formerly the Council on Environmental Quality, now EPA) to carry out a continuing analysis of the Federal nonnuclear energy research and development program. The analysis assesses the "adequacy of attention" to energy conservation methods and environmental protection, as well as to the environmental consequences of the application of nonnuclear technologies.

The 1980 hearings will focus on the adequacy of attention to energy conservation and solar energy within the Department of Energy. Aspects of the review include:

(1) *Policy:* Have the potential contributions of conservation and solar programs been considered adequately by the Department in formulating its energy policies and in planning its programs?

(2) *Programs:* Has adequate attention been given to the implementation of DOE Conservation and Solar programs at the Federal, state, and local levels to ensure their maximum effectiveness?

(3) *Evaluation:* Has the Department equipped itself well to allocate resources wisely and to maintain quality control over the management of its programs, by providing adequately for the evaluation of the effectiveness of its programs?

Under the direction of the Act, annual public hearings are held to provide the opportunity for interested individuals or groups to testify. The September Public Hearing has been preceded by a series of Section 11 regional workshops held during June and July in Raleigh-Durham, NC; San Francisco, CA; St. Paul-Minneapolis, MN; Denver, CO; and Portland, OR. The workshops dealt with Federal conservation and solar energy policy analysis; program evaluation; research, development, and applications; and state and local assistance programs. A half day session during the two day hearing will be focused on each of these four topics.

A Report to the President and Congress, to be available in January 1981, will summarize the 1980 Section 11 program. Specific findings and recommendations will be made relative to EPA's review of DOE's conservation and solar energy program.

Further information about this Hearing and the pre-hearing document, which will summarize the regional workshops and outline the issues for discussion at the Hearing, may be obtained by contacting Gregory Ondich (202) 426-9434.

Individuals or organizations wishing to testify at the Hearing should submit, by September 15, 1980, a brief summary of their intended testimony to: Section 11 Cordinator (RD-681), Office of Environmental Engineering and Technology, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Witnesses may submit written testimony and/or deliver an oral statement of up to ten (10) minutes in length. Additional time will be available for questions and comments from a panel of experts. An open period will be provided each day for unscheduled public testimony or questions. Transcripts of the September Hearing will be available to the public.

Dated: August 15, 1980.

Kurt Riegel,

Associate Deputy Assistant Administrator, Office of Environmental Engineering and Technology.

[FR Doc. 80-25415 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-4]

PSD Non-Applicability to the American Cyanamid Co., Linden, N.J.

Notice is hereby given that on June 12, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the American Cyanamid Company (ACC) proposal to construct a new incinerator at their Warners Plant in Linden, New Jersey is *not* subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for chemical process plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, regulations.

A review of the ACC project in accordance with the requirements of this administrative order indicates that the project is not subject to PSD review. The potential (uncontrolled) emissions of particulate matter (PM) and sulfur dioxide (SO_2) were calcuated to be over the PSD threshold of 100 tons per year, and, therefore, subject to PSD under the June 19, 1978, regulations. However, the administrative order stays the application of the June 19, 1978, regulations as to any source or modification for which there is no significant net increase in emissions relative to each pollutant for which the source would be "major" under the September 5, 1979, proposed amendments. There will be no significant net increase in the amount of PM or SO_2 emissions from the proposed ACC project and there will be no signficiant net increases from any other pollutant for which ACC would be major. Therefore, on the basis of the condition of the stay, ACC is *not* subject to PSD review.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals, for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25621 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-5a]

Approval of PSD Permit to B.F. Goodrich Co. (Chemical Division)

In the matter of the proceedings under Title 1, Part C of the Clean Air Act (the Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for the Prevention of Significant Air Quality Deterioration (PSD) to the B.F. Goodrich Company (Chemical Division) (BFG).

On March 1, 1979, BFG submitted an application to the United States Environmental Protection Agency (EPA), Region II Office, for a proposed expansion of its polyvinyl chloride (PVC) manufacturing plant located in Pedricktown, New Jersey. The application was submitted pursuant to the PSD regulations. Supplemental information was received by the EPA on March 9, 1979, June 9, 1979, and July 6, 1979. The BFG PSD application was determined to be complete on July 18, 1979. Additional details on the project were received by the EPA on August 10, 1979, August 30, 1979, and November 15, 1979.

On January 28, 1980, a Preliminary Determination of Approvability (PD) was issued. On February 6, 1980, the EPA published notice of its decision to grant a preliminary approval to BFG and to request public comment on the decision (PD).

During the course of the public comment period, the EPA received a request for a public hearing from the Oldsman Township Planning Board (OTPB) dated February 19, 1980. This letter addressed several concerns of the OTPB relative to the proposed project. On March 6, 1980, at the request of BFG, the OTPB held a meeting with BFG representatives for the purpose of discussing the proposed project. As a result of this meeting, the issues raised by OTPB relative to the BFG project were resolved, The OTPB was satisfied with the agreements that were reached with BFG. On March 22, 1980, in a letter to the EPA, the OTPB withdrew its request for a public hearing.

On March 10, 1980, the EPA received a letter from BFG contesting the best available control technology (BACT) limitation of 1 part per million by volume (ppmv) of vinyl chloride monomer (VCM) established by the EPA for the VCM recovery system. The EPA review of the additional information submitted by BFG in support of its request indicated that a revision of the BACT limitation from 1 ppmv to 10 ppmv (the National Emission Standards for Hazardous Air Pollutants (NESHAPS)), was necessary. The permit condition(s) contained herein addresses this revision.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on

January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the 1978 PSD regulations and the proposed September 5, 1979, PSD regulations.

The BFG project was reviewed by the EPA in accordance with the requirements of the January 30, 1980, administrative order staying the 1978 PSD regulations. It was concluded that the project was still PSD affected and that it satisfied all the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed regulations.

This approval to construct does not relieve BFG of the responsibility to comply with the control strategy and all local, state and federal regulations which are part of the applicable State Implementation Plan as well as all other applicable federal, state and local requirements.

This approval is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

For further information, please contact Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Region II Office, 26 Federal Plaza, New York, New York 10273, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

Region II, Approval to Construct

In the matter of the proposed expansion of The B.F. Goodrich Company (Chemical Division) polyvinyl chloride (PVC) manufacturing plant, Pedricktown, New Jersey; Proceeding Pursuant to the Clean Air Act, as amended.

Authority

The approval to construct is issued pursuant to the Clean Air Act as amended, 42 U.S.C. 7401 et. seq., (the Act), and the Federal Prevention of Significant Air Quality Deterioration (PSD) regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978).

Findings

1. The B.F. Goodrich Company (Chemical Division) (BFG) proposes to expand its PVC manufacturing plant located in Pedrickton, New Jersey from 159 million pounds per year to 344 million pounds per year of PVC. This will be accomplished in three phases.

Phase I—involves the debottlenecking of dispersion resin production line by adding a new spray dryer and a new feed tank and concentrator. The PSD affected facilities are:

Concentrator Slurry Tank TK-2N
Concentrator Slurry Tank TK-3N
Dryer Feed/Tank TK-4N
Spray Dryer DR-2P
Product Bagging SE-9P
Product Bagging SE-10P
Fuel Oil Storage Tank TK-10S

Phase II—involves the installation of a new 200 million pound per year suspension resin production line. The PSD affected facilities are:

Poly Evacuation Jets VJ-2E, PLY-1E thru 4E
Spot Ventilation BL-3E
Rotary Dryer SED-IH thru 3H
Blend Tanks TK-2G
Blend Tanks TK-5G
Blend Tanks TK-6G
VCM Sphere TK-2B
Pigment System
All Reactors

Phase III—involves the conversion of the existing 84 million pound per year suspension resin production line to a 48 million pound per year dispersion resin production line; this phase includes the installation of a new spray dryer and feed/tank and a new concentrator and concentrator feed/tank and the modification of existing reactors. The PSD affected facilities are:

Wastewater Stripping Column CL-2AA
Concentrator Slurry Tank TK-5N
Concentrator Slurry Tank TK-6N
Dryer Feed/Tank TK-7N
Spray Dryer Dr-3P
Product Bagging SE-13P
Product Bagging SE-14P
Slurry Stripping Column
Premix Tank
All Reactors

2. The Pedricktown area is designated non-attainment for Hydrocarbons pursuant to Section 107 of the Act. However, BFG was determined to be not subject to the requirements of the Emission Offset Policy (applicable to non-attainment areas).

3. The proposed expansion was determined to be subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act.

4. BFG submitted a PSD application to the United States Environmental Protection Agency (EPA), Regin II Office, on March 1, 1979, with additional submittals received by the EPA on March 9, 1979, June 19, 1979, and July 6, 1979.

On July 18, 1979, the BFG application was determined to be complete. Additional details of the projects were received by the EPA on August 10, 1979, August 30, 1979, and November 15, 1979.

On January 28, 1980 a Preliminary Determination of Approvability (PD) was issued.

5. On February 6, 1980, a notice to the public was published in the *Philadelphia Inquirer*, the Wilmington, News Journal and the Salem Sun Beam, requesting comments on the PD and soliciting the need to hold a public hearing on such determination. The public comment period expired on March 6, 1980.

6. During the course of the public comment period, the EPA received a request for a public hearing from the Oldsman Township Planning Board (OTPB) dated February 19, 1980. This letter addressed several concerns of the OTPB relative to the proposed project. On March 6, 1980, at the request of BFG, the OTPB held a meeting with BFG representatives for the purpose of discussing the proposed project. As a result of this meeting, the issues raised by the OTPB relative to the BFG project were resolved. The OTPB was satisfied with the agreements that were reached with BFG. On March 22, 1980, in a letter to the EPA, the OTPB withdrew its request for a public hearing.

7. On March 10, 1980, the EPA received a letter from BFG contesting the best available control technology (BACT) limitation of 1 part per million by volume (ppmv) vinyl chloride monomer (VCM) established by the EPA for the VCM recovery system. The EPA review of the additional information submitted by BFG in support of its request indicated that a revision of the BACT limitation from 1 ppmv to 10 ppmv (the National Emission Standards for Hazardous Air Pollutants (NESHAPS)) was necessary. The permit condition addresses this revision.

8. After review of all materials submitted by BFG, EPA has determined that emissions from the proposed expansion will be controlled by the application of BACT.

BFG shall employ the following BACT strategies to control VCM emissions from the facilities associated with the Pedricktown, New Jersey, plant expansion.

1. Residual VCM Emissions

BFG shall remove the suspension resin product and the dispersion resin product from the closed reactor after

completion of reaction to a slurry stripping surge tank. From this tank, the slurry shall be steam stripped of the residual VCM (RVCM) to average levels not to exceed 25 ppmw on an annual basis and 400 ppmw on a daily basis (in suspension resin) and 1350 ppmw on an annual basis and 2000 ppmw on a daily basis (in dispersion resin). The stripped RVCM shall then be piped to a monomer recovery system.

2. Monomer Recovery

BFG shall treat the gaseous stream of unrecovered VCM and inerts from the monomer recovery system using a solvent absorption system with a final exit gas concentration of less than 10 ppmv of VCM. A backup incinerator shall be available for use in the event that the solvent absorber is inoperable.

3. Relief Valve Discharges from Reactors

BFG shall implement a program of maintenance, training and operational design review which will focus on premature rupture disc failure prevention. In addition, BFG shall use a computer reaction controller which will be capable of monitoring temperature and pressure of the reaction and controlling the reaction by altering the cooling water and other process variables; an automatic sequence of corrective actions for unusual reaction problems shall be adopted.

4. Reactor Opening Loss

BFG shall reduce reactor openings (and thereby reduce VCM emissions) by utilizing the company's "closed poly technology" (a technology which reduces the need for reactor opening). In addition, BFG shall steam strip the reactor of the unpolymerized VCM after the product leaves the chamber to the level specified in the NESHAPS regulations (VCM emissions shall not exceed 0.02 grams per kilogram (0.00002 pounds of VCM per pound) of polyvinyl chloride product, with the product determined on a dry solid basis).

5. Fugitive Emissions

BFG shall control fugitive emissions by reducing the frequency of equipment openings which release fugitive emissions, using a stream sweep and vacuum or water purge technology. Fugitive emissions from wastewater shall be controlled via a wastewater stripper.

Leaks from pumps, agitators, compressors, and various other pieces of process equipment, fugitive emissions from loading and unloading, and relief valve discharges from equipment other than reactors shall be controlled using equipment specified in the NESHAPS regulations and shall be monitored by a leak detection program.

Conditions for Approval

Construction and operation of facilities comprising the BFG project were subject to the following conditions:

1. BFG shall limit the products of suspension resin to 200 million pounds per year; documentation shall be submitted to the EPA as part of the semiannual reporting requirements pursuant to the NESHAPS regulations (on March 15 and September 15 of each year).

2. BFG shall limit the production of dispersion resin to 96 million pounds per year; documentation shall be submitted to the EPA as part of the semiannual reporting requirements pursuant to the NESHAPS regulations (on March 15 and September 15 of each year).

3. BFG shall limit the concentration (weighted average) of residual vinyl chloride monomer (RVCM) in suspension resin to 25 ppmw on an annual basis and 400 ppmw on a daily average (measured for each calendar day). Measurements of the RVCM concentrations must be made immediately after the stripping process is completed. BFG shall submit daily averages to the EPA in accordance with the NESHAPS regulations; BFG shall submit the annual average as part of the September 15 semiannual report (a reporting requirement under NESHAPS regulations). The time frame for measuring the annual average shall be August 1 through July 31 of each year.

4. BFG shall limit the concentration (weighted average) of RVCM in dispersion resin to 1350 ppmw on an annual basis and 2000 ppmw on a daily average (measured for each calendar day). Measurements of the RVCM concentrations must be made immediately after the stripping process is completed. BFG shall submit the daily average to the EPA in accordance with the NESHAPS regulations; BFG shall submit the annual averages as part of the September 15 semiannual report (a reporting requirement under NESHAPS regulations). The time frame for measuring the annual average shall be August 1 through July 31 of each year.

5. BFG shall stack test the baghouses (or a representative baghouse) for each PSD affected dryer facility for the pollutant particulate matter in accordance with EPA method 5 procedures. BFG shall notify the EPA at least 10 days prior to such testing; test reports shall be submitted to EPA within 30 days after completion of testing.

6. BFG shall notify the EPA of the anticipated dates of commencement of construction and commencement of operation for each phase of this project not more than 60 days nor less than 30 days prior to such dates. The actual dates when such activities were undertaken shall be submitted to the EPA within 15 days of each activity.

7. BFG shall meet all the specifications described in its PSD permit application. The BACT strategies delineated by the EPA must be achieved.

8. BFG shall comply with all requirements of the NESHAPS regulations and the New Jersey State Implementation Plan.

9. BFG shall meet all other applicable federal, state and local requirements.

All notification required herein (excepting those modification requirements pursuant to the NESHAPS regulations) shall be submitted to Mr. Kenneth Eng, Chief of the Air and Environmental Applications Section, Permits Administration Branch, Room 432, United States Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. All notification required pursuant to the NESHAPS regulations shall be submitted to Mr. Marcus Kantz, Regional NESHAPS Coordinator, Air Facilities Branch, United States Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. All reports shall clearly indicate whether they are being submitted pursuant to the PSD requirements, the NESHAPS requirements, or both.

Approval

Approval to expand the Pedricktown Plant is hereby granted to BFG subject to the conditions expressed herein and consistent with the materials and data included in the application filed by BFG. Any departure from the conditions of this approval or the terms expressed in the application, must receive the prior written authorization of the EPA.

Authority to commence construction on this project shall be effective on the date of this approval. If construction is not commenced within eighteen months or more, or not completed within a reasonable time, such authority shall become invalid. In accordance with the regulations set forth in 40 CFR 52.21(r)(2)(viii), this notification shall be made available for public inspection at the Southern Field Office, Bureau of Air Pollution Control, New Jersey Department of Environmental Protection, 100 Larwin Road, Cherry Hill, New Jersey 08034.

On December 14, 1979, in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.), the U.S. Court of Appeals for

the District of Columbia Circuit issued its final opinion on the challenges to the existing PSD regulations. In response to this, on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978 as to any source or modification which would not be major under the amendments to those regulations proposed at 40 FR 51924 (September 5, 1979). In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under both the 1978 PSD regulations and the proposed September 5, 1979, PSD regulations. The BFG project was reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review and in compliance with all applicable requirements; thus, a PSD permit is necessary and approvable. The final regulations are expected to be promulgated in accordance with the final court opinion within the next few months. The permittee is advised to keep abreast of EPA activities relating to the PSD permitting program. It is possible that the final regulations may contain requirements that are substantially different from those which have been imposed on the source in issuing its a PSD permit; if such is the case, the permittee is advised to make arrangements with this office to resolve the differences.

Any questions concerning the determination herein communicated or the impact of the court decision on the BFG permit should be directed to Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, 26 Federal Plaza, Region II Office, New York, New York 10278, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25620 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-6]

Approval of PSD Permit to Colgate Palmolive Co., Jersey City, N.J.

Notice is hereby given that on May 13, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to the Colgate Palmolive Company (CPC) for approval to construct and operate a new detergent-base manufacturing operation at its existing plant in Jersy City, New Jersey. Specifically, the modifications include the facilities and equipment necessary to carry out processes involved in detergent-base sulfonation.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to chemical process plants subject to certain conditions, including:

1. CPC must meet all the specifications described in their June 28, 1979, PSD permit application;

2. CPC must conduct a stack test to determine the sulfur dioxide emissions using the approved EPA method(s);

3. CPC must notify the EPA of the anticipated date of commencement of construction and the anticipated date of commencement of operation not more than 60 days nor less than 30 days prior to such dates. The actual dates of commencement of construction and operation must be submitted to the EPA within 30 days after such dates.

4. CPC must comply with all other applicable federal, state and local requirements.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307 (b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25619 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-4]

Applicability Determination for New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of applicability.

SUMMARY: Applicability of New Source Performance Standards (NSPS) has been determined as indicated below.

Amionoil U.S.A., Inc

Amionoil proposes to build a gas liquid facility approximately 13 miles south of George West, Texas on U.S. Highway 59. The plant will be of the cryogenic turbo expander type. It will be capable of producing utility grade natural gas and propane-plus natural gasoline type hydrocarbon liquid from an inlet gas stream. This facility will use a 3,291 horsepower (hp) natural gas turbine to power a Solar Centaur compressor. New Source Performance Standards (40 CFR Part 60, Subpart GG), have been promulgated to regulate the emission of nitrogen oxides (NO_x) and sulfur oxides (SO_x) into the atmosphere from stationary gas turbines. Under these regulations, stationary gas turbines constructed after September 10, 1979, with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (which is approximately equal to 1000 hp output), based on the lower heating value of the fuel fired, must meet the requirements of this subpart. Since, Amionoil's turbine is rated at 3,291 hp, it is subject to the requirements of 40 CFR Part 60, Subpart GG.

Circle "S" Paving Co., Inc.

The Circle "S" Paving Company has installed a new Asphalt plant, replacing their old plant. The new plant is located at the junction of Interstate 40 and U.S. Highway 183, 1½ miles south of and ¾ of a mile east of Clinton, Oklahoma. The plant will produce approximately 60,000 tons per year of asphaltic paving materials. New Source Performance Standards, (40 CFR Part 60, Subpart I), have been promulgated to regulate the

emission of particulate matter (PM) into the atmosphere from asphalt concrete plants constructed or modified after June 11, 1973. Since this plant was put into operation after this date, it is subject to the requirements of 40 CFR Part 60, Subpart I.

Petromax Refining Co.

Petromax proposes to build a petroleum fractionation, storage, and shipping facility at 1201 Sheldon Road, Channelview, Texas. This facility will produce diesel fuel, aviation fuel, and leaded gasoline. New Source Performance Standards (40 CFR Part 60, Subparts J and Ka) have been promulgated to regulate the emission of particulate matter (PM), carbon monoxide (CO), and sulfur dioxide (SO_2) under Subpart J, and volatile organic compounds (VOC) under Subpart Ka from petroleum refineries and storage vessels for petroleum liquids. Under these regulations the provisions of Subpart J are applicable to the following affected facilities in petroleum refineries: Fluid catalytic cracking unit catalyst regenerators, (FCCU's), fuel gas combusion devices, and all claus sulfur recovery plants, except claus plants of 20 long tons per day (LTD) or less associated with a small petroleum refinery. Since this plant does not have a FCCU or a claus plant, but will burn fuel gas in all of its combustion devices, it is subject to the requirements of 40 CFR Part 60, Subpart J. Also, since this facility will have seven petroleum storage vessels with storage capacities greater than 151,412 liters (40,000 gallons), it is subject to the requirements of 40 CFR Part 60, Subpart Ka.

Coral Petroleum, Inc.

Coral proposes to construct a petroleum storage terminal to be located in St. James Parish, Louisiana. The terminal will consist of two crude oil floating roof tanks, six number 6 fuel oil tanks, two natural gas boilers, a dock, and ballast water treating facility. New Source Performance Standards (40 CFR Part 60, Subpart Ka) have been promulgated to regulate the emission of volatile organic compounds, (VOC) from petroleum storage vessels. Under these regulations petroleum storage tanks with a capacity of 151,412 liters (40,000 gallons) or greater, must meet the requirements of 40 CFR Part 60, Subpart Ka. Vessels which store fuel oils number 2–6 are exempted from these regulations. Since this facility will have two storage vessels which will store VOC other than fuel oils No. 2–No. 6, and have storage capacities greater than 151,412 liters, it is subject to the requirements of 40 CFR Part 60, Subpart Ka, for the two vessels.

Petroleum Fuel & Terminal Co.

Petroleum Fuel and Terminal Company proposes to build a 20,000 barrel per standard day vacuum distillation unit, and 17 petroleum storage tanks, and a petroleum transfer facility. The proposed project will be located on Route 141 near Carville, Louisiana. The refinery will produce No. 2 and No. 6 fuel oils and light and heavy vacuum gas oils. New Source Performance Standards (40 CFR Part 60, Subpart J and Ka) have been promulgated to regulate the emission of particulate matter (PM), carbon monoxide (CO), and sulfur dioxide (SO_2) under Subpart J, and volatile organic compounds (VOC) under Subpart Ka from petroleum refineries and storage vessels for petroleum liquids. Under these regulations, the provisions of Subpart J are applicable to the following affected facilities in petroleum refineries: fluid catalytic cracking unit catalyst regenerators (FCCU's), fuel gas combusion devices, and all claus sulfur recovery plants, except claus plants of 20 long tons per day (LTD) or less associated with a small petroleum refinery. Since this plant does not have a FCCU or a claus plant, but will burn fuel gas in its combustion devices it is subject to the requirements of 40 CFR Part 60, Subpart J. Also, since this facility will have 17 petroleum storage vessels with storage capacities greater than 151,412 liters (40,000 gallons), it is subject to the requirements of 40 CFR Part 60, Subpart Ka, except those vessels storing No. 2–No. 6 fuel oils, which are exempt under this subpart.

DATES: Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of this notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: Copies of the background material and determination are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270.

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

FOR FURTHER INFORMATION CONTACT: Carl Edlund, Chief, Air Enforcement Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2755.

Dated: August 1, 1980.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 80-25612 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-3]

Approval of PSD Permit to Concrete Materials Inc., Brockport, N.Y.

Notice is hereby given that on May 12, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to Concrete Materials, Inc. (CMI) for approval to construct and operate a rock crushing plant in Brockport, New York. Specifically, the project includes the construction of a 2000 ton per day rock crushing plant consisting of 3 rock crushers, a hopper and feeder, 2 screens and numerous conveyors.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review. The EPA had determined that CMI satisfies all of the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed regulations; thus, the approval of the PSD permit request is granted.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to rock crushing plants subject to certain conditions, including:

1. CMI shall meet all the specifications described in their September 12, 1979, PSD permit application;

2. CMI shall not operate the plant beyond May 12, 1983;

3. Upon expiration of the company's current New York State Department of Environmental Conservation Certificate to Operate for this plant, CMI shall either relocate the rock crushing plant or perform ambient air quality impact analyses; these analyses shall be submitted (and a PSD permit subsequently issued) before CMI can operate the plant after May 12, 1983. If CMI chooses to relocate, they shall submit notification of such to the EPA for approval. This notification shall be submitted within 30 days prior to the relocation;

4. CMI shall notify the EPA of the anticipated date of commencement of construction and the anticipated date of commencement of operation not more than 60 days nor less than 30 days prior to such dates. The actual dates of commencement of construction and operation shall be submitted to the EPA within 30 days after such dates;

5. CMI shall comply with all other applicable federal, state and local requirements.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren.

Regional Administrator.

[FR Doc. 80-25622 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-2]

Approval of PSD Permit to Mitchell Energy Corp.

Notice is hereby given that on July 25, 1980, the Environment Protection Agency (EPA) issued an amended Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-139, to Mitchell Energy Corporation for approval to change the design of a crude/condensate fractionating facility which Mitchell Energy plans to construct on U.S. Highway 380, two miles west of Bridgeport, Wise County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-139 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Regiona 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Administrator, City Hall, 812 Halsell, Bridgeport, Texas 76020.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25606 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-1]

Approval of PSD Permit to Endevco, Inc.

Notice is hereby given that on July 23, 1980, the Environmental Protection Agency (EPA) issued Prevention of Significant Deterioration (PSD) permit, Number PSD-AR-240, to Endevco, Incorporated for approval to construct a natural gas sweetening plant located onState Route 134, eight miles northeast of Fouke, Miller County, Arkansas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-AR-240 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Eighth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Mayor, City Hall, Main Street, P.O. Box 173, Fouke, Arkansas 71837.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25607 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-8]

Approval of PSD Permit to Panhandle Eastern Pipeline Co.

Notice is hereby given that on July 17, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-274, to the Panhandle Eastern Pipeline company for approval to modify the Blair-Heydrick Natural Gas compressor station located approximately 8 miles south of Borger on Highway 207 in Carson County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-274 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, City Hall, P.O. Box 5250, Borger, Texas 79007.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25608 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-7]

Approval of PSD Permit to Southern Natural Gas Co.

Notice is hereby given that on July 17, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-LA-267, to the Southern Natural Gas Company for approval to install a 5000 HP reciprocating engine located at the existing Franklinton Compressor Station in Washington Parish, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-267 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Clerk Treasurer, City Hall, P.O. Box 584, Franklinton, Louisiana 70438.

August 13, 1980.

Frances E. Phillips,

Actng, Regional Administrator, Region 6.

[FR Doc. 80-25609 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-6]

Approval of PSD Permit to Georgia-Pacific Corp.

Notice is hereby given that on July 17, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-AR-304a, to the Georgia-Pacific Corporation for approval to construct a formaldehyde facility located at First Avenue, Crossett, Ashley County, Arkansas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-AR-304a is available *only* by the filing of a petition for review in the United States Court of Appeals for the Eighth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Mayor, 309 Main Street, Crossett, Arkansas 71635.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25610 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-5]

Approval of PSD Permit to Texaco, Inc.

Notice is hereby given that on July 10, 1980, the Environmental Protection Agency (EPA) issued an amended Prevention of Significant Deterioration (PSD) permit, number PSD-TX-141, to Texaco, Incorporated for approval to expand their refinery located in Port Arthur, Jefferson County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-141 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, City Hall, 444 Fourth Street, Port Arthur, Texas 77644.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25611 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-8]

Approval of PSD Permit to GAF Corp., Wayne, N.J.

Notice is hereby given that on March 14, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deteroriation (PSD) permit to the GAF Corporation (GAF) for approval to modify their plant in Bridgewater Township, New Jersey. Specifically, the modification includes an expansion (removal of three conveyors, replacement of two screens and an elevator, addition of a new screen, crushing rolls, and three belt conveyors) of the mill processes and the construction of a new rotary kiln.

The PDS regulations have changed signficantly since their intitial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to roof granule manufacturing plants subject to certain conditions, including:

I. Expansion of mill processes:

A. GAF shall limit the allowable particulate matter emissions of the expansion to 15 pounds per hour (as specified in GAF's submittals of May 16, 1979, and July 26, 1979).

B. GAF shall employ good engineering practices (GEP) to the extent possible to control all sources of fugitive emissions from the mill expansion (i.e., dust pickups or control of the elevators, screens, conveyors, crushers, etc.). GEP shall also include limiting fugitive emissions from the granule stockpiling operations.

C. GAF shall employ GEP to control fugitive emissions from the increased truck traffic for incoming and outgoing rock and finished product deliveries. This shall include, at a minimum, road watering and/or paving for reduction in fugitive emissions.

D. GAF shall stack test the mill bag collector to ensure compliance with the permit conditions and applicable regulations.

II. Construction of rotary kiln:

A. GAF shall limit the rotary kiln processing rate to 120,000 pounds per hour of rock.

B. GAF shall stack test the kiln scrubber to ensure compliance with the permit conditions and applicable regulations within 90 days of the start of operaitons.

III. The entire GAF project shall comply with all other applicable requirements of the New Jersey State Implementation Plan not specifically defined above.

IV. GAF shall comply with other applicable federal, state and local requirements.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location:

Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25817 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-7]

Approval of PSD Permit to the Curtiss-Wright Corp., Wood-Ridge, N.J.

Notice is hereby given that on June 13, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to the Curtiss-Wright Corporation (CW) for approval to construct a pressurized fluidized-bed coal combustion boiler and related equipment at their Wood-Ridge, New Jersey plant.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to aerospace manufacturing plants subject to certain conditions, including:

1. CW shall meet all the specifications described in the November 14, 1979, PSD permit application package;

2. CW shall comply with all applicable requirements contained in the New Jersey State Implementation Plan;

3. CW shall not operate the project in excess of 3100 hours per year for a period not to exceed two years;

4. CW shall submit all emissions data obtained during the test period to the EPA every 3 months throughout the duration of the pilot test. Each data submittal shall include operating parameters, such as, but not limited to: Ca/S ratio, gas residence time and sorbent particle size. A final report shall be submitted to the EPA upon completion of the CW project. This final report shall include a narrative on the effect of the various operating parameters on the emissions from the plant;

5. CW shall meet all other applicable federal, state, and local requirements.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25818 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-2]

PSD Nonapplicability to Clinton Corn Processing Co., Montezuma, N.Y.

Notice is hereby given that on February 26, 1808, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Clinton Corn Processing Co. (CCP) proposal to construct a rotary Heil dryer at their Montezuma, New York plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for chemical process plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C.

Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations

The construction of the CCP Heil dryer, which will be used to dry corn fiber, is operated in conjunction with a cyclone. Cyclones installed on fiber dryers function primarily as product collectors which separate the dried product from the exhaust gas steam. This cyclone is considered to be vital to the production process; therefore, potential (uncontrolled) emissions are measured after the cyclone. On this basis, the potential emissions of particulate matter associated with the source are calculated to be approximately 80 tons per year (TPY). In addition, the potential emissions of all other pollutants associated with the source (sulfur dioxide, hydrocarbons and nitrogen oxides) fall well below the threshold level for PSD applicability under the June 19, 1978, PSD regulations (100 TPY potential emissions). Thus, the CCP corn fiber dryer is *not* subject to PSD review because the potential emissions of all pollutants are less than the applicable PSD threshold level of 100 TPY.

This determination is final action under the Clean Air Act (the Act). Under Section 307 (B)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307 (b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Date: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25623 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-1]

PSD NonApplicability to Hercules Inc., Parlin, N.J.

Notice is hereby given that on May 13, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Hercules Inc. proposal to modify the existing nitrocellulose production facility located in Parlin, New Jersey is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for chemical process plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Parlin, New Jersey is not attaining the NAAQS for the pollutant hydrocarbons (the only applicable pollutant emitted from the referenced project). Hercules satisfies the requirements of the administrative order and, therefore, PSD review of this project is *not* required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25624 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-7]

PSD Non applicability to Armstrong Cork Co., Fulton, N.Y.

Notice is hereby given that on June 30, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Armstrong Cork Company (ACC) proposal to construct seven new storage silos to store fibrous materials used in making tiles at their Fulton, New York plant is *not* subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for fiber ceiling and floor tile manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on

January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which would not be major under the proposed September 5, 1979, regulations. Our finding is that the ACC modification is *not* subject to PSD review pursuant to the proposed 1979 PSD regulations because it is not a major modification. Under the proposed regulations, a modification to a major source is subject to PSD review (major modification) if the modification has potential (controlled) emissions which exceed the specified *de minimis* level for a particular pollutant for which the source is "major" (actual emissions of 250 tons per year of a pollutant). The ACC plant is not major for any pollutant for which there is a greater than *de minimis* increase. Specifically, although the ACC plant is considered to be a major source of sulfur dioxide (SO_2), the affected emission points only increase the emissions of the pollutant particulate matter (PM). Therefore, on the basis of the condition of the stay, ACC is *not* subject to PSD review.

this determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25625 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-6]

PSD Non applicability to Arcata Graphics, Depew, N.Y.

Notice is hereby given that on April 7, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Arcata Graphics proposal to construct two new gravure presses at their Depew, New York, plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for commercial printing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under both the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as nonattainment (not attaining the National Ambient Air Quality Standards (NAAQS)) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Depew, New York, is a non-attainment area with respect to the pollutant hydrocarbons (HC) and HC is the only applicable pollutant emitted from the gravure presses. The Arcata modification satisfies the applicable requirements of the order and, thus, PSD review of the project is not required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25626 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-5]

PSD Nonapplicability to The Exolon Co., Tonawanda, N.Y.

Notice is hereby given that on February 6, 1980, and March 6, 1980, the Environmental Protection Agency (EPA), Region II Office, issued determinations that the modifications to the existing luminum oxide crushers and screens and the addition of a new aluminum oxide rotary kiln at the Exolon plant in Tonawanda, New York, are not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. These determinations of non-applicability have been issued under EPA's PSD regulations (40 CFR 52.21) for aluminum oxide and silicon carbide manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a per curiam opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On Setember 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be

PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Based upon this Administrative order, the EPA has determined that the Exolon modifications are not PSD affected for the following reasons:

(1) There is no net increase in potential emissions of any applicable pollutant associated with the modifications to the existing aluminum oxide crushers and screens (this exempts a facility from the PSD requirements under the June 19, 1978, PSD regulations);

(2) The allowable particulate matter emissions associated with the new aluminum oxide rotary kiln were calculated to be approximately 9.5 tons per year (less than the threshold limitation for PSD affectability under the September 5, 1979, proposed PSD regulations).

Therefore, the subject modifications are *not* PSD affected.

These determinations are final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of these deteminations is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determinations which are the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determinations are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25627 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-4]

NSPS Applicability to Hooker Chemical and Plastics Corp., Niagara Falls, N.Y.

Notice is hereby given that on May 22, 1980, the Environmental Protection Agency (EPA), Region II Office, issued determinations that the Hooker Chemical and Plastics Corp. (Hooker) proposal to construct an Energy-from-Waste (EFW) facility in Niagara Falls, New York is subject to the New Source Performance Standards (NSPS) regulations (40 CFR 60 *et seq.)* for fossil fuel-fired steam generators (40 CFR 60.40) and that the proposed Hooker EFW facility is not subject to the NSPS regulations for incinerators (40 CFR 60.50). Specifically, the two Hooker EFW project consists of two boilers, each boiler having the capability of burning refuse-derived fuel (RDF) and fossil fuel; that is, each boiler will be capable of burning only RDF or only fossil fuel or a combination of RDF and fossil fuel.

The NSP regulations for fossil fuel-fired steam generators apply to any unit capable of firing fossil fuel at a heat input rate of more than 250 million British thermal units (Btus) per hour. Each of the Hooker EFW boilers has the capability to fire fossil fuel at a heat input rate in excess of 250 million Btus per hour; therefore, both units *are* subject to the NSPS regulations for fossil fuel-fired steam generators.

The NSPS regulations for incinerators apply to any unit capable of charging more than 50 tons of solid waste per day. Solid waste (as defined in 40 CFR 60.51(b)) means refuse, more than 50 percent of which is municipal type waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustibles, and noncumbustible materials such as glass and rock. The Hooker EFW project will involve removing the noncumbustible materials prior to incineration. Therefore, since the two units will not be burning "solid waste" (as defined in the NSPS regulations), the units are *not* subject to the NSPS regulations for incinerators.

These determinations are final actions under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of these determinations is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determinations which are the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determinations are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25628 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-3]

PSD Nonapplicability to International Business Machines Inc., Endicott, N.Y.

Notice is hereby given that on April 21, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the International Business Machines (IBM) proposal to modify its Endicott, New York plant is *not* subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This project consists of various modifications to existing plant equipment and additions of new facilities; the principal emission facilities include two carbon adsorption units, two strippers and a transfer fan for five carbon adsorption units. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for electronic computing equipment manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

A review of the IBM project in accordance with the requirements of this administrative order indicates that the project is not subject to PSD review. The potential (uncontrolled) hydrocarbon (HC) emissions relative to this project were calculated to be approximately 625 tons per year and, therefore, subject to PSD review under the June 19, 1978, regulations. However, the administrative order stays the

application of June 19, 1978, regulations as to any source or modification for which there is no significant increase of emissions relative to each pollutant for which the source is "major" under the September 5, 1979, proposed amendments. When taking into account all additions and the shutdown of existing equipment, there is a net decrease in the amount of HC emissions. In addition, there will be no significant emission increases from any other pollutant for which IBM would be major. Based upon this review, the IBM project is *not* PSD affected.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25629 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1481-8]

PSD Nonapplicability to the Carborundum Co., Niagara Falls, N.Y.

Notice is hereby given that on April 21, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Carborundum Company proposal to construct a submerged arc furnace at their Electro Minerals Division plant in Niagara Falls, New York is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for abrasive product manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Niagara Falls, New York is not attaining the NAAQS for the pollutant particulate matter (the only applicable pollutant that would be emitted from the referenced furnace). Carborundum Company satisfies the requirements of the administrative order and, therefore, PSD review of this project is *not* required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25631 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-4; OPTS-00014]

Interagency Toxic Substances Data Committee; Cancellation of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The September meeting of the Interagency Toxic Substances Data Committee has been cancelled.

FOR FURTHER INFORMATION CONTACT: Nan Fremont (TS–793), Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202–755–8040).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee take place on the first Tuesday of each month at 9:30 a.m. and are open to the public. The meetings are held in: Room 2010, New Executive Office Building, 17th St. and Pennsylvania Ave., NW., Washington, D.C. 20006.

The September meeting has been cancelled. The next meeting of the Interagency Toxic Substances Data Committee will take place on October 7, 1980.

Dated: August 15, 1980.

Nan Fremont,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 80-25604 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-3; OPP-180476]

Kansas; Issuance of Specific Exemption To Use Permethrin on Field Corn To Control Southwestern Corn Borer

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the State of Kansas (hereafter referred to as the "Applicant") to use permethrin on a maximum of 265,164 acres of field corn to control the southwestern corn borer. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Rm: E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: The southwestern corn borer is a serious pest of irrigated field corn in much of southwestern and south central Kansas. The Applicant estimated that the southwestern corn borer accounted for a 33.6 percent yield reduction in field corn in 1979. Total losses, when using the registered alternative which has given the best control, are estimated to be about $18.3 million, while losses with the use of permethrin are estimated to be $7.4 million.

Currently, diazinon, carbaryl and carbofuran are registered for southwestern corn borer control on field corn. However, the Applicant claims that diazinon has not significantly reduced borer populations; carbaryl has given inconsistent results; and carbofuran does not work during extremely dry conditions. Cultural, biological and mechanical control measures, as well as the use of short-season hybrids, have not consistently controlled borer populations, according to the Applicant.

The Applicant proposes to make a maximum of two applications of permethrin (Pounce and Ambush) using air or ground equipment to control second brood populations of southwestern corn borers. A 30-day pre-harvest interval will be observed.

EPA has determined that the proposed use should not result in residues of permethrin of more than 0.05 part per million (ppm) in or on field corn grain, and 2.0 ppm in or on forage and fodder. These levels have been judged by EPA to be adequate to protect the public health. Established meat and milk tolerances should not be exceeded as a result of feeding forage and fodder. Because of permethrin's toxicity to fish and other aquatic organisms, and bees, appropriate restrictions have been imposed. The use of permethrin under this specific exemption is not expected to present an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ambush 2E (EPA Reg. No. 10182-18) and Pounce 3.2EC (EPA Reg. No. 279-30140) may be used. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. Permethrin may be applied at a rate of 0.1 to 0.2 pound per acre;

3. A maximum of two applications may be made. Under no circumstances may any more than two applications be made in the 1980 growing season;

4. Applications may begin when eggs of the second generation of southwestern corn borers begin to hatch. The additional application may be made as needed;

5. A maximum of 265,164 acres of field corn may be treated;

6. Applications may be made by State-certified applicators using either ground or aerial equipment. A minimum spray volume of 15 gallons per acre, when applied by ground equipment, and 3 gallons per acre, when applied by aerial equipment, will be used;

7. A 30-day pre-harvest interval will be observed;

8. The use of permethrin is not authorized until it has been determined that eggs of the second generation of the southwestern corn borer are present or when heavy first generation moth flights are present in the area;

9. A 60-day crop rotation restriction will be observed;

10. It is recommended that permethrin not be applied any closer to fish-bearing waters than as follows:

Application height/method	Buffer zone in feet	
	Freshwater	Saltwater
Application rate 0.1 lbs per acre:		
2 ft Ground spray	50	200
8 ft Ground spray	200	900
15 ft Ground spray	350	1,700
Application rate 0.2 lbs per acre:		
2 ft Ground spray	80	350
8 ft Aerial spray	340	1,400
15 ft Aerial spray	650	2,700

Applications closer than these may result in fish and/or other aquatic organism kills. It is recommended that applications be made when wind speeds are between 2 and 5 miles per hour. No applications are to be made when wind speeds exceed 10 miles per hour;

11. Precautions must be taken to avoid or minimize spray drift to non-target areas;

12. These products are highly toxic to bees exposed to direct treatment or to residues on crops or weeds. They may not be applied or allowed to drift to weeds in bloom on which significant numbers of bees are actively foraging;

13. Permethrin is toxic to fish. It may not be applied directly to water and drift control precautions must be observed. It may not be applied when excessive runoff is likely to occur. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes or excess pesticides;

14. Residues of permethrin resulting from the above application are not expected to exceed 0.05 ppm in or on field corn grain and 2.0 ppm in or on field corn forage or fodder. Secondary residues in meat and milk are not expected to exceed 0.05 ppm. Commodities which do not exceed the above levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

15. All applicable directions, restrictions, and precautions on the EPA-registered labels are to be adhered to;

16. The Kansas State Board of Agriculture is responsible for ensuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1981; and

17. The EPA shall be immediately informed of any adverse effects resulting from use of permethrin in connection with this program.

(Sec. 18, as amended (92 Stat. 819; (7 U.S.C. 136))

Dated: August 12, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-25605 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-2]

Region VIII—Ground Water System of the Shallow Aquifers in the Helena Valley, Lewis and Clark County, Mont.; Request for EPA Determination Regarding Aquifers

A petition has been submitted by the Lewis and Clark City-County Health Department, Helena, Montana pursuant to section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523, 88 Stat. 1661 *et seq.*, requesting the Administrator of the Environmental Protection Agency to make a determination that the aquifer underlying a portion of the Helena Valley northeast of the City of Helena is the sole or principal drinking water source for that portion of the Helena Valley, which, if contaminated would

create a significant hazard to public health.

The petition is reprinted in full below.

Before the United States Environmental Protection Agency, Douglas M. Costle, Administrator, and Roger L. Williams, Region VIII Administrator.

In the matter of the Petition of the Lewis and Clark City-County Health Department, Helena, Montana, under section 1424(e) of the Safe Drinking Water Act of 1974 with respect to the Helena Valley Shallow Aquifer System; Lewis and Clark County, Montana.

Petition for Designation of Sole Source Aquifer

Presented by the Lewis and Clark City-County Health Department, 316 North Park, Helena, Montana 59601, 443-1010 (351).

(1) The Lewis and Clark City-County Health Department hereby petitions the Administrator and the Region VIII Administrator of the United States Environmental Protection Agency requesting that the Helena Valley Shallow Aquifer system be designated as a sole source aquifer as provided under section 1424(e) of the Safe Drinking Water Act (Public Law 93-523). This office is interested in such a designation because of the beneficial effect such a designation would have on numerous public oriented goals and objectives established to protect a major domestic water supply. It is our position that existing ground water quality should be protected from further contamination. Currently the state has no ground water standards that provide adequate protection for this important water supply. Thus, ground water protection in the subject area is limited to sewage treatment facility review. In evaluating ground water quality, the primary drinking water standards are used, since they most closely correspond with goals and objectives in the maintenance of water quality. Because of rapid development in the petitioned area, water quality is showing deleterious effects, such as increasing nitrate levels. However, population densities are too low to economically support central sewer or water systems. In addition, a petroleum pipeline is to be built through the valley, up-gradient from the major portions of residences using the water supply, bringing with it the potential for adverse impacts on local ground water supplies and their recharge areas.

Contamination of the aquifer would result in unsatisfactory water quality for 6000-6700 people who rely on this water source. These 6000 or more people draw their water from either individual or community water supplies using the Helena Valley Shallow Aquifer System.

(2) The approximate boundary of the aquifer is presented in the attached map. The shaded area indicates the region of concern where the aquifer is the primary source of domestic water. Surface streams that cross the aquifer and subsequently recharge it are also indicated on the map. The ground water flow system parallels the flow of the stream recharge system, more or less, as it moves towards Lake Helena. The valley floor deposits, which make up the aquifer could be classified as unconsolidate alluvium.

Surface soil permeability varies throughout the valley. In terms of percolation tests (to a 36" depth) the soil permeabilities vary from less than one minute per inch to more than 30 minutes per inch, the average being 6-8 minutes per inch. Permeabilities at lower depths can be surmised from soil maps.

Declines in water table elevations have occurred in those portions of the valley where agricultural water users have switched from flood to sprinkler irrigation. Unfortunately, the beneficial effect of these new water management practices on ground water levels has been very localized.

Data and conclusions concerning the ground water quality can be found in two U.S. Geological Survey reports:

Wilke, K. R., and D. L. Coffin 1973. "Appraisal of the Quality of Ground Water in the Helena Valley, Montana." Water-Resources Investigations 32-73. U.S. Geological Surveys, Helena, Montana.

Moreland, J. A., R. B. Leonard, T. E. Reed, R. O. Clausen; and W. A. Wood 1979. "Hydrologic Data from Selected Wells in the Helena Valley, Lewis and Clark County, Montana." Open-File Report 79-1676. U.S. Geological Survey, Helena, Montana.

These reports will not be summarized here.

(3) Population data for north suburban Helena, collected in a recent survey, indicate that 6700 people draw their domestic water from the shallow aquifer system. The availability of alternative sources of drinking water is limited. The most readily available alternative involves the extension of Helena's central water system. Water for the City of Helena now comes from two sources. One source is the Missouri River Water Treatment Plant; the other source is a surface water supply from the Ten Mile Creek drainage, which is currently running near capacity. This option requires extensive water treatment and the pumping of water for 2 to 13 miles, making this alternative economically unreasonable.

(4) Only two alternative sources of water exist which could provide drinking water to the valley population that now draws its water from the shallow aquifer system. One alternative is to drill deep, high volume wells. Studies have not been conducted that would identify potential locations of wells which could deliver adequate supplies. The other alternative involves enlarging the current Missouri River Treatment Facility. The water from the Missouri River currently undergoes rapid-sand filtration and chlorination (with some flocculation). The cost of expanding these facilities and pumping the water to the main area of current ground water use would be considerable. Installation of the water distribution system alone to provide service to the estimated 30 square mile area having such low housing densities would be cost prohibitive.

(5) Several public water supply systems are served by the aquifer. They are listed here along with the number of people that they serve. An average of 2.9 persons per residence was used for the calculation of trailer court (TC) populations. The systems are identified here:

(a)	Rossiter School, elementary school	200
(b)	Sun Garden (TC)	38
(c)	Valley Vista KOA (TC)	104
(d)	Trails End (TC)	35
(e)	Meadow Lark (TC)	61
(f)	Pebble Gardens (TC)	104
(g)	E & B (TC)	29
(h)	Jim Darcy, elementary school	270
(i)	Novak's (TC)	32
(j)	T-L (TC)	35
(k)	Evergreen (TC)	110
(l)	Rose's (TC)	29
(m)	Anniversary (TC)	29
(n)	Green Meadow Country Club	180
(o)	Pleasant View (TC)	44
(p)	Cactus Flats (TC)	32
	Total (estimate)	1,332

(6) Several activities and projects have been proposed that may cause contamination of the aquifer to occur. These include increased subdivision activity, mining and the installation of a petroleum pipeline. The major projects and their locations are listed here:

(a) Major residential subdivision activity is under consideration in section 28, T.10N. R.4W., within the petitioned area. Currently a health spa has been built in the NE¼ of section 28, served by a subsurface waste treatment system located above Ten Mile Creek. The system was approved for an application rate of 3.2-3.5 gpd/sq. ft. with a total flow of 8000 gpd maximum. The system has had operational problems that have led to local effluent spills and to the degradation of ground water locally.

(b) A 4-6 acre lagoon serving Fort William Henry Harrison is strongly suspected of leakage by the engineers at the State Water Quality Bureau. This lagoon is located in section 15, T.10N., R.4W., in the petitioned area.

(c) The proposed petroleum pipeline will follow Seven Mile Creek into sections 13 and 14, T.10N., R.4W., then through the southern portion of sections 13, 14, 15, 16, 17, and 18, T.10N., R.3W., and finally southeast toward East Helena and to the north of East Helena. This route causes the pipeline to cross several rivers that flow into the petitioned area. The pipeline also is routed to cross the southern portion of the Helena Valley Shallow Aquifer System.

(d) There is considerable interest in reopening mines in the mountains that lie west of the Helena Valley. Mining activity in these areas would have a direct impact on the surface streams and recharge areas that interact with the aquifer.

(e) Sections 31 and 32, T.11N., R.3W. Sections 5, 6, 7, 8, 17, and 18, T.10N., R.3W. Section 36, T.11N., R.4W., and Section 1, T.10N., R.4W., all show increased subdivision activity. Major subdivisions have been proposed in Sections 24 and 25, T.11N., R.4W., around Silver Creek, which recharges the aquifer system.

(f) Sections 16 and 17, T.10N., R.3W. have two sites which have been used for burial of dewatered municpal sewage plant sludge. The city has hopes of continuing dumping of the sludge at this site. Monitoring wells are showing high nitrate levels down-gradient from the original dumping site. The sludge disposal activities appear to be causing and are expected to continue to cause contamination of the aquifer.

(7) A large number of individuals draw their private water supply from the same shallow aquifer system. It has been estimated that 5,400 people in the proposed designation area obtain their drinking water from the aquifer in question.

On the basis of the information presented in this petition and on the basis of further information to be collected during the designation proceeding, it is believed that the Helena Valley Shallow Aquifer System must be designated as a Sole Source Aquifer to prevent serious contamination of an important drinking water supply. Failure to designate the Helena Valley Shallow Aquifer System as a Sole Source Aquifer could lead to the creation of a significant hazard to Public Health.

Respectfully submitted:

Dated: May 30, 1980.

Will Selser,

Acting Health Officer, Lewis and Clark-County Health Department, Helena, Montana.

EPA intends to decide whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and informtion, and a full opportunity for public participation. In this regard the Agency is developing a full factual record and solicits comments, data, and references to addtional sources of information relevant to the determination required by Section 14244(e). In particular, information is sought concerning the hydrogeology of the Helena Valley Shallow Aquifer System, the boundaries of the aquifer and its recharge areas. In addition, EPA requests information concerning the area or areas dependent upon the aquifer for drinking water, significance of current or anticipated projects receiving federal financial assistance that may result in contamination of the aquifer, the prospects that such contamination will occur as a result of current activities or events that may be anticipated, and any other relevant information.

Comments, data, and references in response to this notice must be submtted in writing to Roger L. Williams, Regional Administrator, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, attention: Helena Valley Aquifer, within ninety (90) days of publication of notice. Information concerning the Helena Valley Aquifer System will be available for inspection at the above address.

In addition to considering public comments sent to EPA, the Agency will hold an informal public hearing on October 7, 1980 at 7:00 p.m. at the City-County Building in Helena, Montana.

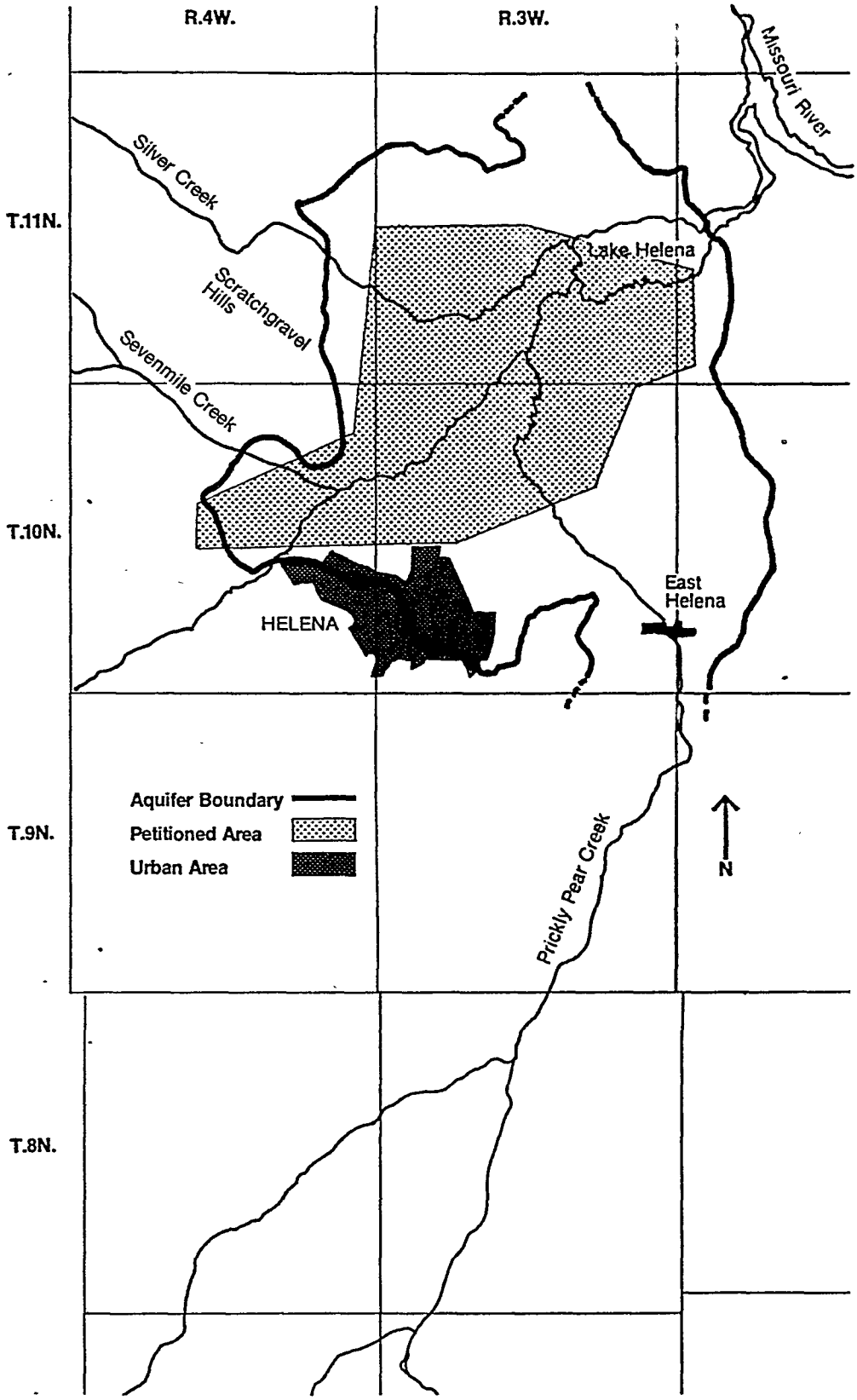
Persons who wish to present prepared statements at the public hearing are urged to give notice to Mr. Max Dodson, Environmental Protection Agency, Montana Office-Federal Building, 301 South Park, Drawer 10096, Helena, Montana 59601. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

Dated: July 29, 1980.

Gene A. Lucero,

Deputy Regional Administrator.

BILLING CODE 6560-01-M



[FR Doc. 80-25615 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-C

[FRL 1583-1]

PSD Non-Applicability to SK & F Lab Co. Cidra, P.R.

Notice is hereby given that on June 12, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the SK & F Lab Company proposal to construct a new pharmaceutical manufacturing facility in Cidra, Puerto Rico is *not* subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for pharmaceutical manufacturing plants.

Specifically, the potential (uncontrolled) emissions of sulfur dioxide (the only applicable pollutant that would be emitted from this facility) were calculated to be approximately 67 tons per year which is less than the threshold limitation of PSD affectability under the June 19, 1978, PSD regulations; therefore, the SK & F project is *not* subject to PSD review.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25616 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-7]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups organization and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of August 11, 1980, to August 15, 1980

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from August 22, 1980, and will end on October 6, 1980. The 30-day review period for final EIS's as calculated from August 22, 1980, will end on September 22, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For Public Availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For Hard Copy Reproduction or Microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to section 1506.10(A), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week, Therefore, for all final EIS's received during the week of August 11, 1980 to August 15, 1980, the 30-day review period will be calculated from August 22, 1980. The review period will end on September 22, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 11, 1980 to August 15, 1980. The Federal agency filed the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on Draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, state(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by the Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V set forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: August 19, 1980.

Thomas R. Sheckells,

Acting Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During the Week of August 11 through 15, 1980

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Mobile Bay Exploratory/Appraisal Hydrocarbon Wells, Alabama, August 14: Proposed is the issuance of a permit for the drilling of four exploratory/appraisal hydrocarbon wells in Mobile Bay, Alabama. The alternatives to consider: (1) issue permit with conditions; (2) modifications of drill sites; (3) minimize number of sites; (4) drill fewer straight wells; (5) alternate types of drilling equipment, service areas, spill clean-up plans, and evacuation plans; and (6) deny permit. (Mobile district.) (EIS Order No. 800598.)

Coinjock Bridge Replacement, Atlantic ICWW, Currituck County, N.C., August 11: Proposed is the replacement of the Coinjock Bridge located along US-158 at its intersection with the Atlantic Intercoastal Waterway in the community of Coinjock, Currituck County, North Carolina. The type of bridge would be fixed-span with a 65 foot vertical clearance over the waterway, three

alignments for the bridge are considered. The cooperating agency is the State of North Carolina. (Wilmington district.) (EIS Order No. 800585.)

Final

Surry Power Station Unit 1, Generator Repair, Dade County, Fla., August 11: Proposed is approval of an application for the expansion of the Port of Miami in Biscayne Bay, Dade County, Florida. The plan would involve the sequential development of passenger and cargo facilities which will include: (1) expansion of Dodge Island incorporating Lummus and Sams Islands, (2) dredging of a new channel and deepening and widening existing channels, (3) the creation of Dodge Island by bulkheading and filling. When completed the Port of Miami will have been expanded by 284 acres to provide total area of 522 acres. (Jacksonville district.) Comments made by: DOC, DOI, EPA, HEW, State and local agencies, businesses. (EIS Order No. 800589.)

Missouri National Recreational River (F-2), Nebraska and South Dakota, August 12: Proposed is the inclusion of a portion of the Missouri National Recreational River from Gavins Point Dam to Ponca State Park in the National Wild and Scenic Rivers system. The portion of the river to be included and the adjacent lands lie in the States of Nebraska and South Dakota. This statement finalizes a portion of the action addressed in the draft EIS, #770176, filed 2-18-77. An earlier final EIS, #780606, filed 6-5-78 addressed the bank erosion portion of the draft. The cooperating agency is the HCRS. (Omaha District.) Comments made by: USDA, EPA, DOI, State agencies. (EIS Order No. 800591.)

Draft Supplement

Barataria Bay Waterway, GIWW to Gulf of Mexico (DS-1), Jefferson County, La., August 12: Proposed is a navigation project for Barataria Bay Waterway from the Gulf Intercoastal Waterway to the 15 foot depth contour in the Gulf of Mexico, Jefferson Parish, Louisiana. The project would include maintenance dredging of the channel to 12 foot deep mean low gulf depth. This EIS supplements a portion of the project discussed in final EIS, #761600, filed 11-8-76. (New Orleans district.) (EIS Order No. 800593.)

Tamaqua Flood Control Protection Plan (DS-1), Schuylkill County, Pa., August 14: Proposed is a Flood Control Protection plan for the Borough of Tamaqua, within the Little Schuykill River Watershed, Schuylkill County, Pennsylvania. The alternatives are: (1) no action, (2) a bypass channel to divert Wabash Flood Flows, (3) construction of a closed-conduit bypass channel to divert flood flows, (4) a bypass tunnel plus a dry detention dam, and (5) a closed-conduit bypass channel plus a dry detention dam. (Philadelphia district). (EIS Order number 800600.)

Department of Commerce

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377-2482.

National Oceanic and Atmospheric Administration

Final

Narragansett Bay Estuarine Sanctuary, Grant, Rhode Island, August 15: Proposed is the awarding of a grant for establishment of an estuarine sanctuary in Narragansett Bay, Rhode Island. The grant would be used for acquisition of 203 acres of uplands and wetlands on Patience Island. The sanctuary would be used primarily for research and educational purposes, especially to provide information useful for coastal zone management decision making. Recreational uses would be encouraged where compatible. Boundary and management alternatives are considered. Comments made by: COE, DOC, DOE, HUD, DOI, DOT, EPA, GAS, State and local agencies, groups, individuals, and businesses. (EIS Order number 800605.)

Northern Mariana Islands Coastal Resources Management, U.S. territory, August 15: Proposed is a Coastal Resources Management Plan for the commonwealth of the Northern Mariana Islands. Approval would permit implementation of the proposed program, allow program administration grants to be awarded to the State, and require that Federal actions be consistent with the program. The effect of these policies and standards is to condition, restrict, or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. Comments made by: USDA, EPA, DOI, local agencies, businesses. (EIS Order number 800606.)

Environmental Protection Agency

Contact: Ms. Lisa Corbin, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1285.

final

Reeder Reservoir Maintenance Operations, Ashland, Jackson County, Oreg., August 15: Proposed is the approval or disapproval of the Reeder Reservoir element of the Roque Valley Water Quality Management Plan for the City of Ashland, Jackson County, Oregon. This element of the plan involves the cleaning of the Reeder Reservoir by means of draining in the early spring of relatively wet years with the sediments being sluiced through the reservoir outlet to be carried downstream in Ashland Creek into Bear Creek, and eventually into the Roque River. The alternatives consider the various discharge times which would move the sediments in the least harmful manner. (EPA-10-OR-Jackson-Ashland-WQMP-79.) Comments made by: USDA, DOI, DOC, HUD, ASP, State and local agencies, businesses. (EIS Order number 800602.)

Contact: Mr. Wallace Stickney, Region I, Environmental Protection Agency, John F. Kennedy Federal Bldg., Room 2203, Boston, Massachusetts 02203 (617) 223-4635.

Draft

Northern Middlesex Water Quality Management Plan, Middlesex County, Mass., Auguse 12: Proposed is a water quality management plan for the northern Middlesex area of Lowell, Middlesex County, Massachusetts. Examined are major water quality problems confronting the northern Middlesex area and proposes alternative solution to the following municipal facilities for sanitary waste control, industrial discharges, combined sewer overflow management in Lowell, storm runoff management, nonpoint source controls, land use controls, septage and sludge management, and legal/financial/institutional considerations. The cooperating agency is the State of Massachusetts. (EIS Order number 800531.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6300.

The following is a community development block grant statement prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

San Buenaventura downtown redevelopment, UDAG, Ventura County, Calif., August 15: Proposed is the awarding of a UDAG grant to the city of Buenaventura, Ventura County, California. The plan would include construction of a commercial shopping center and removal of existing structures. In addition to no action, three alternatives are included. (EIS Order No. 800608.)

Final

Hamilton east multipurpose project, UDAG, Butler Ohio, August 13: Proposed is the issuance of a HUD/UDAG to the city of Hamilton located in Butler County, Ohio. The project involves roadway improvements and water and sewer lines in support of an 88-acre residential and commercial development in east Hamilton. This development will consist of 135 single family units, 326 multifamily units, and a 180,000 square foot shopping center. Six alternatives are considered. Comments made by: EPA, DOT, GSA, USDA, HUD, COE, State and local agencies. (EIS Order No. 800597.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Draft

Lower Cook Inlet-Shelikof Strait OCS sale No. 60, Alaska, August 15: Proposed is the leasing of 153 blocks of OCS lands in the lower Cook Inlet and Shelikof Strait, Alaska. The alternatives consider: (1) no sale, (2) delay of sale, (3) delete 19 blocks in Shelikof Strait, (4) delete 19 blocks in lower Cook Inlet and 66 blocks in Shelikof Strait, (5) delete 19 blocks in lower Cook Inlet and 81 blocks in Shelikof Strait, and (6) delete all of the 86 blocks in the lower Cook Inlet. (DES-80-52.) (EIS Order No. 800601.)

South Coast and Curry units, timber mgmt. plan, several counties in Oregon, August 14: Proposed is a timber management plan for the south coast and curry sustained yield units in Coos, Curry, Douglas and Lane Counties, Oregon. The units encompass 326,372 acres of public land. Treatments specified include: clearcut and single tree selection methods, slash disposal, site preparation, planning of trees, herbicide application, precommercial thinning, fertilization, and road construction. The plan would reduce the annual timber harvest to 32.04 million board feet. In addition to no action eight alternatives are considerd. (DES-80-51.) (EIS Order No. 800599.)

Final

Royal Gorge domestic livestock grazing mgmt., several counties in Colorado, August 12: Proposed is a livestock grazing management plan for the Royal Gorge resource area in the Counties of Chaffee, Custer, El Paso, Fremont, Huerfano, Lake, Park, and Teller, Colorado. This encompasses approximately 589,675 acres of public land. Components of the plan are: (1) intensive grazing management on 379,380 acres, (2) less intensive management of 189,000 acres, and (3) building range improvements and applying land treatment. The alternatives consider: (1) no action, (2) elimination of grazing, (3) management constraints, and (4) nonintensive grazing. (FES-80-24.) Comments make by: USDA, DOI, EPA, State agencies, groups, individuals, and businesses. (EIS Order No. 800592.)

Anaconda Nevada Moly Project, permit, Lander and Nye Counties, Nev., August 12: Proposed is issuance of a right-of-way permit for the placement of a 230 KV transmission line from Austin to north of Tonopah in Lander and Nye Counties, Nevada. The transmission is being placed in conjunction with construction of an open pit molybdenum mine and mill which would require the removal of 88,000 metric tons of waste and 20,000 metric tons of ore per day. Mine waste would be stored near the pit and tailings would be placed in a pond on the site. Electrical power requirements for the mine and mill are estimated to be 30 megawatts. Comments made by: EPA, DOI, USAF, DOE, State and local agencies, groups, individuals, and businesses. (EIS Order No. 800590.)

National Park Service

Final

Chickasaw National Recreation Area, Murray County, Okla., August 15: Proposed is a management plan for the Chickasaw National Recreation Area in Murray County, Oklahoma. The plan would provide coordinated facility development, visitor use programs, and resource management actions. The facilities include a visitor center/headquarters adjacent to the city of Sulphur, a 9.5 mile biking/hiking trail, a 6.5 mile hiking trail, a net of 32 additional campsites, and other facilities. A shallow overflow channel would be constructed to provide a floodwater bypass around Tavertine Nature Center. (FES-80-22), comments made by: USDA, HUD, DOI, DOT, EPA, State agencies, individuals. (EIS Order #800604.)

Fish and Wildlife Service

Final

Sheldon National Wildlife Refuge Mgmt. Plan, Lake County, Oreg.; Washoe and Humboldt Counties, Nev., August 15: Proposed is a renewable natural resources management plan for the Sheldon National Wildlife Refuge in Lake County, Oregon and Washoe and Humboldt Counties, Nevada. The plan will include: (1) intensive grazing management on 67,000 acres, (2) control of livestock movements, (3) development of springs and water reservoirs, (4) a 197,000 acre special area, and (5) special management emphasis of sensitive habitats. Comments made by: EPA, DOI, State agencies, groups, individuals and businesses. (EIS Order #800603.)

Nuclear Regulatory Commission

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P-518, Washington, D.C. 20555, (301) 492-8446.

Draft

Three Mile Island, Radioactive Waste Disposal, Pennsylvania, Programmatic, August 14: This programmatic EIS proposes activities necessary for decontamination of the facility, defueling, and disposition of the radioactive wastes which resulted from the accident at the Three Mile Island Nuclear Station, Unit 2 in Pennsylvania. The clean-up operations will include: (1) Treatment of radioactive liquids; (2) building and equipment decontamination; (3) defueling and cooling system decontamination; and (4) packaging, handling, storage and transportation of radioactive wastes (NUREG-0683). (EIS Order #800563.)

Final

Surry Power Station Unit 1, Generator Repair, Surry County, Va., August 11: Proposed is the repair of the steam generators for unit 1 of the Surry Power Station, Surry County, Virginia. The method of repair involves removing all fuel from one generator at a time and cutting it out of the reactor system. The lower and upper assemblies would be cut in half. The lower assembly would be replaced and the upper assembly welded back on along with the cut piping. The alternatives involve: (1) Decontamination, (2) retubing of existing generators, (3) replacement of the entire steam generator, and (4) alternate disposal methods. (NUREG-0692), comments made by: FERC, EPA, DOT, DOI, groups and businesses. (EIS Order #800587.)

Department of Transportation

Contact:Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Aviation Administration

Final

Metropolitan Washington Airport Policy, Arlington County, Va., August 15: This final EIS analyzes the impacts which presently occur and the impacts which are expected to result from the proposed policy for Washington National and Dulles International Airports. In addition, the report evaluates the impacts of alternative policy scenerious as well as the secondary effects of the proposed policy on the Baltimore-Washington International Airport. The present or base case condition is considered within the report to be 1976 and the impacts of future policy options are evaluated for the year 1990. Comments made by: EPA, DOI, USAF, USPS, State and local agencies, groups, individuals and businesses. (EIS Order #800607.)

Federal Highway Administration

Draft

I-670 Extension/East Corridor transit alternatives, Franklin County, Ohio, August 15: Proposed is the extension of I-670 and related roadway from I-670/I-71 near the Ft. Hayes interchange to the Columbus outerbelt/I-270 in Franklin County, Ohio. A second proposed action addressed in this statement involves three transit alternatives for the east corridor which are: (1) A transportation improvement program, (2) bus priority, and (3) a two-lane busway. The cooperating agency is UMTA (FHWA-OH-EIS-80-01-D) (UMTA-OH-09-0040). (EIS Order #800609.)

Montage Access Rd., I-81 to Montage Recreation Area, Lackawanna County, Pa., August 11: Proposed is the construction of the Montage access road from the Davis Street exit off I-81 to the Montage Recreation Area in Scranton, Lackawanna County, Pennsylvania. The facility would be 2.1 miles in length and have controlled access. Three alternative designs and no build are considered. The cooperating agency is the State of Pennsylvania (FHWA-PA-EIS-80-1-D). (EIS Order No. 800584.)

Final

IA-163 Improvement, Pella, Marion and Mahaska Counties, Iowa, August 11: Proposed is the improvement of a 10 mile segment of IA-163 in Marion and Mahaska Counties, Iowa. The facility would be extended from approximately two and one-half miles northwest of the city of Pella to approximately four miles southeast of the east corporate limits. The alternatives consider two alignments through Pella providing a four-lane facility, improvements to the present facility, and three alignments which would bypass Pella providing a two-lane rural facility. The cooperating agency is the State of Iowa (FHWA-IOWA-EIS-79-02-F). Comments made by: DOI, USDA, COE, HUD, DOT, State and local agencies. (EIS Order No. 800588.)

South L Street and Niewoehner Extension Study, Wayne County, Iowa, August 13: Proposed is improvement of South L Street from Liberty Avenue east to Garwood Road then north to U.S. 40 on the Niewoehner extension in the city of Richmond, Wayne County, Indiana. The total length of the project would be 3.3 miles. The improvements include: Reconstruction on South L Street between South 8th and South 23rd to four lanes, construction of two new lanes between South 23rd and Henley Road, reconstruction of two lanes on Hodgin Road, and

construction of the Niewoehner extension as two lanes (FHWA–IND–EIS–78–05–F). Comments made by: USDA, DOI, EPA, HUD, DOT, DOE, State agencies, groups. (EIS Order No. 800595.)

Rainbow Arch Bridge Replacement, Cannonball River, Hettinger County, N. Dak., August 13: Proposed is the removal and replacement of the Rainbow Arch Bridge over the Cannonball River in Mott, Hettinger County, North Dakota. Two alternate bridge sites are under consideration which include: (1) The 1st Street location near the existing bridge, and (2) the 3rd Street location approximately two blocks to the northwest. Other features considered are: (1) A diversion channel, (2) reservoirs, and (3) evacuation of the flood plain. Other alternatives considered include: (1) Raising the existing bridge, (2) moving the existing bridge, (3) construction of a new bridge, (4) documenting the bridge, and (5) no action (FHWA–ND–EIS–79–02–F). Comments made by: DOT, USDA, HUD, COE, EPA, State agencies. (EIS Order No. 800596.)

OR–213, Oregon City Bypass, Clackamas County, Oreg., August 11: Proposed is funding for the construction of OR–213, the Oregon City bypass from the Park Place interchange at I–205 to Clackamas Community College located in Clackamas County, Oregon. The facility would be a non-freeway primary arterial bypass around downtown Oregon City of four lanes to Redland Road and two lanes to the college. Access would be provided at three points along the bypass and will include signalization. Modifications to existing roads near the bypass would also be constructed. The cooperating agency is the State of Oregon (FHWA–OR–EIS–79–08–F). Comments made by: COE, DOC, DOI, EPA, State agencies, groups. (EIS Order No. 800586.)

Final Supplement

Clackamas Highway, OR–244 and Forest Hwy 55 (FS–1), Clackamas County, Oreg., August 13: This statement supplements a draft EIS No. 730965, filed 6–8–73. Proposed is the construction of a portion of Clackamas Highway (Forest Highway 55/OR–244) from Faraday to the confluence of the north fork of the Clackamas River and the north fork reservoir in Clackamas County, Oregon. Two corridors are considered. Corridor I would be constructed as a 30 mph facility following the existing alignment of FH–55/OR–244. Corridor III would be constructed as a 50 mph facility on a new alignment, incorporating county roads and opening some unroaded timber lands to public entry. Each corridor would provide a two-lane, paved road adequate for the diversified uses of the area (FHWA–ORFP–72–02–FS). Comments made by: DOI, AHP, EPA, USDA, DOE, State and local agencies, individuals and businesses (EIS Order No. 800594).

EISs Filed During the Week of Aug. 11 Through 15, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Alabama		Draft	Mobile Bay Exploratory/Appraisal Hydrocarbon Wells.	800598	Aug. 14, 1980	COE
Alaska		Draft	Lower Cook Inlet-Shelikof Strait OCS Sale #60	800601	Aug. 15, 1980	DOI
California		Draft	San Buenaventura Downtown Redevelopment, UDAG.	800606	Aug. 15, 1980	HUD
Colorado	Several	Final	Royal Gorge Domestic Livestock Grazing Mgmt.	800592	Aug. 12, 1980	DOI
Florida	Dade	Final	Surry Power Station Unit 1, Generator Repair	800589	Aug. 11, 1980	COE
Indiana	Wayne	Final	South L Street and Niewoehner Extension Study	800595	Aug. 13, 1980	DOT
Iowa	Mahaska	Final	IA–163 Improvement, Pella	800586	Aug. 11, 1980	DOT
	Marion	Final	IA–163 Improvement, Pella	800588	Aug. 11, 1980	DOT
Louisiana	Jefferson	Supple	Barataria Bay Waterway, GIWW to Gulf of Mexico (DS).	800593	Aug. 12, 1980	COE
Massachusetts	Middlesex	Draft	Northern Middlesex Water Quality Mgmt. Plan	800531	Aug. 12, 1980	EPA
Nebraska		Final	Missouri National Recreational River (F–2)	800591	Aug. 12, 1980	COE
Nevada		Final	Sheldon National Wildlife Refuge Mgmt. Plan	800603	Aug. 15, 1980	DOI
	Lander	Final	Anaconda Nevada Moly Project, Permit	800590	Aug. 12, 1980	DOI
	Nye	Final	Anaconda Nevada Moly Project, Permit	800590	Aug. 12, 1980	DOI
North Carolina	Currituck	Draft	Coinjock Bridge Replacement, Atlantic ICWW	800585	Aug. 11, 1980	COE
North Dakota	Hettinger	Final	Rainbow Arch Bridge Replacement, Cannonball River.	800596	Aug. 13, 1980	DOT
Ohio	Butler	Final	Hamilton East Multipurpose Project, UDAG	800597	Aug. 13, 1980	HUD
	Franklin	Draft	I–670 Extension/East Corridor Transit Alternatives	800609	Aug. 15, 1980	DOT
Oklahoma	Murray	Final	Chickasaw National Recreation Area	800604	Aug. 15, 1980	DOI
Oregon		Final	Sheldon National Wildlife Refuge Mgmt. Plan	800603	Aug. 15, 1980	DOI
	Several	Draft	South Coast and Curry Units, Timber Mgmt. Plan	800599	Aug. 14, 1980	DOI
	Clackamas	Final	OR–213, Oregon City Bypass	800586	Aug. 11, 1980	DOT
	Humboldt	Final	Sheldon National Wildlife Refuge Mgmt. Plan	800603	Aug. 15, 1980	DOI
	Jackson	Final	Reeder Reservior Maintenance Operations, Ashland.	800602	Aug. 15, 1980	EPA
	Clackamas	Fsuppl	Clackamas Hwy/OR–55 Faradey to the North Fork Clackamas River.	800594	Aug. 13, 1980	DOT
Pennsylvania		Draft	Three Mile Island, Radioactive Waste Disposal	800583	Aug. 14, 1980	NRC
	Lackawanna	Draft	Montage Access Rd., I–81 to Montage Recreation Area.	800584	Aug. 11, 1980	DOT
	Schuylkill	Supple	Tamaqua Flood Control Protection Plan (DS–1)	800600	Aug. 14, 1980	COE
Programmatic		Draft	Three Mile Island, Radioactive Waste Disposal	800583	Aug. 14, 1980	NRC
Rhode Island		Final	Narragansett Bay Estuarine Sanctuary, Grant	800605	Aug. 15, 1980	DOC
South Dakota		Final	Missouri National Recreational River (F–2)	800591	Aug. 12, 1980	COE
U.S Territory		Final	Northern Mariana Islands Coastal Resources Mgmt.	800606	Aug. 15, 1980	DOC
Virginia	Arlington	Final	Metropolitan Washington Airport Policy	800607	Aug. 15, 1980	DOT
	Surry	Final	Surry Power Station Unit 1, Generator Repair	800587	Aug. 11, 1980	NRC

Appendix II.—Extension/Waiver of Review Periods On EIS's Filed With EPA

Federal agency contact	Title of EIS Filing status accession No.		Date notice of availability published in FEDERAL REGISTER	Waiver/extension	Date review terminated
U.S. DEPARTMENT OF AGRICULTURE					
Mr. Barry FLamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A Admin. Building, Washington, D.C. 20250, (202) 447-3965.	Catawba Nuclear Station Unit 1 and 2, York County, South Carolina.	Draft Supplement 800545	Aug. 1, 1980	Extension	Oct. 6, 1980.
DEPARTMENT OF THE INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.	South Coast and Curry Units, Timber Mgmt. Plan, Oregon.	Draft 800599	Aug. 22, 1980 (see app. I).	Extension	Oct. 16, 1980.
ENVIRONMENTAL PROTECTION AGENCY					
Ms. Lisa Corbin, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1285.	Reeder Reservoir Maintenance Operations, Rouge Valley Water Quality Mgmt. Plan, Ashland City, Oregon.	Final 800602	Aug. 22, 1980 (see app.).	Extension	Sept. 29, 1980.
DEPARTMENT OF COMMERCE					
Dr. Robert T. Mikl, Acting Deputy, Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377-2482.	Pink Shrimp Fishery FMP, WA/OR/CA.	Draft 800469	July 7, 1980	Extension	Sept. 5, 1980.

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contract	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/number date notice published in FEDERAL REGISTER	Reason for retraction
None.			

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
DEPARTMENT OF ENERGY				
Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, D.C. 20585, (202) 252-4600	Great Plains Gasification Project, Construction and Operating, Mercer County, North Dakota.	Final 800582	Aug. 15, 1980	Published with incorrect State designation. The project is located in the State of North Dakota.

[FR Doc. 80-25706 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1586-1; OPP-00047D]

Proposed Policy on Pesticides Contaminated With N-Nitroso Compounds; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the period for submittal of comments on the proposed policy for pesticides contaminated with N-nitroso compounds.

DATE: The comment period now closes on August 25, 1980.

ADDRESS: Comments should be addressed to: Document Control Officer, Chemical Information Division (TS-793), Rm. E-447, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gunter Zweig, Senior Science Advisor, Hazard Evaluation Division (TS-769), Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, (202-557-7377).

SUPPLEMENTARY INFORMATION: In the Federal Register of June 25, 1980 (45 FR 42854) a proposed policy statement appeared on EPA's approach to regulating pesticides which may contain N-nitroso compounds. The period for submitting comments closed on July 25, 1980. The Chemical Specialties Manufacturers Association and the National Agricultural Chemicals Association have requested additional time to enable their members to respond to the proposal. Dow Chemical Company also requested an extension to the comment period time.

EPA has concluded that additional time would be beneficial to insure the submission of complete responses to this notice of policy making. Therefore, all interested persons shall have until August 25, 1980 to submit comments. These submissions should be sent to the Document Control Officer at the address given above. All comments should bear the identifying notation "OPP-00047D." The proposed policy and all written comments filed will be available for public inspection in the office of the Document Control Offier at the above address from 8:00 a.m. to 4:00 p.m. daily except holidays.

Dated: August 18, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-25801 Filed 8-21-80; 8:44 am]

BILLING CODE 6560-01-M

[FRL 1587-2]

Science Advisory Board; Open Meeting

The purpose of the meeting is to provide review and comment on the sampling protocols that have been proposed for the Love Canal area, as requested by the Office of Research and Development.

The meeting is to be held in less than the 15 days advance notice because the nature of the sampling to be performed must commence at once if it is to be completed before the onset of winter. Under Pub. L. 92-463, notice is hereby given for a meeting of the Study Group on Sampling Protocols of the Science Advisory Board of the U.S. Environmental Protection Agency to be held on August 26, 1980, starting at 1:00 p.m. and ending 5:00 p.m. The meeting location is: National Environmental Research Laboratory, Conference Room 212, 944 E. Harmon Drive, Las Vegas, Nevada 89114.

Visitors will be directed to the meeting room by the guard. If necessary, the meeting will continue on August 27, 1980 from 9:00 a.m. to 11:30 a.m.

The meeting is open to the public but the seating capacity is limited. Persons desiring additional information may contact Dr. Douglas Seba, Science Advisory Board, Environmental Protection Agency, 202-472-9444.

J. Frances Allen,

Acting Staff Director Science Advisory Board.

August 19, 1980.

[FR Doc. 80-25812 Filed 8-21-80; 10:35 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 80-417, File No. BPED-2208 and BC Docket No. 80-418, File No. BPED 2245]

Academy Radio Corp. and Christian Broadcasting Corp.; New Noncommercial Educational FM Station

Released: August 19, 1980.

In re Applications of Academy Radio Corporation, Rio Piedras, Puerto Rico, Req: 90.5 MHz, Channel 213, 4.427 kW (H&V), minus 104 feet; Christian Broadcasting Corporation, Carolina, Puerto Rico, Req: 90.5 MHz, Channel 213, 25 kW (H&V), 1869 feet for construction permits for a new noncommercial educational FM station.

1. By Hearing Designation Order released August 1, 1980, the above-captioned mutually exclusive applications for new stations were designated for hearing. Inadvertently, however, the contingent comparative issue that was specified did not contain the unique language applicable to noncommercial educational applicants. That error is hereby corrected.

2. Accordingly, it is ordered, That Issue 4 in this proceeding is corrected as follows:

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on consideratons relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall cultural and educational operation and objectives of the respective applicants as well as the manner in which such objectives meet the needs of the communities to be served; and/or whether other factors in the record demonstrate that one applicant will provide a superior educational FM broadcast service.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-25659 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 80-510 Files Nos. 38499-IB-050 and 40057-IB-060]

Canem Systems, Inc.; Designating Application for Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: August 15, 1980.

Released: August 21, 1980

For Authorizations for New Facilities in the Business Radio Service.

By the Chief, Private Radio Bureau:

1. The chief, Private Radio Bureau (the Bureau) has before him for consideration the above-captioned applications of Canem Systems, Inc. (Canem), 1920 Ellis Street, Bellingham, Washington 98225, for authorization of new facilities in the Business Radio Service. One application, filed May 27, 1980, (File No. 38499-IB-050), seeks authorization of new itinerant mobile facilities in several counties in the State of Washington. The other application, filed June 9, 1980, (File No. 40057-IB-060), seeks authorization of control, mobile and mobile relay facilities on 463.825 MHz and 468.825 MHz at various locations in Washington. Also before the Bureau is information concerning an investigation conducted by the Ferndale, Washington Monitoring Station of the Commission's Field Operations Bureau into Canem's alleged unlicensed operation of facilities in the Business Radio Service.

2. It appears from the Ferndale Monitoring Station's investigation that Canem's alleged unlicensed operation commenced on or about January 15, 1980, on the frequency pair 463.825 MHz and 468.825 MHz, the same as sought in the latter of the above-captioned applications, and utilized 16 mobile transmitters together with associated control and mobile relay equipment. The unlicensed operation allegedly continued until January 28, 1980, when a Commission engineer, after six days of monitoring the 463.825/468.825 MHz channel pair, inspected Canem's radio facilities. Canem has denied that it engaged in unlicensed operation.

3. The information before the Bureau concerning Canem's unlicensed operation raises serious questions as to whether Canem possesses the requisite character qualifications or is sufficiently competent or shows sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorizations which it here seeks. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-referenced applications would serve the public interest, convenience and necessity, the applications must, in accordance with Section 309(e) of the Act, be designated for hearing.

4. Accordingly, it is ordered, that in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Canem Systems, Inc., File Nos. 38499-IB-050 and 40057-IB-060, for authorization of new facilities in the Business Radio Service are, pursuant to authority delegated in § § 0.131(a) and 0.331 of the Commission's Rules, designated for hearing, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether Canem Systems, Inc. operated radio facilities in the Business Radio Service which were not licensed to it.

(b) To determine whether any unlicensed operation by Canem Systems, Inc. was knowing or willful or negligent.

(c) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Canem Systems, Inc. possesses the requisite character qualifications to receive a grant of the applications which are the subject of this proceeding.

(d) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Canem Systems, Inc. has exhibited such lack of interest or carelessness concerning conduct of its affairs with respect to the licensing and implementation of radio facilities that it should not be entrusted with the radio authorizations which it is here seeking.

(e) To determine, in light of the evidence adduced pursuant to each of the foregoing issues, what disposition of the above-captioned applications of Canem Systems, Inc. will best serve the public interest, convenience and necessity.

5. It is further ordered, that Canem Systems, Inc. and the Chief, Private Radio Bureau are made parties in this proceeding.

6. It is further ordered, that the burden of proceeding with the introduction of evidence and the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Sections 1.254 and 1.973(e) of the Commission's Rules, upon Canem Systems, Inc. with respect to the issues set forth in paragraph 4 hereinabove.

7. It is further ordered, that each of the parties named in paragraph 5 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date fixed for hearing and present evidence on the issues specified in this Order, as prescribed in Section 1.221 of the Commission's Rules.

8. It is further ordered, that the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Canem Systems, Inc. at the address furnished in its applications, and upon the attorney who filed the applications on behalf of the applicant.

Federal Communications Commission.

Arlan K. van Doorn,

Acting Chief, Private Radio Bureau.

[FR Doc. 80-25658 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-321, File No. BPED 2305; BC Docket No. 80-322, File No. BPED 2428]

Craig Bible Institute and Bangor Christian Schools; Construction Permit for a New FM Station

Released: August 15, 1980.

In re Applications of Craig Bible Institute, Bangor, Maine, Req. 88.5 MHz, Channel 203, 0.45 kW (H&V), −15 feet; Bangor Christian Schools, Bangor, Maine, Req. 88.5 MHz, Channel 203, 16 kW (H&V), 785 feet.

1. By Hearing Designation Order released July 10, 1980, the above-captioned mutually exclusive application for new stations were designated for hearing. Inadvertently, however, the comparative issues applicable to both noncommercial educational and commercial applicants were included.

2. Accordingly, it is ordered, that Issue 4 in this proceeding is deleted.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-25661 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 76

"Maritime Advisory Committee In Preparation for the 1982 Mobile Services World Administrative Radio Conference (1982 Mobile Services WARC)", Notice of 3rd Meeting, Monday, September 15, 1980—9:30 a.m., 1st Floor Auditorium, Comsat General Building, 950 L'Enfant Plasa, SW., Washington, D.C.

Agenda

1. Call to Order; Chairman's Report.
2. Discussion of Proposals.
3. Review of Work Program.
4. Establishment of future meeting schedule.

Charles Dorian, Chairman, SC-76, Comsat General, Washington, DC, Phone: (202) 554-6756.

Special Committee No. 74

"Digital Selective Calling," Notice of 15th Meeting, Tuesday, September 16, 1980—9:30 a.m., Wednesday, September 17, 1980—8:00 a.m. (Full-day meetings), Conference Room 6332, Nassif (DOT) Building, 400 Seventh Street, SW. (at D Street), Washington, DC.

Agenda

September 16, 1980

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

September 17, 1980

1. Administrative Matters.
2. Working Group Reports.

CDR J. G. Williams, Chairman, SC-74, U.S. Coast Guard Headquarters, Washington, DC, Phone: (202) 426-1345.

Special Committee No. 77

"Committee to Revise the RTCM Marine Radiotelephone Handbook," Notice of 2nd Meeting, Wednesday, September 17, 1980—9:30 a.m., Conference Room 8332, Nassif (DOT) Building, 400 Seventh Street, SW. (at D Street), Washington, DC.

Agenda

1. Call to Order; Chairman's Report.
2. Review of revised material submitted.
3. Assignment of work projects.
4. Establishment of future meeting schedule.

Dan Child, Chairman SC-77, U.S. Power Squadrons, Hyattsville, MD, Phone (301) 864-2169.

Executive Committee Meeting

Notice of September Meeting, Thursday, September 18, 1980—9:30 a.m., Conference Room 8283, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, DC.

Agenda

1. Administrative matters and committee reports.
2. Action on petition received by National Ocean Industries Association to modify RTCM By-Laws.

Special Committee No. 75

"MPS—Automatic Coordinate Conversion Systems," Notice of 5th Meeting, Friday, September 19, 1980—9:30 a.m., Conference Room 8438, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, DC.

Agenda

1. Call to Order; Chairman's Report.
2. Approval of the Summary Record of previous meeting.
3. Review and discussion of questionnaire to manufacturers.
4. Discussion of initial draft of Minimum Performance Specifications.
5. Establishment of future meeting schedule.

Mortimer Rogoff, Chairman, SC-75, 4201 Cathedral Avenue, NW., Apartment 914W, Washington, DC 20016.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone) (202) 632-6490.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-25655 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-508, File No. 3848-CM-P-79; CC Docket No. 80-509; File No. 4475-CM-P-79]

Microband Corp. of America and Radiocall Corp.; Applications for Construction Permits in the Multipoint Distribution Service for a New Station at Maui, Hawaii

Adopted: August 12, 1980.

Released: August 19, 1980.

By the Chief, Common Carrier Bureau.

Memorandum opinion and order designating applications for consolidated hearing on stated issues.

1. The Commission has before it the above-referenced application of Microband Corporation of America, filed on July 16, 1979 (Accepted on Public Notice July 23, 1979) and the application of RadioCall Corporation, filed on August 28, 1979 (Accepted on Public Notice September 10, 1979). Both applications are for a construction permit in the Multipoint Distribution Service and both propose to operate on Channel 1 in Maui, Hawaii. The applications are therefore mutually exclusive and require comparative consideration. Both applications have been amended as a result of informal requests by the Commission staff for additional information, and not petitions to deny or other objections to either of the applications have been filed.

2. Upon review of the captioned applications, we find that both applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), and Section 0.291 of the Commission's rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a Consolidated Proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Microband Corporation of America, RadioCall

[1] Consideration of these factors shall be made in light of the Commission's discussion in *Application of Frank K. Spain*, 77 FCC 2d 20 (1980).

Corporation and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules.

Sue D. Blumenfeld,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80-25656 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

Sterling Recreation Organization Co., et al.; Hearing Designation Order

In re Applications of Sterling Recreation Organization Co., Eugene, Oregon (BC Docket NO. 80-441, File No BPCT-78092OKE); Community Vision Systems, Inc., Eugene, Oregon (BC Docket No. 80-442, File No. BPCT-790504KE); Willamette Broadcasting Corporation, Eugene, Oregon (BC Docket No. 80-443, File No. BPCT-79050KJ); Springfield Broadcasting Associates Limited Partnership (Sperry A. MacNaughton, Zachary Holt Smith, Springfield Broadcasting Corporation, and Neal K. Orr, General Partners), Springfield, Oregon (BC Docket No. 80-444, File No. BPCT-790507KK); For construction permit; Hearing designation order designating applications for consolidated hearing on stated issues.

Adopted: August 1, 1980.

Released: August 18, 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 for a construction permit for a new commercial televsiion station to operate on Channel 16, Eugene or Springfield, Oregon.

2. Sterling Recreation Organization Co. (Sterling), one of the above-captioned applicants, is the licensee of KSND-FM, Springiled, Oregon. The predicted Grade A contour of Sterling's proposed television station completely encompasses the community of license of Sterling's FM station. Section 73.636(a)(1) of the rules, 47 CFR 73.636(a)(1) (the "one-to-a-market" rule), set forth a policy against granting television construction permits to applicants who directly or indirectly own, operate or control a radio station licensed to a community which is completely encompassed by the predicted Grade A contour of their proposed television station. Note 8 to this rule provides, *inter alia*, that applications for UHF television facilities ". . . will be handled on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest." Accordingly, an appropriate issue will be specified to determine whether common ownership of Sterling's FM station and its proposed television station would be consistent with the public interest.

3. One proposal specifies Springfield, Oregon; the others specify Eugene, Oregon. Consequently, it will be necessary to determine, 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 services. An appropriate issue will be designated. However, the Springfield and Eugene proposals each provide relatively similar coverage of the population and of the geographical area. Thus, a Section 307(b) issue may not be determinative. In that case, the proposals for both Springfield and Euguene would be considered under the standard comparative issue. (If, under Section 307(b), it is determined that Eugene is preferable, the three Eugene proposals would be considered under the standard comparative issue.)

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant would serve the public interest, convenience and necessity. These applications must therefore be designated for hearing in a consolidated proceeding on the issues set out below.

5. 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 and before an Administrative Law Judge to be specified in a subsequent order, upon the following issues:

1. To determine whether common ownership, operation or control of Station KSND-FM and Sterling Recreation Organization Company's proposed television station would be in the public interest.

2. To determine which of the proposals provides a fair, efficient and equitable distribution of television services within the meaning of Section 307(b) of the Communications Act of 1934, as amended.

3. 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.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. 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 the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, that, the applicants herein shall, pursuant to section 311(a)(2) of the Commission's Act of 1934, as amended, and § 73.3594 of the Commisison's Rules, give notice of the hearing (either individually, or, if feasible and consistent with the Rules, jointly) within the time and 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.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-25657 Filed 8—80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-15]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: August 21, 1980.

Cut-Off Date: October 1, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after October 1, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 1, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., no later than October 1, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on October 1, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Applications for a new station may not be filed against any application appearing on this list which is designated by an asterisk (*).

BPCT-800724KF (New), Wilmington, Del., Sixty-One Corp., Channel 61, ERP: Vis. 1164 kW; HAAT: 974 feet.

BPCT-800612KF (New), Murfreesboro, Tenn., Family Television, Inc., Channel 39, ERP: Vis. 896 kW; HAAT: 1286 feet.

BPCT-800627KE (New), Murfreesboro, Tenn., Channel 39 of Murfreesboro, Inc., Channel 39, ERP: Vis. 1762 kW; HAAT: 808 feet.

BPCT-800715KE (New), Salem, Oreg., Greater Willamette Vision Ltd., Channel 22, ERP: Vis. 1702 kW; HAAT: 1187 feet.

BPCT-800630KE (New), Denison, Tex., (Sherman allocation), Broadcast Affiliates, Inc., Channel 20, ERP: Vis. 5000 kW; HAAT: 1089 feet.

*BPCT-800701KE, WAIM-TV, Anderson, S.C., New South Television Corp., Channel 40, change site; increase ERP Vis. to 2588 kW; increase HAAT to 839 feet.

*BMPCT-800625KF, WJFT-TV, Albany, Ga., Southwest Broadcasting, Inc., Channel 19, change site; increase ERP Vis. to 5000 kW; increase HAAT to 1518 feet.

*BPCT-800808KE, WGNN-TV, Winston-Salem, N.C., Good News TV, Inc., Channel 45, change site; increase ERP Vis. to 5000 kW; increase HAAT to 2000 feet.

BMPCT-800701KF, WTSP-TV, St. Petersburg, Fla., Incorporated, Channel 10, change city of license from Largo, Fla.

[FR Doc. 80-25660 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of September 1980.

Mental Health Small Grant Review Committee

September 18-20; 11 a.m., Parkview and Westview Rooms, The Gramercy Inn, 1616 Rhode Island Avenue, N.W., Washington, D.C. 20036.

Open: September 18, 11 a.m.-12 p.m.

Closed: Otherwise.

Contact: LaVerl P. Klein, Room 9-104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4843.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychology, sociology, anthropology, psychiatry, and the biological sciences, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 11:00 a.m.-12:00 p.m. on September 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552 (c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Psychiatry Education Review Committee

September 26; 9 a.m., Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open: September 26, 9 a.m.-11 a.m.

Closed: Otherwise.

Contact: Brian B. Doyle, M.D., Room 9C-02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4728.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for psychiatric education to meet mental health services personnel needs in priority areas: services to unserved or underserved populations, geographic areas, or public mental health facilities; to develop linkages with the general health services delivery system and provide mental health training for general health services personnel; and to increase the supply of minority mental health personnel, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m.-11:00 a.m. on September 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552 (c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Committee Management Office will furnish, upon request, summaries of the meetings and rosters of the committee members. Contact Mrs. Val Dowdy, Office of the Associate Director for Extramural Programs, Parklawn Building, Room 9-95, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-4333.

Dated: August 18, 1980.

Elizabeth A. Connolly,

Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-25648 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-86-M

Center for Disease Control

National Immunization Records Steering Group; Open Meeting

The following meeting will be convened by the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: September 10, 1980.

Time: 9:00 a.m. to 4:00 p.m.

Place: American Red Cross, 18th and D Streets, N.W., Washington, D.C.

Purpose: To draft guidelines for possible activities (joint and individual) to be undertaken by participants of National Immunization Records Work Group to promote the concept, the production, and the use of a family-maintained standardized immunization record within every State.

Additional information may be obtained from: Alan R. Hinman, M.D., Director, Immunization Division, Bureau of State Services, Center for Disease Control, Atlanta, Georgia, telephones: FTS: 236-3741, Commercial: 404/329-3741.

Dated: August 18, 1980.

William C. Watson, Jr,

Acting Director, Center for Disease Control.

[FR Doc. 80-25640 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-86-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held at 1 p.m., Monday, October 20, 1980.

ADDRESS: The meeting will be held at the Federal Bldg. and U.S. Courthouse, Rm. 220, 85 Marconi Blvd., Columbus, OH.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44144, 216-522-4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to

enhance relationships between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 15, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25601 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held at 1 p.m., Wednesday, October 1, 1980.

ADDRESS: The meeting will be held at the Federal Bldg., Rm. 5004K, 500 Main St., Cincinnati, OH 45202.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44144, 216-522-4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 15, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25602 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held at 7 p.m., Thursday, October 2, 1980.

ADDRESS: The meeting will be held at the Paul J. Dunbar Bldg., Conference Rm., 1141 Central Parkway, Cincinnati, OH.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44144, 216-522-4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 15, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25603 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0210]

Dow Chemical Co.; Filing of Food Additive Petition

Correction

In FR Doc. 80-19302 appearing on page 43474 in the issue for Friday, June 27, 1980, make the following corrections:

(1) In the "Summary" paragraph, in the fourth line, the word "methly" should be "methyl".

(2) In the first paragraph under "Supplementary Information" in the eleventh line, the word "methly" should be spelled "methyl".

BILLING CODE 1505-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Thomas Hooker, District Director, Baltimore District Office, Baltimore, MD.

DATE: The meeting will be held at 10 a.m., Tuesday, September 9, 1980.

ADDRESS: The meeting will be held at the Wicomico Co. Extension Office, Corner Parsons and Quantico Rd., Salisbury, MD.

FOR FURTHER INFORMATION CONTACT: Anne B. Lane, Consumer Affairs Officer, Food and Drug Administration, 900 Madison Ave., Baltimore, MD 21201, 301-962-3731.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Baltimore District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25437 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by George J. Gerstenberg, District Director, New York District Office, Brooklyn, NY.

DATE: The meeting will be held at 10 a.m., Tuesday, September 30, 1980.

ADDRESS: The meeting will be held at 26 Federal Plaza, Rm. 1434, New York City, NY 10007.

FOR FURTHER INFORMATION CONTACT: Nancy B. Goldstein, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212-965-5043.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New York District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25438 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by George J. Gerstenberg, Disrict Director, New York District Office, Brooklyn, NY.

DATE: The meeting will be held from 7 p.m. to 9 p.m., Wednesday, September 24, 1980.

ADDRESS: The meeting will be held at the Comprehensive Family Care Center, 1175 Morris Park Ave., Bronx, NY 10561.

FOR FURTHER INFORMATION CONTACT: Alicia Martinex, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–965–5043.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage diaglogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New York District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25439 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0229]

Precise Optics; Approval of Variance for Intradent Intraoral Source

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the approval of a variance from the performance standard for the Intradent Intraoral Source Radiological Unit, used for panoramic radiography of the oral-facial region and for conventional periapical and bitewing radiography, and manufactured by Precise Optics. The manufacturer submitted a petition for the variance. The Director of the Bureau of Radiological Health has determined that the device may be manufactured without meeting alignment requirements and with X-ray field size exceeding the limit set by the standard, and that suitable radiation protection will be provided.

DATES: The variance became effective on July 24, 1980, and will terminate on July 26, 1982.

ADDRESS: The application and all correspondence on the application have been placed on public display in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond F. Coakley, Jr., Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4, Precise Optics, 239 South Fehr Way, Bay Shore, NY 11706, has been granted a variance from § 1020.31(f)(4) (21 CFR 1020.31(f)(4)) of the performance standard for diagnositic X-ray systems for the Intradent Intraoral Source Radiological Unit (formerly called Dentix). The variance relieves the product from the requirement that means be provided to align the centers of the X-ray field and the image receptor to within 2 percent of the source-to-image receptor distance (SID) and from the requirement that the dimensions of the X-ray field not exceed the corresponding dimensions of the image receptor by more than 2 percent of the SID. The variance became effective on July 24, 1980, and will terminate on July 26, 1982.

The product will bear the variance number 80P–0229. The application and all correspondence on the application have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 15, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25600 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

National Professional Standards Review Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: September 15, 1980 (10:00 a.m. to 5:00 p.m.); September 16, 1980 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor) HHS North Building 330 Independence Avenue, S.W. Washington, D.C. 20201.

Purpose of Meeting: The Council was established to advise the Secretary of Health and Human Services on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On August 31, 1980 a tentative agenda will be available to the public.

The meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairperson will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Cleo E. Hancock, Jr., Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 4520, Health and Human Services Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245–6097.

Dated: August 18, 1980.

Cleo E. Hancock, Jr.,

Staff Director, National Professional Standards Review Council.

[FR Doc. 80-25562 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

White House Conference on Aging, Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 95–463, 5 U.S.C. App. 1, sec. 10, 1976) the technical committee on Creating an Age Integrated Society Implications of Societal Institutions will hold a meeting on September 5, 1980 from 9:30 a.m. to 4:30 p.m. in Room 529A–HHH, Washington, D.C.

At this meeting the committee will discuss the impact our changing demographics will have upon Societal Institutions and ways in which their institutions should respond to these changes.

Further information on the technical committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245–1914. Technical

Committee meetings are open for public observation.

Arnold Sampson,

HDS Committee Management Officer.

August 19, 1980.

[FR Doc. 80-25685 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-08-M

1981 White House Conference on Aging

AGENCY: Department of Health and Human Services.

ACTION: Delegate criteria for 1981 White House Conference on Aging.

DISCUSSION: The following criteria have been established for 1,000 delegates to be selected at the state and territorial level to attend the 1981 White House Conference on Aging. Delegates will be selected by the mechanisms established by the Governor of each state or territory.

1. At least 50% of the delegation must be 55 years of age or older.
2. At least 50% of the delegation must be female.
3. Percentage of minority group representation to reflect, at a minimum, the percentage these minority groups constitute in the nation's total population. For purpose of this criteria, minority groups are defined as Blacks, Hispanics, Native Americans and American Indians, and Pacific Asians.
4. Urban/Rural representation must reflect the same percentage as the urban/rural population of the nation. For purpose of this criteria, urban population comprises all persons living in urbanized areas and in places of 2,500 inhabitants or more outside urbanized areas. Population not classified as urban constitutes the rural population.

In addition to the above stated criteria, special consideration will be given to the following factors in the selection of the delegates:

- Low income representation
- Handicapped representation
- National organizations representation
- A balance of professional, lay and private sector representation

Any questions regarding delegate selection criteria should be addressed to: Mr. Jerome R. Waldie, Executive Director, 1981 White House Conference on Aging, 330 Independence Avenue, S.W., Room 4059, Washington, D.C. 20201.

Jerome R. Waldie,

Executive Director, White House Conference on Aging.

August 18, 1980.

[FR Doc. 80-25709 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intent To Prepare With the Federal Energy Regulatory Commission an Environmental Impact Statement on the Proposed Rocky Mountain Pipeline Project and To Conduct Public Participation Scoping Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: In joint lead with tthe Federal Energy Regulatory Commission, the Bureau of Land Management Special Projects Environmental Impact Team, Denver, Colorado, will prepare an Environmental Impact Statement on the proposed Rocky Mountain Pipeline Project and will conduct public participation scoping meetings in the States of Utah, Nevada and California, September 15–18, 1980.

SUMMARY: A joint venture, consisting of Pacific Gas Transmission Company, El Paso Natural Gas Company, Pacific Interstate Transmission Company and Northwest Pipeline Company, has filed an application with the Department of the Interior to construct and operate an interstate natural gas pipeline transmission system from 27 miles west of Kemmerer, Wyoming to 12 miles south of Needles, California, crossing portions of Utah and Nevada, and transporting an initial volume of 413 million cubic feet per day of natural gas with provisions for an optimum volume of 800 million cubic feet per day through the addition of compressor stations. The proposed project would provide potential customers in Utah, Nevada and California with natural gas supplies from the overthrust belt and hingeline resource areas of the central Rocky Mountain region. The Bureau of Land Management, in joint lead with the Federal Energy Regulatory Commission, will prepare an Environmental Impact Statement (EIS) covering the proposed Rocky Mountain Pipeline Project and all reasonable alternatives, in accordance with the National Environmental Policy Act of 1969 and appropriate regulations and guidelines pertaining thereto. As part of the EIS process, the Bureau of Land Management will conduct public participation scoping meetings in Salt Lake City and Cedar City, Utah; Las Vegas, Nevada; and Needles, California, September 15, 16, 17, and 18, 1980, respectively. Verbal and written comments on the scope of the EIS will be accepted and should be received no later than Monday, September 22, 1980.

EFFECTIVE DATE: September 15, 1980.

ADDRESS: Bureau of Land Management, Office of Special Projects, 555 Zang Street, Third Floor East, Denver, Colorado 80228.

FOR FURTHER INFORMATION CONTACT: Janis Bowles, EIS Project Leader, Bureau of Land Management, 555 Zang Street, Third Floor East, Denver, Colorado 80228, 303–234–6737.

A summary and map is available upon request.

SUPPLEMENTARY INFORMATION: The Rocky Mountain Pipeline system would include 610 miles of 36-inch diameter steel piepline constructed in a temporary right-of-way, approximately 100 feet wide. Within California, the system would include a 36-inch diameter section of intrastate pipeline constructed by the Southern California Gas Company and Pacific Gas and Electric Company to tie their existing systems to the proposed incoming pipeline from the Nevada border. Construction mileage within each of the four States would be as follows: Wyoming, 0.6 miles; Utah, 417.4 miles; Nevada, 165 miles; and California, 27 miles. The system would include compressor stations, maintenance bases, communication facilities, metering stations, mainline block valves, pipe cleaning facilities and other normal components of a natural gas pipeline transmission system.

The joint EIS will analyze construction, operation and maintenance of the proposed project. Alternatives to be considered will include, but will not be limited to, routes, facilities, other transportation modes and no action.

Public participation scoping meetings will be conducted at the following locations, dates and times: SALT LAKE CITY, UT, Monday, September 15, 7:00 p.m., Oquirrh-Lake-Capitol Rooms, 3rd Floor, University Club Buildings, 136 E. South Temple Street; CEDAR CITY, UT, Tuesday, September 16, 7:00 p.m., Small Ballroom, Southern Utah State College, 351 W. Center Street; LAS VEGAS, NV, Wednesday, September 17, 7:00 p.m., Biloxi Room, Showboat Hotel; NEEDLES, CA, Thursday, September 18, 7:00 p.m., City Civic Center Gym.

Purposes of a public participation scoping meeting are: (1) to inform the public of the nature of the proposed project, and those aspects to be

analyzed in the EIS, including the tentative alternatives based on existing data and knowledge of the affected area; (2) to gather resource information from the public; and (3) to gather public concerns as to the major issues to be considered in the EIS and to identify those issues and concerns of lesser interest that can be de-emphasized in the EIS.

George D. Lea,
Acting Associate Director.
August 18, 1980.
[FR Doc. 80-25516 Filed 8-21-80; 8:45 am]
BILLING CODE 4310-84-M

[Serial No. 1-2587]

Idaho; Proposed Withdrawal Continuation

Correction

In FR Doc. 80-22866, published on page 50664, on Wednesday, July 30, 1980, in the third column, the fourth line under Boise Meridian, Idaho, "Sec. 24, a metes and bounds description" should be corrected to read "Sec. 28 a metes and bounds description".

BILLING CODE 1505-01-M

National Public Lands Advisory Council: Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet September 22 and 23, 1980. The meeting will be held at the Owyhee Plaza Hotel, 1109 Main Street, Boise, Idaho. The meeting hours will be 8:30 a.m. to 5:00 p.m. on the 23nd and 8:00 a.m. to 3:00 p.m. on the 23rd.

DATES: September 22 and 23, 1980—Council Meeting. September 22, 1980—Public Statements.

ADDRESS: Copies of public statements may be mailed in advance of the meeting to: Craig Ritchey, Chairman, National Public Lands Advisory Council, c/o Director (660), Bureau of Land Management, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240 or c/o Frederick T. Cook, Public Affairs Officer, BLM Idaho State Office, Federal Building, Box 042 (550 West Fort Street), Boise, Idaho 83724.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Office of Cooperative Relations (660), at BLM's Washington Office, telephone (202) 343-8947; or Frederick T. Cook, BLM Idaho State Office, telephone (208) 384-1770.

SUPPLEMENTARY INFORMATION:

Agenda

The agenda for the two-day meeting is:

Monday, September 22: (1) Address by Idaho Governor John V. Evans, expressing his views on management of the public lands; (2) An overview, by Bureau of Land Management (BLM) Director Frank Gregg, of recent and forthcoming BLM and Department of the Interior actions; (3) Rangeland management issues, and (4) Public statements.

Tuesday, September 23: (1) Conclusion of discussion of rangeland management issues; (2) Recreation policy for the public lands; (3) Council old and new business, and meetings of Council working groups and committees.

The Council meeting will be preceded by a one-day tour, on Sunday, September 21, of rangeland improvement project sites, for Council members. Following the rangeland tour, on Sunday evening, September 21, BLM Idaho representatives will present a slide show on rangeland management practices, for Council members, who will also have an opportunity to discuss what they saw during the day's tour. Interested citizens are invited to attend this slide presentation and discussion, in the Regency Room of the Owyhee Plaza Hotel, from 7:30 to 9 p.m.

On Monday, September 22, at 5:30 p.m., Council members will travel to the Snake River Birds of Prey Area, for an on-the-ground visit and dinner. Because of transportation and other logistical limitations, the Snake River visit, as well as the rangeland tour on Sunday, will be limited to Council members and accompanying government representatives.

Copies of the detailed agenda may be requested from Karen Slater, BLM Washington Office, or from Frederick Cook, BLM Idaho State Office, at the addresses or telephone numbers given above.

Background

The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, as to policies, plans, and programs for management of the public lands and related resources administered by the Bureau. Meetings of the Council are open to the public.

Public Statements

Opportunity will be provided for members of the public to make oral statements to the Council, from 2:30 to 5:00 p.m., Monday, September 22. Any such statements should address specific national public lands issues. Summaries of oral statements should be submitted in writing, also, and at least two copies filed with the Council Chairman. Depending upon the number of people who wish to speak, it may be necessary to limit oral presentations to 10 minutes. Those who wish to address the Council should prior to 12 o'clock noon on Monday, September 22, inform the Council Chairman of their request, and provide their name, organization represented (if any), phone number, and issue or issues to be addressed. In addition, written statements alone may be filed with the Council. The Council encourages early filing or mailing of such summaries and statements, and of requests to address the Council.

Dated: August 19, 1980.
Ed Hastey,
Associate Director.
[FR Doc. 80-25724 Filed 8-21-80; 8:45 am]
BILLING CODE 4310-84-M

[INT DEIS 80-53]

APS/SDG&E Interconnection Project

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement (DEIS).

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM has prepared a DEIS for the proposed APS/SDG&E Interconnection Project. The California Public Utilities Commission (CPUC) was a joint lead agency for the preparation of this combined environmental document. The document also complies with the requirements of the California Environmental Quality Act.

DATE: Comments will be accepted until October 15, 1980.

ADDRESS: Comments should be sent to: State Director (920), Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

FOR FURTHER INFORMATION CONTACT: Stan Wagner, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, Phone: (602) 261-4127.

SUPPLEMENTARY INFORMATION: The BLM and CPUC have prepared a combined environmental document on a proposal by Arizona Public Service Company and San Diego Gas and Electric Company to construct a 500KV transmission line and ancillary facilities from the Palo Verde Nuclear Generating Switchyard near Phoenix, Arizona, through Yuma,

Arizona to the Miguel Substation near San Diego, California.

The document analyzes environmental effects of the proposal in addition to alternatives of various route alignments, no action, energy conservation and load management, alternative generating sources, and other transmission systems and technologies.

A limited number of copies are available upon request to the Arizona State Director at the above address.

Public reading copies will be available for review at the following locations:

Arizona State Office, BLM, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602) 261–3706.

Phoenix District Office, BLM, 2929 W. Clarendon Ave., Phoenix, Arizona 85017 (602) 241–2501.

Yuma District Office, BLM, 2450 Fourth Ave., Yuma, Arizona 85364 (602) 726–6300.

Office of Public Affairs, Bureau of Land Management, U.S. Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240.

California State Office, BLM, Federal Office Bldg., Rm. E–2841, 2800 Cottage Way, Sacramento, California 95825 (916) 484–4541.

Riverside District Office, BLM, 1695 Spruce St., Riverside, California 92507 (714) 787–1462.

El Centro Resource Area, BLM, 333 S. Waterman Ave., El Centro, California 92243 (714) 352–5842.

Public Meetings to receive oral or written comments on the proposed project will be held at 7:00 P.M. at the following dates and locations:

October 1, 1980 Phoenix—Maricopa County Supervisors, Auditorium 205 W. Jefferson.

October 2, 1980 Yuma—Civic and Convention Center (East Wing), 1440 Desert Hill Drive.

October 6, 1980 El Centro—Imperial Irrigation District Auditorium, 1285 Boarway.

October 7, 1980 El Cajon (San Diego)—Sears Roebuck Assembly Hall, 575 Fletcher Parkway.

California Public Utilities Commission personnel will preside over the California hearings and BLM personnel over the hearings in Arizona. Oral comments should be limited to 10 minutes.

Dated: August 18, 1980.

Clair M. Whitlock,

Arizona State Director, Bureau of Land Management.

[FR Doc. 80–25632 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–84–M

Off-Road Vehicle Designations Within the Tonopah Resource Area

The Battle Mountain District of the Bureau of Land Management, in response to Executive Orders 11644 and 11989 and the National Environmental Policy Act of 1969, has completed the off-road vehicle (ORV) standard designation process for approximately 3.6 million acres of public land within the Tonopah Resource Area. An ORV is defined as any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain. Regulations (43 CFR Part 8340 ORV Use of Public Lands) governing ORV use and the designation process were published in the Federal Register on June 15, 1979.

The entire resource area is designated as open to ORV use except in the following areas:

Lunar Crater Volcanic Field (33,280 acres). Limited Designation. Vehicles permitted on existing roads only to protect the areas for the scenic and geologic values. Legal description:

T. 6 N., R. 52 E., M.D.M.,
Secs. 1, 12, 13, all.
T. 6 N., R. 53 E., M.D.M.,
Secs. 1–12, 14–19, all.
T. 7 N., R. 52 E., M.D.M.,
Sec. 36, all.
T. 7 N., R. 53 E., M.D.M.,
Secs. 2–4, 9–11, 13–36, all.

The above area includes Blackrock Lava Flow, Easy Chair Crater, and Lunar Crater.

Railroad Valley Wildlife Management Area (14,720 acres). Limited Designation. Vehicles permitted on existing roads only to protect the area's critical wildlife habitat. Legal description:

T. 9 N., R. 56 E., M.D.M.,
Sec. 34 S½.
Sec. 35 S½.
T. 8 N., R. 56 E., M.D.M.,
Sec. 1 SW¼.
Secs. 2, 3, 10, 11, 14, and 15.
Sec. 9 E½.
Sec. 12 NW¼.
Sec. 16 E½.
Sec. 18 S½SW¼.
Sec. 19 S½.
T. 9 N., R. 57 E., M.D.M.,
Sec. 33 S½.
Sec. 34 S½.
T. 8 N., R. 57 E., M.D.M.,
Secs. 3, 4, 9, and 16.
Sec. 2 NW¼ N½SW¼ SW¼SW¼.
Sec. 10 N½ SW¼.
Sec. 11 W½NW¼ NE¼NW¼.
Sec. 15 W½.
T. 8 N., R. 55 E., M.D.M.,
Sec. 13 S½S½.
Sec. 14 S½S½.
Sec. 23 N½.
Sec. 24.
T. 7 N., R. 55 E., M.D.M.,
Secs. 15, 16, 21, and 28.
Sec. 27 W½.

This wildlife management area also includes the fenced portions of Lockes Pond and Big Well Pond.

An open house for public input regarding the alternatives including the proposed action was held July 2, 1980 in Tonopah, Nevada. The public comment period took place between June 25 and July 24, 1980. No comments were received.

For more information, please contact the responsible officer, Gene Nodine, District Manager, at the following address: Bureau of Land Management, Battle Mountain District Office, P.O. Box 194, 2nd and Scott Streets, Battle Mountain, Nevada 89820, phone: (702) 635–5181.

Dated: August 14, 1980.

Peter J. Keenan,

Acting District Manager, Battle Mountain District, Nevada.

[FR Doc. 80–25635 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–84–M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Mobil Oil Exploration & Producing Southeast Inc., Unit Operator of the Ship Shoal Block 72 Federal Unit Agreement No. 14–08–001–2945, submitted on August 8, 1980, a proposed Annual Plan of Development/Production describing the activities it proposes to conduct on the Ship/Shoal Block 72 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays, 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and

Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 14, 1980.

J. Courtney Reed,

Staff Asstistant for Resource Evaluation.

[FR Doc. 80-25634 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; National Historic Landmark Recreation Theme Study

AGENCY: Heritage Conservation and Recreation Service.

ACTION: Notice of study and request for public comment.

SUMMARY: The heritage Conservation and Recreation Service, through the National Register Division will be conducting a National Historic Landmark theme study of the history of recreation in the United States. The purpose of the study is to identify recreation associated properties that illustrate and commemorate the development of recreation in this country. The recreation theme study will cover a wide variety of historic properties ranging from public and private recreation facilities that have had a major impact on recreational activities to the homes of persons who have made important contributions in the field of recreation. Examples of the types of historic resources to be covered in the study are historic indoor multipurpose structures, outdoor spectator and participant sports facilities, outdoor landscaped areas and natural or nature associated facilities.

The National Register Division welcomes any comments concerning the theme study or suggestions on properties to be included in the study.

DATES: Comments should be received by the National Register Division on or before October 21, 1980.

ADDRESS: Written comments should be addressed to the Acting Keeper of the National Register of Historic Places, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20243.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Shull, Acting Keeper of the National Register, Heritage Conservation and Recreation Service, United States Department of the Interior, Washington, D.C. 20243 (202-343-6401).

Dated: August 8, 1980.

Chris T. Delaporte,

Director, Heritage Conservation and Recreation Service.

[FR Doc. 25508 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Badlands National Park; Availability of Development Concept Plan for Cedar Pass

The Development Concept Plan for Cedar Pass, Badlands National Park has been completed and is ready for final distribution.

The document identifies the overall concept for development at Cedar Pass and provides the conceptual framework for the design of the visitor contact and concession complex. The document also identifies the program for development and preliminary cost estimates.

Copies of the document may be obtained by contacting either of the following: Superintendent, Badlands National Park, P.O. Box 6, Interior, South Dakota 57750, or Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.

Dated: August 15, 1980.

L. Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 80-25804 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore, South Wellfleet, Mass., Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with Pub. L. 92-464 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, September 12, 1980, at 1:30 pm at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will have a field trip at 10:30 am to view the Beachcomber Restaurant operation, in Wellfleet. The Commission will consider the following matters: (1) swearing in of Commission members; (2) election of officers; (3) report on 1980 summer operations; and (4) Beachcomber Restaurant operation.

Commission members are as follows:

Dexter M. Keezer, Truro
Francis R. King, Wellfleet
Sally H. Lunt, Weston
Nathan Malchman, Provincetown
Barbara S. Mayo, Provincetown
Joshua A. Nickerson, Chatham
David F. Ryder, Chatham
Sherrill B. Smith, Jr., Orleans
Clifford H. White, Wrentham
Elizabeth F. Worthing, Eastham.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663, Telephone 617-349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: August 15, 1980.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 80-25687 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-71-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 1:30 p.m. CST on September 25, 1980, at the Saint Bernard Parish Police Jury Conference Room, 8201 West Judge Perez Drive, Chalmette, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95-265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

Matters to be discussed at this meeting include:

1. Status of guidelines for development and use of properties in the park protection zone of the Barataria unit.
2. Workshop session—General Management Plan.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, 400 Royal Street, Room 200, New Orleans, Louisiana 70130, telephone area code 504 589–3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: August 14, 1980

Robert I. Kerr,

Regional Director, Southwest Region, National Park Service.

[FR Doc. 80-25690 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-70-M

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92–463, 86 Stat. 770, as amended by Pub. L. 94–409, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10:00 a.m., CDT, on Saturday, September 13, 1980, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The Commission was established by Pub. L. 89–761, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Dr. Albert Sawyer (Chairman)
Lynton K. Caldwell
Anna R. Carlson
Neil P. Frankel
John A. Hillenbrand II
James L. Kntzele
William L. Lieber
Celia Nealon
Gail H. Pugh
John R. Schnurlein
Norman E. Tufford

Matters to be discussed at this meeting include:

1. Status of land acquisition.
2. Review and critique of 1980 summer activities at Lakeshore.
3. Status of concurrent jurisdiction within Lakeshore including roads rehabilitation.
4. Implementation of the General Management Plan and public participation.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: August 12, 1980

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 80-25689 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-70-M

Proposed General Management Plan, Chickasaw National Recreation Area, Okla.; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement for a proposed General Management Plan for Chickasaw National Recreation Area, Oklahoma. The final statement describes general development proposals for the Travertine and Lake Districts of the National Recreation Area.

Copies are available from and for inspection at the following locations:

Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501.

Field Assistant to the Regional Director, National Park Service, Room 10–G–3, Fritz Lanham Federal Center, 819 Taylor Street, Fort Worth, Texas 76102.

Chickasaw National Recreation Area, Post Office Box 201, Sulphur, Oklahoma 73086.

Dated: August 15, 1980.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 80-25686 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-70-M

Study of Alternatives for Management of Snake Range/Spring Valley Area, Nev.; Notice of Intent

Notice is hereby given that the National Park Service will hold two public meetings the latter part of September to hear public comment on the Study of Alternatives for the management of the Snake Range/Spring Valley area in eastern Nevada.

The meetings will be held as follows: Monday, Sept. 22, at 7:00 p.m. PDT, in Baker Hall, Baker, Nev., and Tuesday, Sept. 23, at 7:00 p.m. PDT, in the Ely Junior High School, Ely, Nev.

The full Study of Alternatives is available for public review at the Denver Service Center, Division of New Area Studies, 755 Parfet St., Denver, Colo. 80225; Office of the Superintendent, Lahman Caves National Monument, Baker, Nev., and the National Park Service Western Regional Office, 450 Golden Gate Ave., San Francisco, CA 94102. A summary of the study will be available after Sept. 8, 1980, by writing to the Denver Service Center, at the address above.

The purpose of these meetings is to afford the public an opportunity to provide comments on the alternatives for the management of the Snake Range/Spring Valley area. The study, required by the General Authorities Act of 1976, directs the Secretary of the Interior to investigate the area since it exhibits nationally significant qualities and determines if it should be recommended to the Congress for inclusion in the National Park System.

The record will remain open until Oct. 24, 1980, in order to receive written comments about the study.

Anyone wanting additional information about the meetings, or the National Park Service planning process, or those wishing to submit comments on the Study of Alternatives should write to the Denver Service Center, at the above address.

Dated: August 11, 1980.

Howard H. Chapman,

Regional Director, Western Region, National Park Service.

[FR Doc. 80-25691 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Edgar Allan Poe National Historic Site; Notice of Establishment

Whereas, the United States has acquired the land described in Section 503(c) of Pub. L. 95–625, November 10, 1978, and has placed it under administration of the National Park

Service for the purposes specified in the Act.

Now, therefore, I, Cecil D. Andrus, Secretary of the Interior, hereby give notice of the establishment of Edgar Allan Poe National Historic Site in Philadelphia, Pennsylvania.

Edgar Allan Poe National Historic Site shall be administered in accordance with the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented (16 U.S.C. 1–4).

Dated: August 14, 1980.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80-25695 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

Contract Negotiations With the Central Utah Water Conservancy District; Intent To Negotiate a Supplemental Repayment Contract Bonneville Unit, Central Utah Project

In accordance with procedures established by the department of the Interior concerning public participation in water service and repayment contract negotiations, the Water and Power Resources Service intends to initiate negotiations with the Central Utah Water Conservancy district (CUWCD) for a supplemental repayment contract to cover the increased costs of municipal and industrial (M&I) water to be developed by the Bonneville Unit of the Central Utah Project. Construction on the Bonneville Unit was initiated in 1967.

The Bonneville Unit will provide 99,000 acre-feet of M&I water for use in Salt Lake and Utah Counties. The CUWCD entered into a repayment contract on December 28, 1965, amended April 1966, with the United States to repay the costs associated with the Bonneville Unit in the CUWCD service area. That contract provides for repayment of about $102,403,000 of costs associated with 79,000 acre-feet of M&I water.

Total estimated costs have increased due to inflation and design changes since the execution of that contract. Presently, a difference of about $200,000,000 exists between estimated construction costs allocated to 99,000 acre-feet of M&I water and the present maximum contract repayment obligation for M&I costs. The facilities expected to be completed under the existing contract could deliver less than 50 percent of the anticipated M&I yield for the project.

The supplemental contract would provide for the repayment of the additional costs which would be incurred to deliver the full amount of M&I water.

The new contract provisions would apply only to the water supply to be repaid under the supplemental contract. The existing contract would remain in effect for repayment of the costs associated with the project irrigation and remaining M&I water supplies.

The terms and conditions of the proposed contracts are ultimately dependent upon the Commissioner of the Water and Power Resources Service and the Secretary of the Interior approvals of the form of the proposed contract.

All meetings scheduled by the Service with the CUWCD for the purpose of discussing terms and conditions of the proposed supplemental contract shall be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties who have furnished a written request for notification. Requests should be addressed to: Regional Director, Water and Power Resources Service, Attention: UC–440, P. O. Box 11568, Salt Lake City, Utah 84147. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is made available to the public. The Commissioner of the Water and Power Resources Service will review comments submitted and based on the number, source, and nature of the comments, will decide whether to hold a public hearing.

For further information on the contract negotiations, please contact Ms. Deborah Linke, Contract Specialist, Division of Water and Power Resources Management, at the address stated above, telephone number (801) 524–5435.

Dated: August 15, 1980.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-25538 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(B)(1) that the below named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(B).

1. *Parent corporation:* AMF Incorporated, 777 Westchester Avenue, White Plains, New York 10604.

2. *Wholly-owned subsidiaries:*

(a) AMF Voit, Inc., 3801 South Harbor Boulevard, Santa Ana, California 92704.

(b) Paragon Electric Company, Inc., 606 Parkway Boulevard, Two Rivers, Wisconsin 54241.

(c) AMF Wyott, Inc., 1938 Wyott Drive, Cheyenne, Wyoming 82001.

(d) AMF Tuboscope, Inc., 2919 Holmes Road, Houston, Texas 77051.

(e) Harley-Davidson Motor Co., Inc., 3700 West Juneau Avenue, Milwaukee, Wisconsin 53201.

(f) Immuno Reagents, Inc., 1015 North Austin Street, Seguin, Texas 78155.

1. Parent corporation and address of principal office: Alco Standard Corporation, 825 Duportail Road, Chesterbrook, Valley Forge, PA 19482.

2. Wholly-owned subsidiaries (including divisions of the parent corporation and such wholly-owned subsidiaries) which may participate in the operations, and address of their respective principal offices:

Ace Fork Truck Company, 43 Irving, Wichita, KS

Acme Pumps & Wellpoints, Inc., 220 Fifth Street, Fort Myers, FL

Acme Wellpoint of Florida, Inc., 220 Fifth Street, Fort Myers, FL

Alco Automotive Products Company, P.O. Box 398, Devon Industrial Park, Devon, PA 19333

Alco Chemical Corporation, 909 Mueller Drive, Chattanooga, TN 37406

Alco Dispensing Systems, 455 East Kehoe Boulevard, Carol Stream, IL 60187

Alco Foodservice Equipment Company, The Courtyards, 8181 N.W. 36th Street, Suite No. 20, Miami, FL 33166

Alco Health Services Group, Inc., 983 Old Eagle School Road, Wayne, PA 19087

The American Stamping Company, 26650 Lakeland Boulevard, Cleveland, OH 44132

American Warehouses, Inc., 1918 Collingsworth Street, Houston, TX 77009

AMPCO Corporation, 1401 Monticello Avenue, Norfolk, VA 23510

Ashton Automotive Inc., 345 East 16th Street, Erie, PA 16512

Avonmore Company, c/o Alco Standard Corporation, P.O. Box 834, Valley Forge, PA 19482

Avonmore Mining Company, c/o Alco Standard Corporation, P.O. Box 834, Valley Forge, PA 19482

Baldwin Paper Company, 161 Avenue of the Americas, New York, New York 10013

Bar-O-Matic Dispensers, 14749 Arminta Street, Van Nuys, CA 91402

Barnes and Tucker Company, 825 Duportail Road, Chesterbrook, Valley Forge, PA 19482

Bearing-Belt & Chain, Inc., 729 East Buckeye Road, Phoenix, Arizona 85034

The Belko Corporation, 11931 Jericho Road, Kingsville, MD 21087

Big Drum, Inc., 1740 Joyce Avenue, Columbus, OH 43219
Binghamton Paper Company, 97 Ely Street, Binghamton, NY 13902
Blower Paper Company, 1525 East Edinger Avenue, Santa Ana, CA 92705
The Broaster Co., Beloit Industrial Park, I-90, Beloit, WI 53511
Brotherston Hospital Supply Company, 56th & Lancaster Avenue, Philadelphia, PA 19131
Carpenter/Offutt Paper, Inc., 333 Oyster Point Boulevard, South San Francisco, CA 94080
Central Automotive Warehouse, Inc., 178 Ridge Road, Lackawanna, NY 14218
Central Paper Company, 741 Fourth Street, P.O. Box 330, Menasha, WI 54952
Chope-Stevens Paper Company, 1800 Eighteenth Street, Detroit, MI 48216
Clauss Cutlery Company, 223 North Prospect Street, Box 667, Fremont, OH 43420
Cleveland Range Co., 1333 East 179th Street, Cleveland, OH 44110
Commercial Machine Works, Inc., 1099 Touhy Avenue, Elk Grove Village, IL 60007
Copco Papers, Inc., 226 North Fifth Street, P.O. Box 597, Columbus, OH 43216
Cortez Service Parts Company, 1323 Middlebury Road, Kent, OH 44240
Cream Cone Company, 1740 Joyce Avenue, Columbus, OH 43219
Cream Cone Company Bakery Division, 1195 Essex Avenue, Columbus, OH 43201
Cream Cone Company Shop Division, 1740 Joyce Avenue, Columbus, OH 43219
Custom Coach Corporation, 1400 Dublin Road, Columbus, OH 43215
Dean Industries, 8479 Steller Drive, Culver City, CA 90230
The Delfield Co., 980 South Isabella Road, P.O. Box 470, Mt. Pleasant, MI 48858
Deluxe Specialties Manufacturing Company, Box 979, R.R. #2, Hutchinson, KS 67501
The Drug House, Inc., 1011 West Butler Street, Philadelphia, PA 19101
Drum Cup Company, 1740 Joyce Avenue, Columbus, OH 43219
Drumstick Company, 1740 Joyce Avenue, Columbus, OH 43219
Dudley Paper, 301 North Hosmer Street, Lansing, MI 48912
Duff Brothers, Inc., 200 North Holly Street, P.O. Box 31, Chattanooga, TN 37401
Ehrhardt Tool & Machine Co., Inc., 2224 North 10th Street St. Louis, Mo 63102
Emcor, Inc., 336 South Spring, Port Washington, WI 53074
58th & Lancaster Avenue Corp., 5600 Lancaster Avenue, Philadelphia, PA 19131
Flodar Corporation, 16911 St. Clair Avenue, Cleveland, OH 44110
Franklin-Cowan Paper, Inc., 210 Ellicott Street, Buffalo, NY 14203
Garrett-Buchanan Company, 10th & Spring Garden Streets, Philadelphia, PA 19123
Gas Machinery Company, The, 336 South Spring Street, Box 324, Port Washington, WI 53074
Geer Drug Company, The, 1505 King Street Extension, Charleston, SC 29405
Genesee Valley/Whalen Paper Co., Inc., 48 King Street, Rochester, NY 14608
Gibraltar Warehouses, Box 1125, 33300 Dowe Avenue, Union City, CA 94587
Good Steel Service, Inc., 7500 Grand Division Avenue, Cleveland, OH 44125
Hardee Maintenance & Steel Fabricators, Inc., P.O. Drawer 1780, Plant City, FL 33566
Harold Paper Company, 2737 Adams Road, Pontiac, MI 48057
Haysite Division, Synthane-Taylor Corporation, P.O. Box 6180, Erie, PA 16512
Hunt Auto Supply Company, Inc., 1300 Monticello Avenue, Norfolk, VA 23510
Indiana Land Company, 2625 Concord Pike, Box 7138, Wilmington, DE 19803
Ispen Ceramics, 325 John Street, Pecatonica, IL 61063
Ispen Commercial Heat Treating, P.O. Box 6225, Rockford, IL 61125
Ipsen Industries, P.O. Box 6266, Rockford, IL 61125
Ipsen Industries, Inc., 984 Ipsen Road, Cherry Valley, IL 61016
Jackson Products Company, 4009 East Bougainvillea, Tampa, FL 33674
K-T Corporation, 850 Elston Drive, Shelbyville, IN 46176
The Kauffman-Lattimer Company, 1200 E. 5th Avenue, Columbus, OH 42216
Kay-Townes, Inc., 607 Turner Chapel Road, Box 593, Rome, Georgia 30161
Kex Copy Products, Inc., 48 King Street, Rochester, NY 14603
Kilroy Steel, Inc., 8500 Union Avenue, Cleveland, OH 44105
The Kilroy Structural Steel Co., 8500 Union Avenue, Clevland, OH 44105
The Otto Konigslow Mfg. Company, 13300 Coit Road, Cleveland, OH 44110
The Lancashire Company, 2625 Concord Pike, Box 7138, Wilmington, DE 19801
LaSalle Messinger Paper Company, 2601 South 25th Avenue, Broadview, IL 60153
Lauderdale Machine Company, Box 9275, Tampa Industrial Park, Tampa, FL 33674
Ledo-Dionysus, Inc., 5757 E. 42nd Avenue, Denver, CO 80216
A. E. Macadam & Co., Inc., 65 Maxess Road, Melville, Long Island, NY 17746
Macadam Associates, Inc., 239 Weston Street, Hartford, CT 06101
The McDowell Manufacturing Company, Old Airport Industrial Park, P.O. Box 665, DuBois, PA 15801
The Metalsource Corporation, 7500 Grand Division Avenue, Cleveland, OH 44125
Metalsource (Charlotte), 7950 Pence Road, P.O. Box 25846, Charlotte, NC 28212
Metalsource (Florida), 4009 A East Bougainvillea Avenue, P.O. Box 16621, Temple Terrace, FL 33687
Metalsource—Great Western Steel, 2310 West 58th Street, Chicago, IL 60636
Metalsource (Texas), P.O. Box 3166, 1319 South Belt Line Road, Irving, TX 75061
Metalsource—Triumph Industries, 8687 South 77th Avenue, Bridgeview, IL 60455
Metalsource—Western Division, 11939 Woodriff Avenue, Downey, CA 90241
Mid Continent Paper Corporation, 2904 South Spruce, Wichita, KS 67216
Midwest Paper Products, 911 Southwest 4th, P.O. Box 26807, Oklahoma City, OK 73126
Miether Machine Works, Inc., 8700 West County Road, Odessa, TX 79760
Miller Chemical & Fertilizer Corporation, Radio Road Off Route 94, Hanover, PA 17331
Milwaukee Machine Products Company, 10300 North Enterprise Drive, Mequon, WI 53092
Minerva, Inc., 310 Grant Boulevard, Minerva, OH 44657
Missouri Metal Shaping Company, 9970 Page Boulevard, St. Louis, MO 63132
Modern Equipment Company, 336 South Spring, Port Washington, WI 53074
Monarch Paper Company, 2800 North Loop West, Suite 505, Houston, TX 77001
National Automotive Systems, 530 West 172nd Street, South Holland, IL 60473
Paper Corporation of United States, 488 Madison Avenue at 51st Street, New York, NY 10022
Ed. Phillips & Sons Co., 2345 Kennedy Street, N.E., Minneapolis, MN 55413
Ed. Phillips & Sons Co. (Nebraska), 10100 J Street, Omaha, NE 68127
Ed. Phillips & Sons of Eau Claire, Inc., 3505 Melby Street, Eau Claire, WI 54701
Ed. Phillips & Sons Co. of North Dakota, 318 5th Street, North, Fargo, ND 58102
H. Phillips Co., Inc., 801 Jefferson Street, Wausau, 54401
The Phipps Coal Company, c/o Barnes & Tucker Company, P.O. Box 883, Valley Forge, 19482
Pratt-Gabriel Division, Miller Chemical, 122 Sharon Road Robbinsville, NJ 08691
Relco Financial Corp., 1818 Leavenworth Street, Omaha, NE 68102
Rex Financial Corporation, Specialty Products Group, The Maylee Building, Room 301, 2490 Lee Boulevard, Cleveland, OH 44118
Rex Precision Products, Inc., 14831 Maple Avenue, P.O. Box 270, Gardena, CA 90247
Rice-Chadwick Rubber Co., North Main Street, Killbuck, OH 44637
Riekes Crisa Corporation, P.O. Box 2489, 1600 Justo Penn Road, Laredo, TX 78041
Riekes Crisa Corporation of Canada, Ltd., 1818 Leavenworth Street, Omaha, NE 68102
Riekes Group, Inc., 1818 Leavenworth Street, Omaha, NE 68102
S. Riekes & Sons, Inc., 1818 Leavenworth Street, Omaha, NE 68102
The Rourke-Eno Paper Company, Incorporated, The Conference Center, 930 Silas Deane Highway, Wethersfield, CT 06109
Rousselle Corporation, 2310 West 78th Street, Chicago, IL 60620
Royston Distributors, Inc., P.O. Box 200, Devon Industrial Park, Devon, PA 19333
Santa Ana Container Co., 1525 East Edinger Avenue, Santa Ana, CA 92705
Savory Equipment Company, 349 Essex Road, P.O. Box 610, Neptune, NJ 07753
Schroeder Brothers Corporation, P.O. Box 72, Nichols Avenue, McKees Rocks, PA 15136
Seneca Paper Company, 210 Ellicott Street, Buffalo, NY 14203
Service Paper Products, 855 West 15th Street, Merced, CA 95340
Shelley Manufacturing Company, 4225 N.W. 72nd Avenue, Miami, FL 33166
The Sperry Rubber & Plastics Company, Inc., Route 2, Box 42, Brookville, IN 47012
Stylette Plastics, Inc., Willow Avenue, Oakdale, PA 15071
Synthane-Taylor Corporation, Route 363, Under Betzwood Bridge, Valley Forge, PA 19482
Synthane-Taylor (Canada) Limited, 23 Commander Boulevard, Agincourt, Ontario, Canada
Tempo Products Company, 6200 Cochran Road, Cleveland (Solon), OH 44139

Toscany Imports Ltd., 245 Fifth Avenue, New York, NY 10016
U.S. Chemical & Plastics, Inc., 1446 West Tuscarawas Street, Box 6208, Station B, Canton, OH 44706
U.S. Range Co., 14501 South Broadway, Gardena, CA 90248
The Unisource Corporation, 983 Old Eagle School Road, Wayne, PA 19087
Unisource West, Inc., 333 Oyster Point Boulevard, South San Francisco, CA 94080
Universal Paper Corporation, 1800 West Rogers Avenue, P.O. Box 537, Appleton, WI 54911
Upshur Coals Corporation, P.O. Box 789, Buckhannon, WV 26201
Virginia Beach Auto Supply, 839 Virginia Beach Boulevard, Virginia Beach, VA 23451
Weber Paper Co., 1200 Union Avenue, Kansas City, MO 64101
Wheelock, Lovejoy & Company, 7500 Grand Division Avenue, Cleveland, OH 44125
Wichita Paper Co., Inc., 2904 South Spruce Wichita, KS 67216
Wire Cloth Products, Inc., 2801 Eisenhower Expressway, Bellwood, IL 60104
Wood Industrial Products Company, Inc., 100 Washington Street, Conshohocken, PA 19428
Wyomissing Corporation, Seventh and Reading Avenues, West Reading, PA 19603

1. Parent company: Anheuser-Busch Companies, Inc., 721 Pestalozzi Street, St. Louis, MO 63118.
2. Wholly-owned subsidiaries:

(a) Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(b) August A. Busch & Co. of Massachusetts, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(c) August A. Busch & Co. of Florida, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(d) Busch Properties, Inc., 500 Community Federal Center, 12555 Manchester Rd., St. Louis, MO 63131
(e) Consolidated Farms, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(f) Metal Container Corporation, 721 Pestalozzi Street, St. Louis, MO 63118
(g) Kingsmill Realty, Inc., 100 Kingsmill Road, Williamsburg, VA 23185
(h) Busch International Sales Corporation, 721 Pestalozzi Street, St. Louis, MO 63118
(i) St. Louis Refrigerator Car Co., 2850 South Broadway, St. Louis, MO 63118
(j) Manufacturers Railway Co., 2850 South Broadway, St. Louis, MO 63118
(k) Manufacturers Cartage Co., 2850 South Broadway, St. Louis, MO 63118
(l) M.R.S. Redevelopment Corporation, 2850 South Broadway, St. Louis, MO 63118
(m) M.R.S. Transport Company, 2850 South Broadway, St. Louis, MO 63118
(n) Columbus Cartage, Inc., 2850 South Broadway, St. Louis, MO 63118
(o) Williamsburg Transport, Inc., 2850 South Broadway, St. Louis, MO 63118
(p) Busch Entertainment Corp., 500 Community Federal Center, 12555 Manchester Rd., St. Louis, MO 63131 (formerly Lianco Container Corp.)
(q) Fairfield Transport, Inc., 2850 South Broadway, St. Louis, MO 63118
(r) Kingsmill Resorts, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(s) Container Recovery Corporation, 727 N. 1st Street, Raeder Bldg., Suite 416, St. Louis, MO 63102
(t) Metal Label Corporation, 721 Pestalozzi Street, St. Louis, MO 63118

1. Parent: Benjamin Moore & Co., 51 Chestnut Ridge Road, Montvale, New Jersey 07645.
2. Wholly-owned subsidiaries which will participate in operations:

(a) Technical Coatings Co., 57 E. Centre Street, Nutley, New Jersey 07110
(b) Dal-Worth Paint Mfg. Co., 733 Dal-Worth Drive, P.O. Box 173, Mesquite, Texas 75149

1. Parent: Bissell Inc., 900 Old Kent Building, Grand Rapids, Michigan 49503, July 9, 1980.
2. Subsidiaries:

(a) Atlantic Precision Works, Inc.
(b) Atlas Tag & Label, Inc.
(c) Bissell Ltd.
(d) Imperial Business Forms, Inc.
(e) Michigan Tag Company
(f) Penn Champ Inc.
(g) Slip-X Safety Treads, Inc.
(h) Venturi, Inc.

1. Parent corporation and address of principal office: Borman's, Inc., 18718 Borman Avenue, Detroit, Mich. 48228, Mailing Address: P.O. Box 446, Detroit, Mich. 48232
2. Wholly-owned subsidiaries which will participate in the operations, and their respective principal offices:

(a) Arnold's, Inc., 18718 Borman Ave., Detroit, Mich. 48228. Mailing Address: P.O. Box 28015, Joyfield Station, Detroit, Michigan 48228
(b) Detroit Pure Milk Company, 18940 Weaver, Detroit, Mich. Mailing Address: P.O. Box 446, Detroit, Mich. 48232
(c) Wesley's Quaker Maid, Inc., 18940 Weaver, Detroit, Mich. 48227. Mailing Address: P.O. Box 446, Detroit, Mich. 48232
(d) Modern Foto, 18718 Borman Avenue, Detroit, Mich. 48228. Mailing Address: P.O. Box 28010, Joyfield Station, Detroit, Mich. 48228
(e) Farmer Jack's of Ohio, Inc., 18718 Borman Avenue, Detroit, Mich 48232. Mailing Address: P.O. Box 446, Detroit, Mich. 48232
(f) Carton Company, Inc., 18718 Borman Ave., Detroit, Mich. 48228. Mailing Address: P.O. Box 446, Detroit, Mich. 48232
(g) Y.D.S., Inc., 18718 Borman Avenue, Detroit, Mich. 48228. Mailing Address: P.O. Box 446, Detroit, Mich. 48232

1. Parent corporation and address of principal office: CFS Continental, Inc., 100 South Wacker Drive, Chicago, Illinois 60606.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

CFS Continental Transportation Company, 2550 North Clybourn Avenue, Chicago, Illinois 60614
Sugar Food-Dallas, 4930 Sharp Street, Dallas, Texas 75247
Continental Chicago, 9915 West Bryn Mawr Avenue, Rosemont, Illinois 60018
Continental-Topper, Inc., Route 136—P.O. Box 127, Eighty-four, Pennsylvania 15330
Continental-Dayton, Inc., 2680 Titus Avenue, Dayton, Ohio 45414
Continental-Minnesota, Inc., 1109 Zane Avenue North, Golden Valley, Minnesota 55422
Sugar Food Corporation, 2000 Westbelt Drive, Columbus, Ohio 43228
Sugar Food—Monroe, 600 Detroit Avenue, Monroe, Michigan 48161
Kothe, Wells and Bauer, Koweba Lane, Indianapolis, Indian 46201
Continental-Indianapolis, Inc., P.O. Box 248, 4000 West 62nd Street, Indianapolis, Indiana 48212
Continental-Michigan, Inc., 14255 Dequindre Avenue, Detroit, Michigan 48212
Continental-Big Red, Inc., 415 Fourth Street North, Box 2945, Fargo, North Dakota 58108
Continental-Crystal, Inc., 3931 West First Street, P.O. Box 6146, Duluth, Minnesota 55806
Continental-South Dakota, 1509 Industrial Avenue, Sioux Falls, South Dakota 57104
Continental-Atlanta, Inc., 6814 Best Friend Road, Doraville, Georgia 30340
Continental Coffee Company of Florida, 15 N.E. 11th Street, Miami, Florida 33132
Continental-Institutional, Inc., P.O. Box 4747, Liberty Church Road and Georgia Highway 247, Macon, Georgia 31208
Continental-Arctic, Inc., P.O. Box 660, 601 S.W. 7th Avenue, Renton, Washington 98055
Continental-Los Angeles, Inc., 2300 E. 57th Street, Vernon, California 90058
CFS Continental-Phoenix, Inc., 4545 N. 43rd Avenue—Zip 85031, P.O. Box 27127—Zip 85061, Phoenix, Arizona
Houston Foods, Inc., 4245 North Knox Avenue, Chicago, Illinois 60641
Shari Candies, Inc., 1804 North Second Street, Mankato, Minnesota 56001
Melster Candies, Madison Street, Cambridge, Wisconsin 53523
Continental-Iowa, Inc., 2420 West Grand Avenue, West Des Moines, Iowa 50265
East/South Region Office, 6855 Jimmy Carter Boulevard, Suite 1420, Norcross, Georgia 30071
Continental-Central Florida, Inc., 2100 Country Club Road, P.O. Drawer D, Sanford, Florida 32771
Continental Coffee-South Brunswick, P.O. Box 280, Monmouth Junction, New Jersey 08852 (Located at Black Horse Lane & Progress Road)
Continental-Mulberry, Inc., 444 Mulberry Street, P.O. Box 784, Macon, Georgia 31202
Continental-Keil, Inc., P.O. Box 31196, Billings, Montana 59107
Continental-San Diego, Inc., 2191 Main Street, San Diego, California 92138
Continental-G&M Foods, Inc., P.O. Box 4377, Fresno, California 93744
Continental Coffee Products Company & Continental Food Products Company, 2550 North Clybourn Avenue, Chicago, Illinois 60614
Barg & Foster, 4067 North Wilson Drive, Shorewood, Wisconsin 53211
Continental Coffee Manufacturing, P.O. Box 9389, Houston, Texas 77011

Continental Commodities Company, 2750 Jewell, Vernon, California 90058
Intercon Company, 351 Roosevelt Avenue, Carteret, New Jersey 07008
Harold Freund Baking Company (Hawaii), 94-071 Leonui Street, Waipahu, Hawaii 96797
Harold Freund Baking Company (San Jose), 577 Burke Street, San Jose, California 95112
Interstate Foods Company, 3800 South Morgan Street, Chicago, Illinois 60609
Harold Freund Baking Company, 649 South Seventh Avenue, P.O. Box 1283, City of Industry, California 91749
Harold Freund Baking Company (Florida), 2737 24th Street North, St. Petersburg, Florida 33713

1. Parent Corporation: A. M. Castle & Co., 3400 N. Wolf Road, Franklin Park, IL 60131.

2. Wholly Owned subsidiary: Hy-Alloy Steels Co., 5100 W. 73rd St., Chicago, IL 60638.

1. Parent corporation and address of principal office: The Central Foundry Company, P.O. Box 188, Holt, Alabama 35404.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(A) Quakertown Foundry, Inc., P.O. Box 638, Quakertown, Pennsylvania 18951
(B) Fulton Foundry, Inc., 135 Forestdale Avenue, South Fulton, Tennessee 42041
(C) Southeastern Assembly Company, P.O. Box 1, Felton, Georgia 30140.

1. Parent corporation and address of principal office: Cities Service Company, 110 West 7th Street, P.O. Box 300, Tulsa, Oklahoma 74102.

2. Wholly-owned subsidiary which will participate in the operations, and address of principal office: Columbian Chemicals Company, 521 South Boston, P.O. Box 37, Tulsa, Oklahoma 74102.

1. Parent corporation and address of principal office: Adolph Coors Company, Golden, CO 80404.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Coors Container Company, 17755 West 32nd Avenue, Golden, CO 80401
Coors Porcelain Company, 600 Ninth Street, Golden, CO 80401
Alumina Ceramics, Inc., 1912 Dale Street, P.O. Box 878, Benton, AR 72015
CIPCO Pte. Ltd., Block 2, 3841 Jalan Bukit Merah, Redhill Industrial Estate, Singapore 0315, Republic of Singapore
R I Ceramic Company, 450 24th Avenue, N.W., Norman, OK 73069
Wilbanks International, Inc., 2770 S.E. Tualatin Valley Highway, Hillsboro, OR 97123
Coors Distributing Company, 1280 West 47th Avenue, Denver, CO 80211
American Center for Occupational Health, Inc., 11275 East Mississippi Avenue, Suite 2N2, Aurora, CO 80012
Cadco Incorporated, Golden, CO 80401
Coors Food Products Company, Golden, CO 80401
Coors Transportation Company, 5101 York Street, Denver, CO 80216
The Rocky Mountain Water Company, P.O. Box 507, Golden, CO 80401
The Wannamaker Ditch Company, P.O. Box 507, Golden, CO 80401

1. Parent Corporation and address of principal office: Cowan Enterprises, Inc., 820 South Oldham Street, Baltimore, Maryland 21224.

2. Wholly-owned subsidiary which will participate in the operations, and address of their respective principal offices: (a) Key Way Transport, Inc., 820 South Oldham Street, Baltimore, Maryland 21224.

1. Parent Corporation and address of principal office: Crawford Beverage, Inc., P.O. Box 532, U.S. Highway 98 North, Montrose, Alabama 36559.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Crawford Trucking, Inc., P.O. Box 532, U.S. Highway 98 North, Montrose, Alabama 36559
(b) Crawford Beverage, Inc., P.O. Box 532, U.S. Highway 98 North, Montrose, Alabama 36559
(c) Crawford Wholesale, Inc., P.O. Box 532, U.S. Highway 98 North, Montrose, Alabama 36559

(1) Parent Corporation and address of principal office: Cummins Engine Co., Inc., 1000 5th Street, Columbus, Indiana 47201.

(2) Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Atlas Crankshaft Corporation, P.O. Box 845, Fostoria, Ohio 44830
(b) Cummins Americas, Inc., 1000 5th Street, Columbus, Indiana 47201
(c) Cummins Charleston, Inc., 2301 Leeds Avenue, Charleston, South Carolina 29405
(d) Cummins Diesel Sales Corporation, 1000 5th Street, Columbus, Indiana 47201
(e) Fleetguard, Inc., Route 8, Cookeville, Tennessee 38501

(3) Cummins as the parent corporation would indicate to the Commission that the following subsidiaries may participate in compensated intercorporate hauling:

(a) Atlas Crankshaft Corporation, P.O. Box 845, Fostoria, Ohio 44830
(b) Fleetguard, Inc., Route 8, Cookeville, Tennessee 38501

1. Parent Corporation: Diamond International Corporation, 733 Third Ave., New York, NY 10017.

2. Wholly-owned subsidary: Groveton Papers Company, Mechanic Street, Groveton, NH 03582.

1. The name of the parent corporation: Great Northern Nekoosa Corporation, 75 Prospect Street, Stamford, Connecticut.

2. Wholly-owned subsidiaries which will participate in the operations, and the address of their respective principal offices is as follows:

Bibler Brothers, Inc., Highway 7 South, Russellville, Arkansas 72801
Butler Paper Company, 100 Wisconsin River Drive, Port Edwards, Wisconsin 54469
East Texas Iron Company, 100 Wisconsin River Drive. Port Edwards, Wisconsin 544669
Great Northern Overseas Corporation, 75 Prospect Street, Stamford, Connecticut 06901
Great Northern Properties, Inc., Katahdin Avenue, Millinocket, Maine 04462
Great Southern Properties, Inc., P.O. Box 44, Cedar Springs, Georgia 31732
Marplex Products Co., Inc., P.O. Box 279, Rhinelander, Wisconsin 54501
Nekoosa Envelopes Inc., 720 South Colorado Boulevard, Denver, Colorado 80222
Nekoosa Overseas Corporation, 100 Wisconsin River Drive, Port Edwards, Wisconsin 544669
Nekoosa Papers Inc., 100 Wisconsin River Drive. Port Edwards, Wisconsin 54469
Point Pleasant Paper Company, 511 Charleston National Bank Building, Charleston, West Virginia 25301
Whitewood Post & Pole Co., Inc., 100 Wisconsin River Drive. Port Edwards, Wisconsin 54469
Wisco Envelope Company, Inc., 1509 N. Washington, Street, Tullahoma, Tennessee 37388

1. Parent corporation and address of principal office: Equipment Company, Inc., 20 Dunean Street, P.O. Box 8492, Station A, Greenville, South Carolina 29604.

2. Wholly owned subsidiary which will participate in the operations, and address of its principal office: Eastern Carriers, Inc., Anderson Road, P.O. Box 8492, Station A, Greenville, South Carolina 29604.

1. Parent corporation and address of principal office: General Host Corporation, 22 Gate House Road, Stamford, CT 06902.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (a) Cudahy Company, 100 W. Clarendon, Phoenix, AZ 85013.

(1) Parent: Leroy Schecter, 55 Passaic Avenue, Kearny, NJ, 07032.

(2) Wholly-owned companies which will participate in the operations, and addresses of their respective principal offices:

(a) American Strip Steel, Inc., 55 Passaic Avenue, Kearny, NJ, 07032
(b) David Graham Company, P.O. Box 254, Levittown, PA, 19059
(c) Harris Steel International, 55 Passaic Avenue, Kearny, NJ, 07032

(d) Ware Industries, Ltd., 61 Avenue K, New York, NY, 07105
(e) Devon Transportation Co., P.O. Box 254, Levittown, PA, 19059

(1) Parent corporation: Hanover Brands, Incorporated, P.O. Box 334, Hanover, PA 17331.

(2) Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Hanover Guest Quality Foods Corporation, P.O. Box 471, Hanover, PA 17331
(b) Tri-Co. Foods Corporation, P.O. Box 334, Hanover, PA 17331
(c) Consumers Packing Company, 1236 Plum & Liberty Streets, Lancaster, PA 17604
(d) Alcosa, Apartado Postal 31–C, Guatemala, C.A.

1. Parent corporation and address of principal office: Hardee's Food Systems, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

A. Fast Food Merchandisers, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801
B. Gol-Pak Corporation, 1233 N. Church Street, Rocky Mount, North Carolina 27801
C. HED, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801
D. Continental Franchise Corporation, 1233 N. Church Street, Rocky Mount, North Carolina 27801
E. Hairston & Company, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801
F. Sandy's Franchise, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801

1. Parent Corporation and address of principal office: The Hoosier Panel Co., Inc., 2043 Silver Street, P.O. Box 499, New Albany, Ind. 47150.

2. Wholly owned subsidiaries which will participate in the operation, and address of their respective principal offices: Hesco Industries, Inc., P.O. Box 7, R.R. #1, Highway 62, Charlestown, Ind. 47111.

1. Parent corporation and address of principal office: The Ingalls Iron Works Company, 620 Fourth Avenue South, P.O. Box 2527, Birmingham, Alabama 35202.

2. Wholly-owned subsidiaries which will participate in the operations, and address of respective principal offices:

1. Jones and Armstrong Steel Company
A. *Birmingham,* 901 Second Court West, P.O. Box 10287, Birmingham, Alabama 35217
B. *Mobile,* 1566 Dublin Street, P.O. Box 5181, Mobile, Alabama 36605
C. *Tucker (Atlanta),* 2001 Steel Drive, P.O. Box 127, Tucker, Georgia 30084
D. *Savannah,* 1818 W. Gwinett Street, P.O. Box 2006, Savannah, Georgia 31402
E. *Memphis,* 2315 Pier Street, P.O. Box 13124, Memphis, Tennessee 38113
2. New City Steel Corporation, 5401 Western Boulevard South, P.O. Box 09013, Chicago, Illinois 60609
3. Gibson Steel Company, 816 North 30th Street, P.O. Box 10983, Birmingham, Alabama 35202
4. Steel Supply Company Inc., 4800 Beverly Road, P.O. Box 5331, Knoxville, Tennessee 37918
5. Ingalls Steel of Pennsylvania, Inc., Selden & Ridge Avenue, Verona, Pennsylvania 15147
6. Blue Ridge Steel Company, 1000 9th Street N.E., P.O. Box 2845, Roanoke, Virginia 24001
7. City Steel Corporation, 975 High Street, P.O. Box 280, Jackson, Mississippi 39205
8. Tennessee Steel and Supply Company, 710 2nd Street, P.O. Box 1971, Nashville, Tennessee 37202
9. South Central Steel Company, Camp Coleman Road, P.O. Box 73, Trussville, Alabama 35173
10. McMurray Structural Steel Company, Inc., 1015 Herman Street, P.O. Box 1112, Nashville, Tennessee 37202
11. Seminole Steel Company, 2431 Airport Road, P.O. Box 1034, Bainbridge, Georgia 31717
12. Charles County Steel Company, St. Charles Industrial Park, P.O. Box 657, Waldorf, Maryland 20601
13. Ingalls of Florida, 711 Central Florida Parkway, P.O. Box 13948, Orlando, Florida 32859
A. *Jacksonville,* 3451 West 20th Street, P.O. Box 37207, Jacksonville, Florida 32205
14. Richards Tank Company, Pinson Highway, P.O. Box 6268, Tarrant Branch, Birmingham, Alabama 35217

3. Divisions of the parent corporation which will participate in the operations, and address of their respective principal offices:

1. The Ingalls Iron Works Company, Marine Division, P.O. Box 368, Decatur, Alabama 35601
2. Birmingham Tank Company, 2716 North 26th Street, P.O. Box 2527, 35202, Birmingham, Alabama 35207

1. Parent corporation and address of principal office: Instrument Systems Corporation, 100 Jericho Quadrangle, Jericho, New York 11753.

2. Wholly-owned subsidiaries which will participate in the operations:

(a) ISC Transystems, Inc., 100 Jericho Quadrangle, New York 11753.
(b) Telephonics Corporation, 100 Jericho Quadrangle, New York 11753.
(c) Lightron Corporation, 100 Jericho Quadrangle, New York 11753.
(d) Bendix Mouldings Incorporated, 235 Pegasus Avenue, Northuale, NJ 07647.
(e) Laurel Lamp Mfg. Co., Inc., Rome and Magazine Streets, Newark, NJ 07105.
(f) Markstone Mfg. Company, 1240 North Homan Avenue, Chicago, IL 60651
(g) ISC Government & Energy Products Corporation, 6755 Garden Road, Riviera Beach, Florida 33404.

1. Parent corporation and address of principal office: Knape & Vogt Manufacturing Co., 2700 Oak Industrial Drive, N.E., Grand Rapids, MI 49505.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Knape & Vogt Canada, Inc., 340 Carlingview Drive, Rexdale, Ontario.
(b) Modar, Inc., 1349 East Empire Avenue, Benton Harbor, MI 49022.

1. Parent corporation and address of principal office: Lacy Diversified Industries, Inc. Suite 3200, One Indiana Square Indianapolis, IN. 46204.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

A. U.S. Corrugated-Fibre Box Company, Inc. 3200 One Indiana Square Indianapolis, IN 46204
B. U.S. Packaging Company, Inc., 4721 Burbank Road, Memphis, TN. 38118
C. Acme Paper Stock Company, Inc., 141 N. Second Street, Louisville, KY. 40202.
D. U.S. Corrugated-Fibre Box Company of Alabama, Inc. 801 Wall Triana Road, Huntsville, AL. 35807
E. Jessup Door Company, Inc. 300 E. Railroad Street Dowagiac, MI. 49047.
F. LDI Leasing, Inc., 3200 One Indiana Square, Indianapolis, IN. 46204.

Parent: The Logan Clay Products Company, 201 E. Bowen Street, Logan, Ohio 43138.

Wholly-owned subsidiary: The Logan Foundry & Machine Company, 169 E. Front St., Logan, Ohio 43138.

1. Parent corporation and address of principal office: Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Emro Marketing Company, 2525 N. Limestone St., Springfield, Ohio 45503; and
(b) Muesing, Inc., 199 South Sherman Drive, Indianapolis, Indiana 46201.

1. Parent corporation and address: McKee Baking Company, P.O. Box 750, 10260 McKee Road, Collegedale, TN 37315.

2. Wholly-owned subsidiaries and addresses.

(a) Sovex Natural Foods, Inc., P.O. Drawer 310, 9500 Apison Pike, Collegedale, TN 37315
(b) Supreme Broom Company, Inc., P.O. Drawer E, 9950 Apison Pike, Collegedale, TN 37315
(c) Better Foods, Inc., P.O. Box 1640, 9500 Apison Pike, Collegedale, TN 37315

1. Name of the parent corporation and address of principal office is: NCR

Corporation, World Headquarters, 1700 South Patterson Blvd, Dayton, Ohio 45479.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices are:

(1) NCR Corporation, Micrographic Systems Division, 520 Logan Avenue, Mountain View, California 94043
(2) COMTEN, Inc., 1950 West County Road B-2, St. Paul, Minnesota 55113

(1) Parent corporation and address of principal office: Nabisco, Inc., East Hanover, NJ 07936.

(2) Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Associated Products, Inc., 445 Park Ave., NYC 10022
(1) Everlon Fabrics Corp., 295 Fifth Ave., NYC 10016
(2) The Hervin Company, P.O. Box 309, Tualatin, OR 97062
(3) Hygiene Industries, 295 Fifth Ave., NYC 10016
(b) Fireside Food Products Co., East Hanover, NJ 07936
(c) Freezer Queen Foods, Inc., 2544 Clinton St., Buffalo, NY 14240
(d) Nabisco Confections, Inc., 810 Main St., Cambridge, MA 02139
(e) The J. B. Williams Co., Inc., 767 Fifth Ave., NYC 10022

1. Parent corporation and address of principal office: Newell Companies, Inc., 29 E. Stephenson Street, Freeport, Illinois 61032.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) The Brearley Company, 2107 Kishwaukee Street, Rockford, Illinois 61101
(b) Counselor Products, Limited, 56 Torlake Crescent, Toronto, Ontario, Canada M8Z 1C1
(c) EZ Paintr Corporation, 4051 S. Iowa Avenue, Milwaukee, Wisconsin 53207
(d) Newell Industries, Canada, Inc., 1666 Aimco Blvd., Mississauga, Ontario, Canada L4N 1V4

1. Parent corporation and address of principal office: Newpark Resources, Inc., 5120 One Shell Square, New Orleans, LA 70139.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

The Aztec Corporation, P.O. Box 52821, Lafayette, LA 70505
Aztec Mud & Chemical Co., Inc., P.O. Box 52821, Lafayette, LA 70505
B.F.C. Oil Company, 5120 One Shell Square, New Orleans, LA 70139
Bludworth Shipyard, Inc., P.O. Box 5426, Houston, TX 77012
Eagle Mud Service, Inc., 880 City Center Building, Oklahoma City, OK 73102
Eagle Mud of Colorado, 475 17th Street, Suite 800, Metro Bank Bldg., Denver, CO 80202
Eisenman Transport, Inc., 312 E. 16th Street, Greeley, CO 80631
Eisenman Chemical Co., 312 E. 16th Street, Greeley, CO 80631
Elpac, Inc., 5120 One Shell Square, New Orleans, LA 70139
Executive Air, Inc., P.O. Box 52821, Lafayette, LA 70505
F & S Boat Company, Inc., 5120 One Shell Square, New Orleans, LA 70139
F & S Marine Services, Inc., 5120 One Shell Square, New Orleans, LA 70139
F & S Offshore, Inc., 5120 One Shell Square, New Orleans, LA 70139
George W. Townsend Lease Service, Inc., P.O. Box 470, Bay City, TX 77414
Newpark Major, Inc., 5120 One Shell Square, New Orleans, LA 70139
Newpark Marine Service, Inc., P.O. Box 976, Morgan City, LA 70380
Newpark Offshore Marine, Inc., P.O. Box 976, Morgan City, LA 70380
Newpark Oilfield Service, Inc., P.O. Box 51246 Oil Center Station, Lafayette, LA 70501
Newpark Shipbuilding and Repair, Inc., P.O. Box 5426, Houston, TX 77012
South Louisiana Contractors, P.O. Box 51772, Lafayette, LA 70501
SOLOCO Pipeline Contractors, Inc., P.O. Box 51772, Lafayette, LA 70501
Trinity Bay Construction Company, Inc., P.O. Box 666, Winnie, TX 77665
Warfield Towing Service, Inc., 5120 One Shell Square, New Orleans, LA 70139
Weathers Towing, Inc., 5120 One Shell Square, New Orleans, LA 70139

1. Parent corporation and address of principal office: Noel Canning Corporation, d/b/a/ "Noel Canning Corp.", "Modern Mill Work", and "Noel Investments". 1001 South First Street, Yakima, Washington, 98901.

2. Wholly-owned subsidiaries which will participate in the operations and address of their principal offices:

(a) Noel Transport, Inc. (MC-143158), same address as parent corporation.
(b) PDQ Institutional Foods, Inc., 20 East King, Yakima, Washington, 98901.
(c) Pepsi-Cola Bottling Co. of Yakima, same address as parent corporation.
(d) Moultray's, Ltd., same address as parent corporation.
(e) M & M Catering Services, Inc., same address as parent corporation.
(f) Holiday Motor Hotel and Restaurant, Inc., same address as parent corporation.
(g) Towne Plaza Hotel, Inc., same address as parent corporation.
(h) Morco Co., same address as parent corporation.

1. Parent corporation and address of principal office: PepsiCo, Inc., Purchase, NY 10577.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Beverages, Foods & Service Industries, Inc., c/o PepsiCo, Purchase, NY 10577
(2) Conroe Packaging, Inc., 222 Loop 336 East, P.O. Box Y, Conroe, TX 77301
(3) Frito-Lay, Inc., P.O. Box 35034, Dallas, TX 75235
(4) National Beverages, Inc., 1700 Directors Row, Orlando, FL 32809
(5) PBG Beverage Distributors, Inc., c/o PepsiCo, Purchase, NY 10577
(6) Pepsi-Cola Bottling Co. of Los Angeles, Inc., P.O. Box 3338, Torrace, CA 90510
(7) Pepsi-Cola Bottling Company of Puerto Rico, Inc., P.O. Box 1709, Hato Rey, Puerto Rico 00919
(8) Pepsi-Cola Interameriana, S.A., c/o PepsiCo, Purchase, NY 10577
(9) Pepsi-Cola Metropolitan Bottling Company, Inc., c/o PepsiCo, Purchase, NY 10577
(10) Pepsi-Cola Panamericana, S.A., c/o PepsiCo, Purchase, NY 10577
(11) PepsiCo World Trading Company, Inc., c/o PepsiCo, Purchase, NY 10577
(12) Advance Moving & Storage, Inc., 650 North Second Ave., Phoenix, AZ 85003
(13) Agency Media Services, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(14) Fleet Insurance Management, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(15) Great Falls North American, Inc., P.O. Box 1414, Great Falls, MT 59401
(16) Lee Way Motor Freight, Inc., P.O. Box 12750, Oklahoma City, OK 73157
(17) Marlew of El Paso, Inc., 8201 Lockheed Drive, El Paso, TX 79225
(18) Moving Credit, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(19) NACAL, Inc., 12842 Valley View, Garden Grove, CA 92645
(20) North American Distribution Systems, Inc., P.O. Box 411, New Haven, IN 46774
(21) North American Forwarding, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(22) North American Moving & Storage, Inc., 2122 Bremer Road, Fort Wayne, IN 46803
(23) North American Properties, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(24) North American Van Lines, Inc., P.O. Box 988, Fort Wayne, IN 46801
(25) North American Van Lines of Texas, Inc., 811 Central Expressway, Richardson, TX 75080
(26) Tractor Power, Inc., d/b/a, Fleet Service, c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(27) Transportation Collections, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(28) Triangle Fleet Service, Inc., 801 W. California Road, Fort Wayne, IN 46808
(29) PepsiCo Building Systems, Inc., 3031 LaJolla St., Anaheim, CA 92806
(30) Pizza Hut, Inc., P.O. Box 428, Wichita, KS 67201
(31) Aurora Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(32) Bender Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita KS 67201
(33) Buckeye PH, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(34) Blues Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(35) Chesapeake Bay Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(36) Denver Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201

(37) East Moline Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(38) Fiesta Cantina of Ohio, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(39) Franchise Services, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(40) Franchise Services of Kansas, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(41) Indianapolis Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(42) J & G Products, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(43) Lake Michigan Management Co., Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(44) Long's Appleton, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(45) Long's Green Bay #2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(46) Long's Marshfield, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(47) Long's Neenah, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(48) Long's Wausau No. 2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(49) Mountaineer Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(50) Oriole Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(51) Pizza Hut, Inc. of LaCrosse, c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(52) Pizza Hut of America, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(53) Pizza Hut of Boston, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(54) Pizza Hut of Columbia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(55) Pizza Hut of Gainesville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(56) Pizza Hut of Georgia, Inc., P.O. Box 428, Wichita, KS 67201
(57) Pizza Hut of Jeffersonville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(58) Pizza Hut of Kalamazoo, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(59) Pizza Hut of Knoxville Corporation, c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(60) Pizza Huts of Las Vegas, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(61) Pizza Hut of Louisiana, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(62) Pizza Hut of Louisville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(63) Pizza Hut of Massachusetts, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(64) Pizza Huts of North Carolina, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(65) Pizza Hut of North Haven, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(66) Pizza Hut of Oklahoma, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(67) Pizza Hut of Oregon, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(68) Pizza Hut of Racine, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(69) Pizza Hut of Rochester, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(70) Pizza Hut of San Diego, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(71) Pizza Hut of Santa Fe, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(72) Pizza Hut of Spokane, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(73) Pizza Hut of Utah, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(74) Pizza Hut of Virginia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(75) Pizza Hut of West Allis, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(76) Pizza Hut of Wichita, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(77) Pizza Hut of Wisconsin, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(78) Pizza Hut of Zion, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(79) Ross Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(80) Second Concept, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(81) Sioux Falls Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(82) Sun Devil Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(83) Taco Kid of Wichita No. 2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(84) Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714
(85) Bell Food Serivces, Inc., c/o Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714
(86) Taco Bell of Ohio, Inc., c/o Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714

1. Address of parent corporation: Perdue, Inc., P.O. Box 1537, Salisbury, MD 21801.

2. Wholly owned subsidiaries which will participate in these operations: Perdue Farms, Inc. (address same as above); Perdue Food, Inc. (address same as above); Perdue Transportation, Inc. (address same as above).

1. *Parent Corporation:* Peter Cooper Corporations, Palmer Street, Gowanda, New York 14070.

2. *Wholly-owned subsidiaries which will participate in the operations: Mid States By Products, P.O. Box 8, Papillion, Nebraska 68046 and MSBP, Inc., P.O. Box 904, Council Bluffs, Iowa 51501.*

1. Parent Corporation: Pratt & Lambert, Inc., 75 Tonawanda Street, Buffalo, NY 14207.

2. Wholly-owned subsidiaries which will particpate in the operations, and address of their respective principal offices:

a. Pierce & Stevens Chemical Corp., 710 Ohio Street, Buffalo, NY 14203
b. United Paint Co., 404 E. Mallory Street, Memphis, TN 38109

1. Parent corporation and address of principal office: Ryder System, Inc., 3600 N.W. 82nd Avenue, Miami, Florida 33166.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

a. Complete Auto Transit, Inc., East 4111 Andover Road, Bloomfield Hills, Michigan 48013
b. Janesville Auto Transport Company, 1800 South Jackson Street, Janesville, Wisconsin
c. M & G Convoy, Inc., 590 Elk Street, Buffalo, New York 14240
d. Ryder Truck Rental, Inc., 3600 N.W. 82nd Avenue, Miami, Florida 33166
e. Specialized Parts Distribution, Inc., 3600 N.W. 82nd Avenue, Miami, Florida 33166
f. Jack Rabbit Express Company, 3732 Brynmawr, Orlando, Florida 32802
g. Specialized Transportation, Inc., 3600 N.W. 82nd Avenue, Miami, Florida 33166
h. Truckstops Corporation of America, 5042 Linbar Drive, Nashville, Tennessee 37211
i. Moore Brothers Oil Company, Inc., 30 Ridge Road, Mahwah, New Jersey 07430

1. Parent Corporation and Address of Principal Office is: Sonoco Products Company, North Second Street, Hartsville, South Carolina 29550.

2. Wholly-owned subsidiaries which will participate in the operations and addresses of their principal offices:

1. Baker Industries, Hartselle, Alabama
2. Paper Stock Dealers, Inc., Statesville, North Carolina

1. Parent corporation and address of principal office: Sundstrand Corporation, 4751 Harrison Avenue, Rockford, IL 61101

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

a. The Falk Corporation, 3001 West Canal Street, Milwaukee, WI 53208
b. Sundstand Heat Transfer, Inc., East Prairie Ronde Street, Dowagiac, MI 49047
c. Sundstrand Tubular Products, Inc., P.O. Box 636, Camdenton, MO 65020
d. Sundstrand Data Control, Overlake Industrial Park, Redmond, WA 98052
e. Global Navigation, 2144 Michelson Drive, Irvine, CA 92715
f. Airborne Navigation, Inc., P.O. Box 1591, Prescott, AZ 86302

1. The name and address of the principal office of the parent corporation is: Superior Distributing Co., Inc., 125 Caldwell Avenue, Tiffin, Ohio 44883 d.b.a. Kleppers of Tiffin and Kleppers of Lima.

2. The wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices are as follows: Hanson Distributing Co. d.b.a. Beerco, RR Ohio State Route 12, West, Fostoria, Ohio.

1. Parent corporation and address of principal office: Texas Refinery Corporation, 840 North Main, Fort Worth, Texas 76106.

2. Wholly-owned subsidiaries which will participate in the operation, and address of their respective principal offices:

(a) American Lubricants Company, 1227 Deeds Ave., Dayton, Ohio 45401
(b) Texas Refinery Corp. Intercontinental, S.A., 840 North Main, Fort Worth, Texas 76106
(c) Southwestern Cooperage Company, 2550 Glendale Ave., Fort Worth, Texas
(d) Lehman-Phillips, 2550 Glendale Ave., Fort Worth, Texas

(e) National Photographers Album Company, 921 North Main, Fort Worth, Texas 76106

1. Parent corporation and address of principal office: Trans Union Corporation, 90 Half Day Road, Lincolnshire, Illinois 60015.

2. Wholly-owned subsidiaries which may participate in the operations, and addresses of their respective principal offices:

(a) Ecodyne Corporation, 90 Half Day Road, Lincolnshire, Illinois 60015
(b) The Getz Corporation, 640 Sacramento Street, San Francisco, California 94111
(c) Getz Bros. & Co., Inc., 640 Sacramento Street, San Francisco, California 94111
(d) MilBrands, Inc., Suite 480, Bent Tree Tower, 16475 Dallas Parkway, Dallas, Texas 75248
(e) Tucor Services, Inc., 640 Sacramento Street, San Francisco, California 94111
(f) Rochester Instrument Systems, Inc., 255 North Union Street, Rochester, New York 14605
(g) Solidstate Controls, Inc., 875 Dearborn Drive, Columbus, Ohio 43085
(h) Trans Union Financial Corporation, 1164 Triton Drive, Foster City, California 94404
(i) Leasametric, Inc., 1164 Triton Drive, Foster City, California 94404
(j) Trans Union Leasing Corporation, 111 West Jackson Boulevard, Chicago, Illinois 60604
(k) Union Tank Car Company, 111 West Jackson Boulevard, Chicago, Illinois 60604
(l) Lithcote Company, 111 West Jackson Boulevard, Chicago, Illinois 60604
(m) Speno Rail Services, Inc., 1140 Ivanhoe Road, Cleveland, Ohio 44110
(n) Trans Union Fastener Corporation, 90 Half Day Road, Lincolnshire, Illinois 60015
(o) White Machinery Corporation, 1251 South Larkin, Joliet, Illinois 60436

1. Parent Corporation and address of principal office: U.S. Industries, Inc., a Delaware Corporation, 250 Park Avenue, New York, New York 10177.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) A & S Building Systems, Inc., a Texas corporation, P.O. Box 40099, Houston, Texas 77040
(b) Anderson Hickey Company, a Texas corporation, P.O. Box 241, Henderson, Texas 75652
(c) Axelson, Inc., a Delaware corporation, 110 Industrial Boulevard, P.O. Box 2427, Longview, Texas 75601
(d) Brown Moulding Company, Inc., an Alabama corporation, P.O. Box 170, Montevallo, Alabama 35115
(e) Columbian Optical Company, a Washington corporation, 2217 5th Avenue, Seattle, Washington
(f) Duke City Lumber Company, Inc., a New Mexico corporation, P.O. Box 25807, Albuquerque, New Mexico 87125
(g) Gerring Industries, Inc., an Indiana corporation, Highway #5 South, Shipshewana, Indiana 46565
(h) Jernberg Forgings Co., an Illinois corporation, 328 West 40th Place, Chicago, Illinois 60609
(i) Memphis Optical Dispensary, a Tennessee corporation, 720 Exchange Building, Memphis, Tennessee
(j) Northeast Optical Co., Inc., a New Hampshire corporation, 4 Northeast Avenue, Concord, New Hampshire
(k) Oomphies, Inc., a Delaware corporation, 5 Franklin Street, Lawrence, Massachusetts 01840
(l) Properties Capital Corporation, a Texas corporation, 733 Third Avenue, New York, New York 10017
(m) Seaway Importing Company, an Illinois corporation, 7200 North Oak Park Avenue, Niles, Illinois 60648
(n) Steel Tank Construction Company, a Texas corporation, 6200 Kansas Street, P.O. Box 3052, Houston, Texas 77001
(o) Superlite, Inc., an Arizona corporation, P.O. Box 23163, Phoenix, Arizona 85063
(p) Superlite Builders Supply, Inc., an Arizona corporation, P.O. Box 23163, Phoenix, Arizona 85063
(q) Thunander & Son, Inc., an Indiana corporation, 1923 Markle Avenue, P.O. Box 1166, Elkhart, Indiana 46515
(r) Uhleman Optical Company of Illinois, a Delaware corporation, 1100 Remington Road, Schaumberg, Illinois
(s) USI Charter Realty Services Corp., a Delaware corporation, 733 Third Avenue, New York, New York 10017
(t) USI Properties Corp., a Delaware corporation, 733 Third Avenue, New York, New York 10017
(u) USI International, Inc., a Delaware corporation, 3131 West Alabama, Suite 300, Houston, Texas 77098
(v) Wyatt Industries, Inc., a Texas corporation, 6200 Kansas Street, P.O. Box 3052, Houston, Texas 77001
(w) Young Squire, Inc., a North Carolina corporation, 350 Fifth Avenue, Suite 5700, New York, New York 10001
(x) Ingraham Plywood, Inc., a North Carolina corporation, P.O. Box 947, Thomasville, North Carolina 27230

1. The name of the parent corporation is: Waples-Platter Companies (Waples-North) P.O. Box 1350, Fort Worth, Texas 76101.

2. The subsidiaries wholly owned by Waples-Platter Companies which will participate in intercorporate hauling operations are:

Waples-Platter West Texas, Inc. (Waples-West), P.O. Box 1350, Fort Worth, Texas 76101
Ranch Style, Inc., P.O. Box 1350, Fort Worth, Texas 76101
White Swan, Inc., P.O. Box 1350, Fort Worth, Texas 76101
Graphic Arts, Inc., P.O. Box 1350, Fort Worth, Texas 76101

1. Parent corporation: Waters Furniture Industries, P.O. Box 1195 (Hogan Drive), Lenoir, N.C. 28645,

2. Wholly-owned subsidiary: Maxwell Royal Chair Company, P.O. Box 579 (1859 Main Ave., S.E.), Hickory, N.C. 28601.

1. Parent Corporation: Wausau Paper Mills Company, Brokaw, Wisconsin 54417,

2. Wholly-owned subsidiaries:

(a) Rhinelander Paper Company, 515 W. Davenport Avenue, Rhinelander, Wisconsin 54501
(b) Hennepin Paper Company, 100 S.W. Fifth Avenue, Little Falls, Minnesota 56345

(1) Parent corporation and address of principal office: Weinstein International Corporation, 5738 Olson Highway, Minneapolis, MN 55422.

(2) Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Twin Continental Transport Corporation, 5738 Olson Highway, Minneapolis, MN 55422.
(b) Iowa Pork Industries, 5738 Olson Highway, Minneapolis, MN 55422.

(1) Parent corporation and address of principal office: Wolverine World Wide, Inc., 9341 Courtland Drive, Rockford, Michigan 49351.

(2) Wholly-owned subsidiaries which will participate in the operations and addresses of their respective principal offices:

WWW Retail, Inc., 10901 Northland Drive, Rockford, Michigan 49341
Indianapolis Glove Co. Inc., 430 North Park Avenue, Indianapolis, Indiana 46206

1. Parent: XTRA Corporation, 2625 Concord Pike, Wilmington, Delaware 19803.

2. Subsidiaries:

XTRA, Inc.
XTRA Leasing, Inc.
MMX Corporation
Dunham Manufacturing Co., Inc.
Mercury Motor Express, Inc.
MOTAC, Inc.
Rowland Truck Equipment, Inc.
TG Railway Enterprises, Inc.
X-L-CO., Inc.
Channel Trucking & Services, Inc.
XILON, Inc.
AJF Industries, Inc.
AJF Warehouse Distributors, Inc.
Shippers Service, Inc.
Intermodal, Inc.
XTRA Inc.
Kirkwood's Inc.
Fairmont Retread, Inc.
Tampa Retread, Inc.
XTRA International Ltd.
XTRA Netherlands B. V.
XTRA France
XTRA (U.K. Leasing) Limited
XTRA (Leasing Services) Limited

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25561 Filed 8-21-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Criminal Division Order; Establishment of Election Crimes Branch

Effective August 11, 1980, there is established within the Public Integrity Section a separate organizational unit to administer, and to discharge the Criminal Division's responsibilities for the enforcement of Federal crimes involving elections, campaign financing, patronage and abuses of the franchise.

The Unit shall be known as the Election Crimes Branch. It shall be headed by a Director, and it shall be staffed by other professionals and non-professionals as needed. The Director of the Election Crimes Branch shall report to the Chief of the Public Integrity Section through the Assistant Chief for Operations.

The Election Crimes Branch shall be responsible for the development and implementation of enforcement policy concerning all statutes and theories of prosecution which focus upon the manner in which elections are conducted. It shall perform the oversight function of the Criminal Division described in 9 U.S.A.M. 2-133(h) and 2-133(o), and it shall assist United States Attorneys in the preparation and trial of election-related offenses as its resources permit. It shall be responsible for making legislative recommendations concerning the subject of election laws, and it shall discharge the liaison functions with the Federal Election Commission pursuant to the Memorandum of Understanding between the Criminal Division and the Commission dated December 7, 1977. The Director of the Election Crimes Branch shall be the principal contact person for the Federal Election Commission in its dealings with the Department of Justice with respect to enforcement of the Federal Election Campaign Act.

In addition, the Election Crimes Branch shall assist the Chief and the Assistant Chief of the Public Integrity Section with respect to matters arising under the Special Prosecutor provisions of the Ethics in Government Act (28 U.S.C. 591, *et seq.*), and it shall from time to time perform such other special assignments for the Chief and Assistant Chief of the Public Integrity Section as the need requires and resources permit.

Present Federal statutes that are specifically assigned to the Election Crimes Branch include the following: 18 U.S.C. 241 and 242 and 1341 (as they relate to election fraud); 18 U.S.C. 245 (as it relates to interference with the operation of polling places); 18 U.S.C. 592 through 607 inclusive; 42 U.S.C. 1973i(c) and 42 U.S.C. 1973i(e); the Federal Election Campaign Act (2 U.S.C. 431 through 455 inclusive); and 18 U.S.C. 1913.

Craig C. Donsanto of the Public Integrity Section is hereby named as Director of the Election Crimes Branch.

Philip B. Heymann,

Assistant Attorney General, Criminal Division.

[FR Doc. 80-25136 Filed 8-21-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Cornelius Buick Pontiac, GMC, Inc. et al.; 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 September 1, 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 September 1, 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, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 18th day of August 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
Cornelius Buick, Pontiac, GMC, Inc. (workers).	Fairfield, CA	8/4/80	7/23/80	TA-W-10,031	Sold Buicks, Pontiacs, GMC Trucks, mobile homes.
DSB Engineering, Inc. (Co.)	Algonac, MI	8/5/80	7/31/80	TA-W-10,032	Automotive electronic control systems consultants.
Henry I. Siegel (workers)	Dickerson, TN	8/1/80	7/30/80	TA-W-10,033	Pants for ladies and men.
Hoover Universal, Inc. (Co.)	Georgetown, KY	8/4/80	7/29/80	TA-W-10,034	Automotive seating.
Ideal Engineering Company (Co.)	Livonia, MI	8/4/80	8/5/80	TA-W-10,035	Automated production line equipment.
Inmont Corp.—Auto Trim Plant 2 (workers)	Port Huron, MI	8/4/80	7/24/80	TA-W-10,036	Production and office workers.
Morgan Refractory Contractors, Inc. (Co.)	Detroit, MI	8/6/80	7/24/80	TA-W-10,037	Produce ladle insert for roto pour lines for auto co.
Polaroid Sunglasses, Inc. (workers)	Braintree, MA	8/1/80	7/29/80	TA-W-10,038	Selling sunglasses.
Quality Sportswear Inc. (workers)	Haledon, NJ	8/4/80	7/31/80	TA-W-10,039	Tailors ladies garment.
Chrysler Credit Corp. (company)	Pittsburgh, PA	5/27/80	5/14/80	TA-W-10,040	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Lanham, MD	5/27/80	5/14/80	TA-W-10,041	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Towson, MD	5/27/80	5/14/80	TA-W-10,042	Wholesale and retail financing of Chrysler cars and trucks.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Credit Corp. (company)	Norfolk, VA	5/27/80	5/14/80	TA-W-10,043	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Charlotte, NC	5/27/80	5/14/80	TA-W-10,044	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Charleston, WV	5/27/80	5/14/80	TA-W-10,045	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Fayetteville, NC	5/27/80	5/14/80	TA-W-10,046	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Greensboro, NC	5/27/80	5/14/80	TA-W-10,047	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Wayne, NJ	5/27/80	5/14/80	TA-W-10,048	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Lenkintown, PA	5/27/80	5/14/80	TA-W-10,049	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Garden City, NJ	5/27/80	5/14/80	TA-W-10,050	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Cherry Hill, NJ	5/27/80	5/14/80	TA-W-10,051	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Wallingford, CT	5/27/80	5/14/80	TA-W-10,052	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Hartsdale, NY	5/27/80	5/14/80	TA-W-10,053	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	South Plainfield, NJ	5/27/80	5/14/80	TA-W-10,054	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Dedham, MA	5/27/80	5/14/80	TA-W-10,055	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Buffalo, NY	5/27/80	5/14/80	TA-W-10,056	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Wilkes-Barre, PA	5/27/80	5/14/80	TA-W-10,057	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Springfield, MA	5/27/80	5/14/80	TA-W-10,058	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Rochester, NY	5/27/80	5/14/80	TA-W-10,059	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Syracuse, NY	5/27/80	5/14/80	TA-W-10,060	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Albany, NY	5/27/80	5/14/80	TA-W-10,061	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Seekonk, MA	5/27/80	5/14/80	TA-W-10,062	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	North Andover MA	5/27/80	5/14/80	TA-W-10,063	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Falmouth, ME	5/27/80	5/14/80	TA-W-10,064	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Bedford, NH	5/27/80	5/14/80	TA-W-10,065	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Coral Gables, FL	5/27/80	5/14/80	TA-W-10,066	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Jacksonville, FL	5/27/80	5/14/80	TA-W-10,067	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Tampa, FL	5/27/80	5/14/80	TA-W-10,068	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Orlando, FL	5/27/80	5/14/80	TA-W-10,069	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Tallahassee, FL	5/27/80	5/14/80	TA-W-10,070	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Pensacola, FL	5/27/80	5/14/80	TA-W-10,071	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Columbia, SC	5/27/80	5/14/80	TA-W-10,072	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Charleston, SC	5/27/80	5/14/80	TA-W-10,073	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Fort Lauderdale, FL	5/27/80	5/14/80	TA-W-10,074	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Southfield, MI	5/27/80	5/14/80	TA-W-10,075	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Beachwood, OH	5/27/80	5/14/80	TA-W-10,076	Wholesale and retail financing of Chrysler cars and trucks.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Credit Corp. (company)	Cincinnati, OH	5/27/80	5/14/80	TA-W-10,077	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Kentwood, MI	5/27/80	5/14/80	TA-W-10,078	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Dayton, OH	5/27/80	5/14/80	TA-W-10,079	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Troy, MI	5/27/80	5/14/80	TA-W-10,080	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Toledo, OH	5/27/80	5/14/80	TA-W-10,081	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Saginaw, MI	5/27/80	5/14/80	TA-W-10,082	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Marquette, MI	5/27/80	5/14/80	TA-W-10,083	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Hillside, IL	5/27/80	5/14/80	TA-W-10,084	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Indianapolis, IN	5/27/80	5/14/80	TA-W-10, 085	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Louisville, KY	5/27/80	5/14/80	TA-W-10, 086	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Calumet City, IL	5/27/80	5/14/80	TA-W-10, 087	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Brookfield, WI	5/27/80	5/14/80	TA-W-10, 088	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Arlington Heights, IL	5/27/80	5/14/80	TA-W-10, 089	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Evansville, IN	5/27/80	5/14/80	TA-W-10, 090	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Edina, MN	5/27/80	5/14/80	TA-W-10, 091	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Fort Wayne, IN	5/27/80	5/14/80	TA-W-10, 092	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Atlanta, GA	5/27/80	5/14/80	TA-W-10, 093	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Birmingham, AL	5/27/80	5/14/80	TA-W-10, 094	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Mobile, AL	5/27/80	5/14/80	TA-W-10, 095	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Greenville, SC	5/27/80	5/14/80	TA-W-10, 096	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Huntsville, AL	5/27/80	5/14/80	TA-W-10, 097	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Savannah, GA	5/27/80	5/14/80	TA-W-10, 098	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Chattanooga, TN	5/27/80	5/14/80	TA-W-10, 099	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Macon, GA	5/27/80	5/14/80	TA-W-10, 100	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Montgomery, AL	5/27/80	5/14/80	TA-W-10, 101	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Metaine, LA	5/27/80	5/14/80	TA-W-10, 102	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Memphis, TN	5/27/80	5/14/80	TA-W-10, 103	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Baton Rouge, LA	5/27/80	5/14/80	TA-W-10, 104	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Jackson, MS	5/27/80	5/14/80	TA-W-10, 105	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Little Rock, AR	5/27/80	5/14/80	TA-W-10, 106	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Nashville, TN	5/27/80	5/14/80	TA-W-10, 107	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Knoxville, TN	5/27/80	5/14/80	TA-W-10, 108	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Shreveport, LA	5/27/80	5/14/80	TA-W-10, 109	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Dallas, TX	5/27/80	5/14/80	TA-W-10, 110	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Houston, TX	5/27/80	5/14/80	TA-W-10, 111	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	San Antonio, TX	5/27/80	5/14/80	TA-W-10,112	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Lubbock, TX	5/27/80	5/14/80	TA-W-10,113	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Oklahoma City, OK	5/27/80	5/14/80	TA-W-10,114	Wholesale and retail financing of Chrysler cars and trucks.

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Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Credit Corp. (company)	Fort Worth, TX	5/27/80	5/14/80	TA-W-10,115	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Corpus Christi, TX	5/27/80	5/14/80	TA-W-10,116	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Houston, TX	5/27/80	5/14/80	TA-W-10,117	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	San Diego, CA	5/27/80	5/14/80	TA-W-10,118	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Phoenix, AZ	5/27/80	5/14/80	TA-W-10,119	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Santa Ana, CA	5/27/80	5/14/80	TA-W-10,120	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Sherman Oaks, CA	5/27/80	5/14/80	TA-W-10,121	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Las Vegas, NV	5/27/80	5/14/80	TA-W-10,122	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	El Paso, TX	5/27/80	5/14/80	TA-W-10,123	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Long Beach, CA	5/27/80	5/14/80	TA-W-10,124	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	West Covina, CA	5/27/80	5/14/80	TA-W-10,125	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	San Mateo, CA	5/27/80	5/14/80	TA-W-10,126	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Sacremento, CA	5/27/80	5/14/80	TA-W-10,127	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Portland, OR	5/27/80	5/14/80	TA-W-10,128	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Bellevue, WA	5/27/80	5/14/80	TA-W-10,129	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Salt Lake City, UT	5/27/80	5/14/80	TA-W-10,130	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Spokane, WA	5/27/80	5/14/80	TA-W-10,131	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Albuquerque, NM	5/27/80	5/14/80	TA-W-10,132	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Dublin, CA	5/27/80	5/14/80	TA-W-10,133	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Bosise, ID	5/27/80	5/14/80	TA-W-10,134	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Kansas City, MO	5/27/80	5/14/80	TA-W-10,135	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Englewood, CA	5/27/80	5/14/80	TA-W-10,136	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	St. Louis, MO	5/27/80	5/14/80	TA-W-10,137	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Springfield, MO	5/27/80	5/14/80	TA-W-10,138	Wholesale and retail financing of Chrysler cars and trucks.
Chryler Credit Corp. (company)	Des Moines, IA	5/27/80	5/14/80	TA-W-10,139	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Wichita, KS	5/27/80	5/14/80	TA-W-10,140	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Omaha, NB	5/27/80	5/14/80	TA-W-10,141	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Cape Girardeau, OM	5/27/80	5/14/80	TA-W-10,142	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Bismarck, ND	5/27/80	5/14/80	TA-W-10,143	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Casper, WY	5/27/80	5/14/80	TA-W-10,144	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	New York, NY	5/27/80	5/14/80	TA-W-10,145	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Chicago, IL	5/27/80	5/14/80	TA-W-10,146	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Los Angeles, CA	5/27/80	5/14/80	TA-W-10,147	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Stanford, CT	5/27/80	5/14/80	TA-W-10,148	Wholesale and retail financing of Chryler cars and trucks.
Chryler Credit Corp. (company)	Irvine, CA	5/27/80	5/14/80	TA-W-10,149	Wholesale and retail financing of Chryler cars and trucks.
Cayadutta Tanning (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,150	Leather tanners.
Farmington Manufacturing Co. (ACTWU)	Farmington, MO	8/1/80	7/29/80	TA-W-10,151	Clothing.
Framglo Tanner (ACTWU)	Gloversville, NY	8/1/80	7/31/80	TA-W-10,152	Leather tanners.
Hagaman Manufacturer (ACTWU)	Hagaman, NY	8/1/80	7/31/80	TA-W-10,153	Leather tanners.

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Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Independent Leather Manufacturing (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,154	Leather tanners.
Joseph Perrella Inc. (ACTWU)	Gloversville, NY	8/1/80	7/30/80	TA-W-10,155	Men's and ladies' dress clothes.
Karg Brothers, Inc. (ACTWU)	Johnstown, NY	8/1/80	7/31/80	TA-W-10,156	Leather tanners.
Karg Finishing (ACTWU)	Johnstown, NY	8/1/80	7/31/80	TA-W-10,157	Leather tanners.
Wood and Hyde (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,158	Leather tanners.
Bee Chemical Co. (Co)	Belleville, MI	8/1/80	7/29/80	TA-W-10,159	Auto paint, exterior and interior.
Bee Chemical Co. (Co)	Gardena, CA	8/1/80	7/29/80	TA-W-10,160	Auto paint, exterior and interior.
Bee Chemical Co. (Co)	Lansing, L	8/1/80	7/29/80	TA-W-10,161	Auto paint, exterior and interior.
Eiffel Leather Fashion, Inc. (workers)	N.Y.C., NY	7/29/80	7/22/80	TA-W-10,162	Leather garments.
Essex Group of Boyne (workers)	Boyne City, MI	7/21/80	7/10/80	TA-W-10,163	Automotive switches for American made cars.
MuRata Corp. (IUE)	Marietta, GA	7/21/80	7/9/80	TA-W-10,164	Electronic components, poistors and resistors for electronic circuits.
MuRata Corp. (IUE)	Rockmart, GA	7/21/80	7/9/80	TA-W-10,165	Electronic capacitors.
S.P. Penick (ICWU)	Lyndhurst, NJ	8/5/80	7/31/80	TA-W-10,166	Pharmaceutical raw materials.
Stan Kinnaman Cedar Products (workers)	Copalis Crossing, WA	5/19/80	5/12/80	TA-W-10,167	Cedar shakes.
Ambroson Gloves Inc. (ACTWU)	Gloversville, NY	8/1/80	7/30/80	TA-W-10,168	Men's and ladie's leather sport and dress gloves.
Colonial Tanning (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,169	Contract leather tanning.
Crown Leather Finishing (ACTWU)	Johnstown, NY	8/1/80	7/29/80	TA-W-10,170	Leather tanning.
Ferro Manufacturing Corp. (workers)	Detroit, MI	8/4/80	7/31/80	TA-W-10,171	Tool and die.
Johnstown Leather Corp. (ACTWU)	Johnstown, NY	8/1/80	7/29/80	TA-W-10,172	Leather tanners of shoes, gloves, garments.
Peerless Tanning Cco. (ACTWU)	Johnstown, NY	8/1/80	7/29/80	TA-W-10,173	Leather tanners.
Risedorph, Inc. (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,174	Leather tanners.
Simco Leather (ACTWU)	Johnstown, NY	8/1/80	7/29/80	TA-W-10,175	Leather tanners.
Twin City Leather (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,176	Leather tanners.
Asheville Mica Co. (workers)	Newport News, VA	8/5/80	8/1/80	TA-W-10,177	Produce parts from natural mica.
Carr Tool Co. (workers)	Farmington Hills, MI	8/5/80	8/1/80	TA-W-10,178	Die details for auto industry.
C & B Enterprises, Inc. (workers)	Manne City, MI	7/25/80	5/26/80	TA-W-10,179	Rods for pistons for autos.
Clifton Heights Sportswear (union)	Bridgeport, PA	5/7/80	5/1/80	TA-W-10,180	Shirts.
Dyna Klean (workers)	Youngstown, OH	8/5/80	7/31/80	TA-W-10,181	Industrial vacum clean up for steel industries.
Elgin, Joliet and Eastern Railway Co. (workers).	Joliet, IL	6/17/80	6/13/80	TA-W-10,182	Transportation of steel.
Lilly Mgf. (ILGWU)	Lilly, PA	8/5/80	8/1/80	TA-W-10,183	Dresses.
Monarch Steel, Inc. (workers)	Detroit, MI	8/5/80	8/1/80	TA-W-10,184	Supply steel to parts manufacturers of the auto industry.
Uniwear Inc. (workers)	Akron, OH	8/5/80	7/18/80	TA-W-10,185	Rent industrial uniforms to industries in Akron and Cleveland areas.
California Shellfish Co. (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,186	Fish processing.
California Shellfish Co. (union)	Cresent City, CA	7/18/80	7/15/80	TA-W-10,187	Fish processing.
Depoe Bay Fish Co. (union)	Newport, OR	7/18/80	7/15/80	TA-W-10,188	Fish processing.
Humbolt Seafood Co. (union)	Eureka, CA	7/18/80	7/15/80	TA-W-10,189	Fish processing.
Meredith Fish Co. (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,190	Fish processing.
Meredith Fish Co. (union)	Eureka, CA	7/18/80	7/15/80	TA-W-10,191	Fish processing.
Meredith Fish Co. (union)	Bodega Bay, CA	7/18/80	7/15/80	TA-W-10,192	Fish processing.
Point St. George Fisheries (union)	Santa Rosa, CA	7/18/80	7/15/80	TA-W-10,193	Fish processing.
Tide Wharfs Co. (union)	Bodega Bay, CA	7/18/80	7/15/80	TA-W-10,194	Fish processing.
A. Puccini and Sons (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,195	Fish processing.
Astoria Seafoods Co. (union)	Astoria, OR	7/18/80	7/15/80	TA-W-10,196	Fish processing.
Charter International Oil (union)	Charleston, OR	7/18/80	7/15/80	TA-W-10,197	Fish processing.
Grader Fish Co. (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,198	Fish processing.
M. Alioto Seafoods/Harbor Fisheries (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,199	Fish processing.
North Beach Star, Inc. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,200	Fish processing.
Ocean Foods of Astoria, Inc. (union)	Astoria, OR	7/18/80	7/15/80	TA-W-10,201	Fish processing.
Standard Fisheries Inc. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,202	Fish processing.
Tarantino Fish Co. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,203	Fish processing.
Caito Fisheries, Inc. (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,204	Fish processing.
California Shellfish Co. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,205	Fish processing.
Cresent Fisheries (union)	Cresent City, CA	7/18/80	7/15/80	TA-W-10,206	Fish processing.
Hallmark Fisheries Co. (union)	Charleston, OR	7/18/80	7/15/80	TA-W-10,207	Fish processing.
J. Griffin and Co. (union)	Coos Bay, OR	7/18/80	7/15/80	TA-W-10,208	Buys fish for a Canadian firm.
Lucas Wharf Inc. (union)	Bodega Bay, CA	7/18/80	7/15/80	TA-W-10,209	Fish distributers.
Tom Lazio Fish Inc. (union)	Eureka, CA	7/18/80	7/15/80	TA-W-10,210	Fish processing.
Western California Fish Co. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,211	Fish processing.
Wisconsin Bridge and Iron (union)	Milwaukee, WI	7/18/80	7/15/80	TA-W-10,212	Fabricator and erector of steel.
American Bumper Co. (union)	Ionia, MI	8/1/80	7/29/80	TA-W-10, 213	Small car parts.
Bel-Mor Knitwear Inc. (union)	Farmingdale, NY	7/28/80	7/24/80	TA-W-10, 214	Sweaters, tops, and skirts.
Crouse-Hinds, Arrow Hart Division (union)	Lewiston, MA	8/4/80	8/1/80	TA-W-10, 215	Specialty switches.
Delaran Industries, Inc. (union)	Buffalo, NY	8/1/80	7/29/80	TA-W-10, 216	Haul cars.
E. I. duPont de Nemours and Co. (Co.)	Flint, MI	8/4/80	7/31/80	TA-W-10, 217	Automotive finishes.
F. Alioto Fish Co. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10, 218	Fish processing.
Ironton Coke Co. (union)	Ironton, OH	8/5/80	7/29/80	TA-W-10, 219	Coke manufacturer.
Markay Handbags (Co.)	Plainfield, NJ	7/29/80	7/23/80	TA-W-10, 220	Ladies fashion handbags.
Philadelphia, Bethlehem and New England Railroad.	Bethlehem, PA	8/1/80	7/29/80	TA-W-10, 221	Supplies transportation service for the shipment of steel.
Shelter Globe Co. (union)	Grabill, IN	8/4/80	7/30/80	TA-W-10, 222	Steering wheels for domestic automobiles.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A. Paladini Fish Co. (FMA)	San Francisco, CA	7/18/80	7/15/80	TA-W-10, 223	Fish distribution and processing.
Eureka Fisheries, Inc. (FMA)	Fort Bragg, OR	7/18/80	7/15/80	TA-W-10, 224	Fish processing.
Ice and Cold Storage, (FMA)	Eureka, OR	7/18/80	7/15/80	TA-W-10, 225	Fish processing.
Ilwaco Fish Co. (FMA)	Ilwaco, WA	7/18/80	7/15/80	TA-W-10, 226	Fish processing.
Meredith Fish Co. (FMA)	Sacramento, CA	7/18/80	7/15/80	TA-W-10, 227	Fish processing.
Meredith Fish Co. (FMA)	Brookings, OR	7/18/80	7/15/80	TA-W-10, 228	Fish processing.
Nor-Cal Seafoods (FMA)	Eureka, OR	7/18/80	7/15/80	TA-W-10, 229	Fish processing.
Schnaubelt Fisheries, Co. (FMA)	Ft. Bragg, CA	7/18/80	7/15/80	TA-W-10, 230	Fish processing.
Seal Rock Fish Co. (FMA)	Santa Rosa, CA	7/18/80	7/15/80	TA-W-10, 231	Fish distribution and processing.
Alaska Packers Ass., Inc. (FMA)	Hammond, OR	7/18/80	7/15/80	TA-W-10, 232	Fish processing.
Alaska Packers Ass., Inc. (FMA)	Charleston, OR	7/18/80	7/15/80	TA-W-10, 233	Receiving center for shipping.
Alaska Packers Ass., Inc. (FMA)	Newport, OR	7/18/80	7/15/80	TA-W-10, 234	Fish processing.
Eureka Fisheries, Inc. (FMA)	Cresent City, OR	7/18/80	7/15/80	TA-W-10, 235	Fish processing.
Eureka Fisheries, Inc. (FMA)	Fields Landing, CA	7/18/80	7/15/80	TA-W-10, 236	Fish processing.
Eureka Fisheries, Inc. (FMA)	Harbor, OR	7/18/80	7/15/80	TA-W-10, 237	Fish processing.
BF Goodrich Co. (URW)	Akron, OH	8/5/80	7/31/80	TA-W10,238	Conveyor belting.
Diversified Engineered Products Inc., (workers).	Lansing, MI	8/6/80	7/29/80	TA-W10,239	Products for American auto industries.
Douglas & Lamason Co. (Co.)	Cleveland, MS	7/11/80	7/7/80	TA-W10,240	Aluminum auto parts.
Holiday Chrylor Plymouth, Inc. (workers)	Elyria, OH	7/21/80	7/10/80	TA-W10,241	Sell and service autos.
International Harvester Co., Components Div., Machining Plant & Foundry (UAW).	Indianapolis, IN	7/29/80	7/23/80	TA-W10,242	Engines fabricated, machined and assembled.
Lukens Steel Co. (USWA)	Coatesville, PA	7/29/80	7/23/80	TA-W10,243	Steel plates and heads.
Micanol Corp. (workers)	Livonia, MI	8/6/80	7/31/80	TA-W10,244	Tooling for automobiles.
Reichhold Chemical, Inc. (ICWU)	Tuscaloosa, AL	8/5/80	7/31/80	TA-W10,245	Octyl phenol, octyl resins, and novolic resins.
Stahl Manufacturing (workers)	Detroit, MI	7/9/80	7/3/80	TA-W10,246	Auto parts.
Century Machine Co. (UAW)	Riverview, MI	7/29/80	7/25/80	TA-W10,247	Specialized machining.
Davis Tool and Engineering Co. (UAW)	Romulus, MI	7/29/80	7/15/80	TA-W10,248	Auto parts (Ford).
Kay Industries, Inc. (UAW)	Detroit, MI	7/29/80	7/25/80	TA-W10,249	Marine/ordinance.
May Knitting Co. (UAW)	N.Y.C., NY	8/4/80	7/31/80	TA-W10,250	Sweaters.
New Jersey Zinc Co. (workers)	Palmerton, PA	8/6/80	6/25/80	TA-W10,251	Zinc metal, zinc oxide.
Raal Industries Inc. (UAW)	Southgate, MI	7/29/80	7/25/80	TA-W10,252	Service auto parts.
Reilly Plating Co. (UAW)	Melvindale, MI	7/29/80	7/25/80	TA-W10,253	Plating for auto parts.
Roland La Rose Ind. (UAW)	Mt. Clemens, MI	7/29/80	7/25/80	TA-W10,254	Sheet metal auto parts.
Selastomer Detroit Inc. (UAW)	Farmington, MI	7/29/80	7/15/80	TA-W10,255	Auto parts, rotating shaft seals.
Banner Spring and 4-Side Co. (USWA)	Taylor, MI	8/4/80	8/1/80	TA-W10,256	Wire and rod forms and stampings for auto cos. and scissor jack screws for jack supplies.
Brafco Steel Forgings Co. (Co.)	Ferndale, MI	8/1/80	7/28/80	TA-W10,257	Pitman arms, steering arms for auto industry.
Consolidation Coal Co. Laurel Mine, (Co.)	Central City, PA	8/5/80	7/30/80	TA-W10,258	Metallurgical coal.
ITT Automotive Electrical Products Division (workers).	Bellaire, MI	8/6/80	8/1/80	TA-W10,259	Electrical mechanical switches.
Jones and Laughlin Steel Corp. (USAW)	Louisville, OH	7/28/80	7/23/80	TA-W10,260	Stainless steel sheets and coil.
Mago Plastics Inc. (workers)	Cumberland, RI	8/4/80	7/31/80	TA-W10,261	Injection and blow molded plastic products for jewelry industry.
Naugatuck Chemical Division of Uniroyal Inc., (Co.).	Naugatuck, CT	8/1/80	7/28/80	TA-W10,262	Rubber chemicals, specialty rubber, thermal plastic rubber.
Uniroyal Inc., (Co.)	Painsville, OH	8/1/80	7/25/80	TA-W10,263	Nitryle rubber.
Uniroyal Inc., (Co.)	Geismar, LA	8/1/80	7/25/80	TA-W10,264	Synthetic rubber, rubber chemicals.
Birmingham Southern Railroad Co. (UTU)	Fairfield, AL	8/4/80	7/28/80	TA-W-10, 265	Steel railroad
Hercules Inc. (ICWU)	Parlin, NJ	8/1/80	7/28/80	TA-W-10, 266	Nitrocellulose.
Huntington Alloys (ICWU)	Catalattsburgh, KY	8/1/80	7/21/80	TA-W-10, 267	Nickel pipes.
Pantasote Inc.	London, OH	8/1/80	7/29/80	TA-W-10, 268	Molded parts.
St. Regis Papor Co. (#2581)	Libby, MT	8/1/80	7/23/80	TA-W-10, 269	Produces lumber plywood and stubs.
C & A Coal Co.	Anawalt, WVA	8/1/80	7/30/80	TA-W-10, 270	Coal.
Unger Public Warehouse (Teamsters)	Detroit, MI	8/1/80	7/25/80	TA-W-10, 271	Store automotive parts.
Unger Public Warehouse (Teamsters)	Wayne, MI	8/1/80	7/25/80	TA-W-10, 272	Store automotive parts.
Unger Public Warehouse (Teamsters)	Highland, MI	8/1/80	7/25/80	TA-W-10, 273	Store automotive parts.
Fairplane Engineering (workers)	Benton Harbor, MI	8/6/80	8/2/80	TA-W-10, 274	Tonearms bender.
General Motors Corp. (workers)	Baltimore, MD	8/14/80	8/13/80	TA-W-10, 275	Parts distribution.
Hancock Products, Inc. (workers)	Detroit, MI	8/6/80	8/4/80	TA-W-10, 276	Rocker arms, plate cam thrusts.
ITT Higbie Mfg. Co. Avon Div. (workers)	Rochester, MI	8/6/80	7/30/80	TA-W-10, 277	Manufacture steel tubing automotive parts.
K. J. Quinn & Co., Inc. (workers)	Malden, MA	8/7/80	7/28/80	TA-W-10, 278	Chemical coatings for shoes and leather.
Lanny Thiele Ford, Inc. (workers)	Johnstown, PA	7/28/80	7/21/80	TA-W-10, 279	New car Ford dealership sales and service.
Mississippi Valley Structural Steel Co. (Teamsters).	St. Louis, MO	8/6/80	8/4/80	TA-W-10, 280	Fabricated structured steel.
Tyghem Tool Co. (workers)	Detroit, MI	8/8/80	8/6/80	TA-W-10, 281	Manufactures tools, dies, fixtures, replacement parts and guages.
Z & W Foods, Inc. (workers)	Buffalo, NY	8/6/80	8/4/80	TA-W-10, 282	Meat products.
B & C Machine Co. Wheel Division (workers)	Barberton, OH	8/6/80	8/4/80	TA-W-10, 283	Automotive parts.
E & S Sportswear Inc. (workers)	Passaic, NJ	8/11/80	8/7/80	TA-W-10, 284	Manufacturing ladies and junior coats.
Hanna Mining (workers)	Cleveland, OH	8/4/80	7/30/80	TA-W-10, 285	Iron ore pellets.
Hawley Coal Mining Corp., Bottom Creek 1 and 2 (UMWA).	Landgraft, WV	8/6/80	8/4/80	TA-W-10, 286	Low-volatile metallurgical coal.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Industrial Metals Corp. (workers)	Centerville, TN	8/11/80	7/29/80	TA-W-10, 287	Transmission oil pump housing.
Leonard Automatics (CO)	Denver, NC	8/11/80	8/8/80	TA-W-10, 288	Sell pressing machines to garment industries.
Midland Ross Corp. Brake Div. (UAW)	Cleveland, OH	8/4/80	8/1/80	TA-W-10, 289	Manufactures brake products.
Platers Service, Inc. (workers)	Englewood, OH	8/11/80	8/8/80	TA-W-10, 290	Re-cycle bumpers.
Sen-Wel Industries (USWA)	Buffalo, NY	8/1/80	7/29/80	TA-W-10, 291	Fabricated steel.
Art's Wood Models and Plastics (Workers)	Mt. Clemens, MI	8/11/80	8/4/80	TA-W-10,293	Wood bottles, keller aids.
Auto Tube Inc. (workers)	Bradford, OH	8/11/80	8/8/80	TA-W-10,294	Exhaust and tailpipes for U.S. Market.
Baldor Electric Company (union)	St. Louis, MO	8/11/80	8/8/80	TA-W-10,295	Industrial quality electric motors and grindings.
B.I.C./Div. of Avnet, Inc. (workers)	Westbury, NY	8/11/80	7/29/80	TA-W-10,296	High fidelity products.
Crew Products Co. (workers)	Au Gres, MI	8/11/80	8/7/80	TA-W-10,297	Wire parts, production painting, and metal finishing.
Joseph T. Ryerson & Son, Inc. (workers)	Dayton, OH	8/11/80	8/5/80	TA-W-10,298	Buy steel in bulk quantities and sell to smaller companies.
Tri-State Engineering (union)	Springport, MI	8/11/80	8/7/80	TA-W-10,299	Wire containers.
Wisne Automation & Engineering Co. (workers).	Novi, MI	8/7/80	7/21/80	TA-W-10,300	Tools and fixtures for autos.
American Safety Equipment Corp. (Co.)	Palmyra, Mo	8/11/80	8/6/80	TA-W-10,301	Seat belts.
Demlow Products, Inc. (workers)	Clayton, MI	8/11/80	8/7/80	TA-W-10,302	Car seat springs, seat frames.
Duffy Tool and Stamping (workers)	Muncie, IN	8/11/80	8/8/80	TA-W-10,303	Metal stampings for automotive use.
Fleetline Industries (Co.)	Lumberton, NC	8/11/80	8/7/80	TA-W-10,304	Mens knit sport shirts.
Frazer Company (Co.)	Cincinnati, Oh	8/11/80	8/6/80	TA-W-10,305	Wax.
Trissi-Avaneti Division (workers)	Fayetteville, NC	8/7/80	7/31/80	TA-W-10,306	Textile industry.
Wickes Forest Industry (workers)	Grangeville, ID	8/7/80	8/4/80	TA-W-10,307	Lumber.
W.T. Armstrong Co. (Co.)	Elkhart, IN	8/7/80	8/4/80	TA-W-10,308	Woodwind musical instruments.
Zeller Corp. (union)	Defiance, Oh	8/7/80	7/24/80	TA-W-10,309	Universal joints.
Colonial Rubber Works (workers)	Dyersburg, TN	8/8/80	8/4/80	TA-W-10,310	Carpet underlay for houses, sponge parts for GM and Ford, thermo plastics, and rubber custom mixing.
J&S Investments, Inc. (Co.)	South Holland, IL	8/11/80	8/4/80	TA-W-10,311	Smoking accessories.
Keiper U.S.A. (workers)	Battles Creek, MI	8/11/80	8/8/80	TA-W-10,312	Seat recliners.
Owens-Corning Fiberglass Corp. (workers)	Jackson, TN	8/11/80	8/7/80	TA-W-10,313	Glass fiber reinforcements for plastics and rubber industry.
Sea Ray Boats, Inc. (workers)	Oxford, MI	8/11/80	8/6/80	TA-W-10,314	Fiberglass boats.

[FR Doc. 25676 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9580]

Ford Motor Co., Brownstown Redistribution Center; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 28, 1980 in response to a worker petition received on June 18, 1980 which was filed on behalf of workers and former workers at the Brownstown Redistribution Center of the Ford Motor Company, Brownstown Township, Michigan.

On August 1, 1980 workers of the Brownstown Redistribution Center of the Ford Motor Company, Brownstown Township, Michigan were denied eligibility to apply for adjustment assistance (TA-W-8511). The investigation revealed the Brownstown Redistribution Center supplied parts and accessories required to maintain all car and truck lines produced by Ford Motor to franchised dealers and independent customers.

The majority of the replacement parts and accessories which Ford sells through the distribution centers are manufactured by unaffiliated domestic firms. Further, most of the parts produced by Ford at certified component parts plants were used in the manufacture of original equipment at certified assembly plants. Production of replacement parts for trade-impacted Ford cars, trucks, vans and utility vehicles accounted for in insignificant portion of total output at each of the 44 certified component parts plants.

On June 18, 1980 the Department instituted another investigation on behalf of workers at the Brownstown Redistribution Center of Ford Motor Company, Brownstown Township, Michigan (TA-W-9580).

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-9590) and since the current petition presents no additional information pursuant to the previous determination (TA-W-8511) that would change that determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-25674 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9441]

Howton Manufacturing Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 1980 in response to a worker petition received on June 27, 1980 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing sportswear at Howton Manufacturing Company, Elizabeth, New Jersey.

In a letter dated Augsut 1, 1980, the petitioner requested that the petition be withdrawn. On the basis of this withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 14th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-25671 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9596]

New Jersey Steel and Structural Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 28, 1980 in response to a worker petition received on July 15, 1980 which was filed by the United Steelworkers on behalf of workers and former workers producing concrete reinforcing bar at the New Jersey steel and Structural Corporation, Sayreville, New Jersey.

The Notice of Investigation was published in the Federal Register on August 12, 1980 (45 FR 53620). No public

hearing was requested and none was held.

During the course of the investigation, it was established that all workers at the New Jersey Steel and Structural Corporation were previously denied eligibility to apply for adjustment assistance on November 16, 1979 (see TA-W-6067). That investigation was initiated on September 20, 1979 in response to a worker petition which had been received on September 18, 1979.

The plant in question was shut down on September 12, 1979 and employment of all hourly workers was terminated as of that date.

Since the entire previous investigation was conducted after the plant closed, and since the plant has never since reopened, and since no new evidence has been presented which contradicts the findings of the previous investigation, the findings of the previous investigation are still valid and further investigation would serve no purpose; consequently this investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-25673 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

Privacy Act Issuance; DOL/OIG-1: Routine Uses

AGENCY: Office of the Secretary.

ACTION: Publication of a clarification of routine uses for Privacy Act System DOL/OIG-1, Office of the Inspector General.

SUMMARY: The Office of the Inspector General conducts investigations into potential violations of the law, including investigations of contractors, subcontractors and grantees. The Office of the Inspector General finds it necessary to provide sufficient information from its files so that an information source may be able to provide relevant information and further so that a contractor, subcontractor or grantee may be able to take corrective action. The Department believes that the general routine uses published with its system of records annually and the routine uses published for this system of records are authority for the Office of the Inspector General to make such disclosures. However, in order to clarify any misunderstanding and to conform to similar notices published by agencies handling similar files, the Department publishes this technical amendment by republishing this routine use in its entirety and by adding clarifying language.

DATE: Persons wishing to comment may do so by September 22, 1980.

EFFECTIVE DATE: Unless otherwise notices in the Federal Register, this notice shall become final September 22, 1980.

COMMENTS MAY BE ADDRESSED TO: Ronald Whiting, Associate Solicitor for General Legal Services, United States Department of Labor, Room N-2464, 200 Constitution Ave., N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, 523-6807.

Republication of Routine Uses: DOL/OIG-1

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Labor hereby republishes its routine uses for a system of records maintained by the Office of the Inspector General, DOL/OIG-1, previously published at 44 FR 61680 (October 26, 1979). The purpose of this notice is to clarify the routine uses previously published for this system to indicate that in the course of conducing investigations, the Office of the Inspector General discloses sufficient identifying information from its records to a source or to a contractor or grantee so that relevant information may be obtained or that contractors or grantees may be able to take corrective action based upon the findings resulting from the investigation. The Department believes that its previous publications incorporate such disclosures, but is publishing this notice setting forth the parameters of the disclosures as related to the investigations conducted by the Office of the Inspector General.

DOL/OIG-1

SYSTEM NAME:

General Investigative Files, Case Tracking Files, and Subject/Title Index, USDOL/OIG

* * * * *

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses

Information may be disclosed to other Federal, State and local law enforcement agencies for civil or criminal law enforcement agencies for civil or criminal law enforcement, including the Justice Department regarding potential litigation and during the course of actual litigation. These records may be disclosed to other Federal Agencies for hiring or retention of employees; security clearances; letting of contracts; and issuance of licenses, grants or other benefits. The records may be disclosed to participants in the President's Anti-Organized Crime Program, and also as part of any proceeding where the Federal Employees' Compensation Act and related Acts, Longshoremen's and Harbor Workers' Compensation Act and related Acts, Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, is in issue. The records may be disclosed as part of any proceeding in which the Secretary of Labor, or any past or present Federal employee or consultant directly or indirectly involved in investigations or other enforcement activities under the above Acts, is a party or otherwise involved in an official capacity. In addition, records may also be provided to (1) the Merit Protection Board, (2) the Office of Personnel Management, (3) any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual being investigated, inform the source of the nature and purpose of the investigation, and to identify the type of information requested, and (4) disclose, as necessary, to a contractor, subcontractor, or grantee firm or organization to the extent that the disclosure is in USDOL's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action.

Dated: August 14, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-25677 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-23-M

[TA-W-9507]

Union Railroad Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 1980 in response to a petition received on July 10, 1980 which was filed by the United Steelworkers of American on behalf of workers and former workers of the Union Railroad Company in Pittsburgh, Pennsylvania.

The Notice of Inverstigation was published in the Federal Register on July 25, 1980 (45 FR 49705-8). No public hearing was requested and none was held.

On May 28, 1980, a petition was filed on behalf of the same group of workers (TA-W-8986).

The Notice of Investigation was published in the Federal Register on

June 27, 1980 (45 FR 43494–6). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA–W–8986, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 12th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-25672 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

Wage and Hour Division

Granted Waivers of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops

Notice is hereby given that pursuant to section 13(c)(4) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, *et seq.*) and the regulation concerning waivers of the child labor provisions of the Act for agricultural employment of 10 and 11-year-old hand harvesters of short season crops (29 CFR Part 575), the employer listed in this notice has been granted such a waiver. The requirements for granting a waiver specified in the statute and in the regulations have been satisfied, including the statement that no pesticides or other chemicals were used on the crop—tulip, daffodil and iris bulbs—to be hand harvested. This notice sets forth the name and address of the employer and the dates of the period the waiver will be in effect:

Mr. Leo Roozen, Washington Bulb Company, Inc., 1599 Beaver Marsh Road, Mt. Vernon, Wash. 98273. June 16–July 11, 1980, July 14–July 25, 1980, July 28–August 8, 1980.

Signed at Washington, D.C., this 15th day of August, 1980.

Henry T. White, Jr.

Deputy Administrator, Wage and Hour Division.

[FR Doc. 80-23739 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-27-M

MINIMUM WAGE STUDY COMMISSION

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the change in date of the following meeting:

NAME: Minimum Wage Study Commission.
DATE: Monday, September 8, 1980 (changed from Sept. 9).
TIME: 10:30 a.m.
PLACE: 1430 K St. NW, Suite 700.

Original notice of this meeting appeared in the Federal Register July 22, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, 1430 K St. NW, Suite 500, Washington, D.C. 20005; telephone (202) 376–2450.

Proposed Agenda:

(1) Presentation of Working Papers on employment effects, noncompliance, handicapped, and demographics.
(2) Status Report.
(3) Pending Business.

Louis E. McConnell,

Executive Director.

[FR Doc. 80-25675 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 413A]

Duke Power Co.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Duke Power Company, pursuant to section 108 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney general for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. for the Catawba Nuclear Station, Unit 1. The current holder of the construction permit is Duke Power Company.

The information was filed in connection with the application by Duke Power Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on August 7, 1975 at the Catawba site located in Mecklenburg County, North Carolina. Although the Catawba facilities consist of two nuclear power plants, the proposed action affects only Catawba Nuclear Station, Unit 1.

The original application was dated November 10, 1972. The Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the Federal Register on December 7, 1972 (37 FR 26053). Previously, the Notice of Hearing had been published in the Federal Register on December 1, 1972 (37 FR 25560).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina.

Any person who wishes to have his views on the antitrust matters with respect to the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before October 7, 1980.

Dated at Bethesda, Maryland, this 30th day of July, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-24004 Filed 8-7-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published July 25, 1980 (45 FR 49723). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published

prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the September 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EDT.

ACRS Subcommittee Meetings

**Class 9 Accidents,* August 28, 1980, Washington, DC. The Subcommittee will discuss hydrogen generation and control methods and degraded core/core melt accidents. Notice of this meeting was published August 13.

**Structural Engineering,* September 2, 1980, Washington, DC. The Subcommittee will review the structural integrity of Ice Condenser Containments similar to that for the Sequoyah Plant. Notice of this meeting was published August 18.

**Safety Philosophy, Technology and Criteria,* September 3, 1980, Washington, DC. The Subcommittee will review the NRC Staff's general approach to developing licensing requirements in a number of areas, including Near-Term Construction Permit (NTCP) requirements, the effect of non-safety systems on plant safety functions, and the requirements for future LWRs. The Subcommittee will also begin a review of the potential for cascading failures in nuclear power plants. Notice of this meeting was published August 19.

**Reactor Fuel,* September 3, 1980 (Afternoon), Washington, DC. The Subcommittee expects to complete its review of NUREG 0630, "Cladding Swelling and Rupture Models for LOCA Analysis." Notice of this meeting was published August 19.

**Regulatory Activities,* September 3, 1980, Washington, DC. Postponed to October 8. Notice of this meeting was published July 25.

**Combination of Dynamic Loads,* September 18-19, 1980, Washington, DC. Postponed to November (exact date to be determined). Notice of this meeting was published July 25.

**Ad Hoc ACRS Subcommittee,* September 19-20, 1980, Washington, DC (Rescheduled from September 18-19, Pasadena, CA). The Subcommittee will meet with representatives of the Reactor Safety Committee (RSK) of the Federal Republic of Germany to discuss the design of B&W NSSS small break LOCAs, feedwater systems and changes in the NRC siting criteria. Notice of this meeting was published July 25.

**Crystal River Nuclear Power Plant, Unit No. 3,* September 26, 1980 (Tentative), Washington, DC. The Subcommittee will review a transient that caused flooding of the Crystal River 3 containment and will review the NRC Staff recommendation on the Crystal River 3 fix. Notice of this meeting was published July 25.

**Dresden Nuclear Power Plant, Unit 1,* October 3, 1980, Washington, DC. The Subcommittee will discuss: (1) The method proposed by Commonwealth Edison Company to decontaminate the primary cooling system of Dresden Unit 1. (2) The Canadian Decontamination Process (CAN-DECON Concept). (3) Adequacy of processing and disposing of the radioactive waste resulting from the chemical decontamination. (4) Comments received from Federal Agencies and the public relating to decontamination of Dresden Unit 1.

**Waste Management,* October 3, 1980, Washington, DC. The Subcommittee will discuss proposed rulemaking on the technical criteria for regulating geological disposal of high-level radioactive waste (PR-60, published May 13, 1980, 45 FR 31393, "Geological Disposal Technical Criteria").

**Reactor Operations,* October 7, 1980, Washington, DC. The Subcommittee will review a draft of the NRC Proposed Plan to Implement the Requirement of Section 110 of the NRC FY-80 Authorization Bill (The Bingham Amendment) which calls for the identification of each current rule and regulation that the Commission determines to be of particular significance to the protection of the public health and safety, and determination of the extent to which each currently operating plant complies with these identified rules and regulations. Also, the Subcommittee plans to address various ACRS generic items assigned to it to monitor.

**Regulatory Activities,* October 8, 1980, (Rescheduled from September 3), Washington, DC. The Subcommittee will review Proposed Regulatory Guide 1.12, Revision 2, "Instrumentation for Earthquakes"; Regulatory Guide (Task No. RS 705-4), "Lightning Protection for Nuclear Power Plants"; Regulatory Guide (Task No. SC 704-5), "Functional Specification for Safety-Related Valve Assemblies in Nuclear Power Plants"; and Regulatory Guide (Task No. RS 809-5), "Qualification Tests for Cable Penetration Fire Stops for Use in Nuclear Power Plants." Notice of this meeting was published July 25.

**Safety Philosophy, Technology and Criteria,* October 8, 1980, Washington, DC. Cancelled.

**Emergency Core Cooling Systems,* October 15-16, 1980, Idaho Falls, ID. The Subcommittee will review new data from the LOFT and Semiscale Programs on Reactor Coolant Pump (RCP) Trip, and the progress of and plans for these Programs. Notice of this meeting was published July 25.

**Improved Safety Systems,* October 1980, Washington, DC. Cancelled. Notice of this meeting was published July 25.

**Three Mile Island Nuclear Power Plant, Unit No. 1,* October 30-31, 1980, (Rescheduled from August 5-6,), Washington, DC. The Subcommittee will review the modification made to TMI-1 in preparation for a restart following the TMI-2 accident. Notice of this meeting was published August 1.

**Regulatory Activities,* November 5, 1980, Washington, DC. The Subcommittee will review proposed regulatory guides, regulations and revisions to existing regulatory guides and regulations; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

**Combination of Dynamic Loads,* November, 1980 (exact date to be determined, rescheduled from September 18-19) Washington, DC. The Subcommittee will continue its review regarding the use of dynamic load combinations as a design basis for nuclear power plants.

**Evaluation of Licensee Event Reports (LERs),* November, 1980 (exact date to be determined), Washington, DC. The Subcommittee will discuss with representatives of the NRC Staff possible modifications to the NRC collection and storage of operational data from nuclear power plants.

ACRS Full Committee Meetings

September 4-6, 1980

A. **Sequoyah Nuclear Power Plant, Units No. 1 and No. 2:* Topics related to plant operation and ability to deal with a major accident.

B. **Boiling Water Reactors:* Reliability of control rod scram systems.

C. **Quantitative Risk Criteria:* Proposed criteria for regulation of nuclear plants.

D. **Review of NRC Regulatory Criteria and Reevaluation of Operating Nuclear Power Plants:* Proposed plan of action.

E. **Cladding Swelling and Rupture Models for LOCA Analysis (NUREG-0630):* Proposed revisions.

F. **North Anna Nuclear Power Station, Unit No. 2:* Review of operation and risk assessment.

G. **NRC Safety Research Program:* Proposed budget for FY-1982/1983.

October 9-11, 1980

Agenda to be announced.

November 6–8 1980

Agenda to be announced.

Dated: August 19, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-25664 Filed 8-21-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on September 4–6, 1980, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was previously published in 45 FR 49723 on July 25, 1980.

The agenda for the subject meeting will be as follows:

Thursday, September 4, 1980

8:30 A.M.–9:30 A.M.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding matters to be considered during the meeting with the NRC Commissioners [1] and miscellaneous matters relating to ACRS activities.

The Committee will also hear and discuss the report of its Fluid Dynamics Subcommittee and reports of its consultants and Fellows who may be present regarding the performance of hydraulic scram systems for BWR control rod drive mechanisms.

9:30 A.M.–12:30 P.M.: Hydraulic Scram Systems for Boiling Water Reactors (Open)—The Committee will hear and discuss reports from representatives of the NRC Staff, the General Electric Company and the utility industry who may be present regarding the performance and reliability of hydraulic scram systems for BWR control-rod drive mechanisms.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1:30 P.M.–2:15 P.M.: Report of ACRS Subcommittee on Reliability and Probabilistic Assessment (Open)—The ACRS will hear and discuss the report of its Subcommittee and its consultants and Fellows who may be present regarding the effort to develop quantitative risk criteria for use in the regulation of nuclear facilities.

2:15 P.M.–6:45 P.M.: Sequoyah Nuclear Power Plant Units 1 and 2 (Open)—The Committee will hear and discuss the reports of ACRS Subcommittees and consultants who may be present regarding aspects of the Sequoyah Nuclear Power Plant design including provisions to control flammable gases after a serious accident and the ability of the containment to withstand combustion of such gases. The Committee will also hear and discuss reports from representatives of the NRC Staff and the applicant with respect to items noted above as well as the results of the augmented low power test program at the Sequoyah plant. Portions of this session will be closed as necessary to discuss Proprietary Information related to this project.

Friday, September 5, 1980

8:30 A.M.–12:30 P.M.: Quantitative Risk Criteria (Open)—The Committee will discuss its proposed report to the Nuclear Regulatory Commission proposing quantitative risk criteria for use in the regulation of nuclear facilities.

1:30 P.M.–2:30 P.M.: Meeting with NRC Chairman and Other NRC Commissioners [1] (Open)—The Committee will meet with the NRC Chairman and other NRC Commissioners who may be present to discuss safety related matters including the proposed NRC safety research budget for FY 1982.

2:30 P.M.–4:30 P.M.: Review of NRC Regulatory Requirements and the Extent to Which Operating Facilities Comply With Such Requirements (Open)—The Committee will hear and discuss a report from the NRC Staff regarding the plan of action to conduct a review of NRC rules and regulations and to determine the degree to which each operating nuclear plant licensed under Sections 103 and 104(b) of the Atomic Energy Act complies.

4:30 P.M.–6:30 P.M.: Cladding Swelling and Rupture Models for LOCA Analysis (Open)—The Committee will hear and discuss reports from members of the NRC Staff and representatives of the nuclear industry who may be present regarding the implementation of NUREG–0630, Cladding Swelling and Rupture Models for LOCA Analysis.

Saturday, September 6, 1980

8:30 A.M.–4:00 P.M.: Concluding Session (Open)—The Committee will discuss its proposed reports to the Nuclear Regulatory Commission regarding items discussed during this meeting. In addition, the Committee will complete preparation of a report to the Nuclear Regulatory Commission regarding a proposed rule on fire protection for nuclear plants (10 CFR Part 50.48 and Appendix R to 10 CFR Part 50). Proposed replies to correspondence regarding clarification of the ACRS report of April 16, 1980 on Anticipated Transients Without Scram and the condition of steam generator tubes in the Turkey Point Nuclear Power Plant will also be discussed.

The Committee will discuss the future scheduled for its activities including anticipated subcommittee meetings.

The Committee will hear and discuss reports of its Subcommittees regarding safety related matters such as the potential for cascading failures in nuclear power plants.

The Committee will discuss the qualifications of candidates proposed as nominees for appointment to the Committee.

Portions of this session will be closed as necessary to discuss Proprietary Information and to protect information the release of which would represent an unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 1, 1979 (44 FR 56408). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)) and to protect information the release of which would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting

[1] Tentative.

has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, or in his absence the ACRS Deputy Director, Mr. Marvin C. Gaske, (telephone 202/634-3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: August 19, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-25665 Filed 8-21-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

August 19, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for a meeting of the staff of Panel VIII (The Quality of American Life) of the President's Commission for a National Agenda for the Eighties. The meeting is scheduled for September 3, 1980, from 9:00 a.m. until 4:00 p.m. at Radcliff University, Cambridge, Massachusetts.

The purpose of the meeting is to discuss the panel's draft report.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-25683 Filed 8-21-80; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Solicitation of Public Views, Section 201 Case; Mushrooms, Prepared or Preserved

Pursuant to section 201 of the Trade Act of 1974, the President received, on August 18, 1980, a report from the United States International Trade Commission (USITC) on the case of Mushrooms, Prepared or Preserved, (Investigation No. TA-201-43). The Commission submitted a report containing an affirmative determination that mushrooms provided for in item 144.20 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission found and recommended that to prevent or remedy the serious injury to the domestic industry, it would be necessary to impose quantitative restrictions on mushrooms provided for in item 144.20, as follows—

Year	Quota [1]
July 1, 1980–June 30, 1981	86
July 1, 1981–June 30, 1982	94
July 1, 1982–June 30, 1983	103

[1] Quantity in millions of pounds drained weight.

The Commission also recommended that the President allocate the quotas on a per country basis as he deems appropriate.

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest and whether he will direct expeditions consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the United States Trade Representative (USTR) chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist in the development of recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the USTR welcomes briefs from interested parties on the above listed subjects. For further information, contact, Tim Regan, Room 725, telephone 202-395-6127. (Additional information on this case is available in USITC report TA-201-43).

Briefs should be submitted in twenty (20) copies, in conformity with 15 CFR 2003, to the Secretary, Trade Policy Staff Committee, Room 735, Office of the United States Trade Representative, 1800 G Street, N.W., Washington, D.C. 20506.

To be considered by the Office of the USTR, submissions should be received no later than the close of business Tuesday, September 9, 1980.

Ann H. Hughes,

Chairman, Trade Policy Staff Committee.

[FR Doc. 80-25702 Filed 8-21-80; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17071; File No. SR-Amex-80-22]

American Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 6, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange has revised its procedure for the disposition of minor rule violations pursuant to Article V, section 1(c) of the Exchange Constitution. Minor rule violations include any act or omission tending to disrupt the orderly conduct of business on the floor or which causes serious interference with the personal comfort or safety of other persons on the floor, and any failure of a member or member organization to comply with any on-floor or off-floor operational procedure established by the Exchange.

The procedure would be revised as follows: (1) A member or member organization would be allowed six violations of the same type within a six-month period before being required to appear before a Disciplinary Committee; however, the Division of Market Operations, in consultation with the Floor Governor or Exchange Official bringing the charge, will retain discretion to refer a violation to a Disciplinary Committee after a second offense;

(2) The schedule of minimum fines would be extended for the four additional offenses as follows:
1st Offense—$50; 4th Offense—$300;
2nd Offense—$100; 5th Offense—$400;
3rd Offense—$200; 6th Offense—$500.

(3) The procedure would now expressly provide that, in addition to on-floor operational matters, noncompliance with off-floor operational matters, may be considered a minor rule violation.

The Exchange's Statement of Purpose and Basis

While the minor rule violation procedure has helped to improve the operational effectiveness of both member firms and the Exchange, experience with the procedure has indicated than an automatic referral to a Disciplinary Committee after two violations is too inflexible. The revised procedure, allowing six violations with discretionary referral to a Disciplinary Committee after two offenses, will increase flexibility without a reduction in the effectiveness of the procedure. The proposed rule change is consistent with section 6(b) of the Act, in particular sections 6(b) (1) and (7) in that it will enhance the effectiveness and fairness of its disciplinary procedures.

Comments Received From Members, Participants or Others on Proposed Rule Change

The revised procedures have been discussed with and approved by the Exchange's Committee on Market Operations.

Burden on Competition

The Exchange has determined that no burden on competition will be imposed by this amendment.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-memtioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 11, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-25531 Filed 8-21-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 11306; 811-1133]

Industrial Growth Fund of North America, Inc.; Proposal To Terminate Registration

August 18, 1980.

Notice Is Hereby Given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that Industrial Growth Fund of North America, Inc. ("Fund"), c/o Oswald Ruggero, Esq., Joseph & Ruggero, 261 Broadway, New York, N.Y. 10007 registered under the Act as an open-end, diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of Delaware on May 11, 1961; that it registered under the Act on December 5, 1961, and that it filed a registration statement (File No. 2-20271) pursuant to the Securities Act of 1933 ("1933 Act") in connection with a proposed public offering of shares of its capital stock. The 1933 Act registration statement was not made effective, and the Fund did not make a public offering of its securities. The Fund requested withdrawal of this registration statement, pursuant to Rule 477 under the 1933 Act, and the Commission ordered it withdrawn as of August 2, 1962. The Fund has not filed any of the periodic reports required by the Act since 1965. Finally, information in the Commission's files indicates that after the withdrawal of such registration statement the Fund was abandoned, and that it ceased to exist as a corporate entity and to profitably engage in any business. Thus is appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare be order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice Is Further Given that any interested person may not later than September 15, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date, unless the Commission thereafter orders

a hearing upon request, or upon the Commission's own motion. 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 Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-25529 Filed 8-21-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17065; File No. SR-NASD-80-15]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

A. Section 6 of Part IV of Schedule C of the Association's By-Laws is deleted.

B. The various parts of Schedule C are renumbered to conform to the following:

Part and Title

I—Registration of Principals
II—Registration of Representatives
III—Disciplinary Actions
IV—Persons Exempt From Registration
V—Qualification Examinations and Waiver of Requirements
VI—Confidentiality of Examinations
VII—Transfer From SECO Members
VIII—Foreign Associates
IX—Summary Suspension

Cross reference within the Schedule are changed accordingly.

The NASD's Statement of Purpose of Proposed Rule Change

The rule change makes only editorial changes to Schedule C. Specifically, the deletion of Section 6 of Part IV (now Part V) of Schedule C eliminates duplicative material found in Section 2 of Part VI (now Part VII) of Schedule C. The renumbering of the parts of Schedule C presents the material in a more logical order.

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

It is the responsibility of the Association, under Section 15A(g)(3) of the Act, to implement appropriate qualification standards for persons seeking entrance into the securities industry. Schedule C of the Association's By-Laws contains these standards.

Comments Received from Members, Participants, or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

The NASD's Statement on Burden on Competition

Since the proposed rule change involves only editorial changes, the Association envisions no effects on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 22, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 14, 1980.

[FR Doc. 80-25530 Filed 8-21-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21680; 70-6451]

Columbus and Southern Ohio Electric Co.; Proposed Revisions to Fuel Inventory Financing Portion of Short-Term Debt Authorization

August 15, 1980.

Notice is hereby given, that Columbus and Southern Ohio Electric Company ("CSOE"), 215 North Front Street, Columbus, Ohio 43215, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated May 28, 1980 (HCAR No. 21594), CSOE was granted a short-term borrowing authorization through July 1, 1981, in an aggregate principal amount not to exceed $200,000,000. CSOE's credit arrangements for such borrowings consisted of (1) lines of credit totaling $113,066,000 with 38 banks; (2) a loan agreement with certain banks for up to $80,000,000 of loans for use in retiring certain of its preferred shares; (3) a credit agreement ("Credit Agreement") with Prulease, Inc. ("Prulease"), for up to $30,000,000 of fuel inventory financing; and (4) arrangements for borrowing up to $23,000,000 from funds managed by certain banks' trust departments. With respect to the Credit Agreement borrowings, each loan is to be an amount equal to or less than CSOE's estimated average inventory value of coal and oil for the month in which the loan is made, is to be evidenced by a note, and is to be secured by a security interest in CSOE's supply of coal and fuel oil at its generating stations. Each note now matures at the end of the month for which the loan is made, bears interest at an annual rate equal to 1.125 percent plus 0.1 percent (subject to adjustment) as an indemnity for state and local income taxes plus the rate borne by (or quoted on) commercial paper issued by Prulease. No compensating balances are required. The present Credit Agreement expires September 30, 1980.

By post-effective amendment CSOE requests authorization to enter into an amendment to the Credit Agreement, to be dated as of October 1, 1980, which

amendment would extend its termination date to September 30, 1982, and would make certain other changes. Under the amendment each note would bear interest at an annual rate equal to 1.5 percent plus 0.13 percent (subject to adjustment) as an indemnity for State and local income taxes plus the rate borne by (or quoted on) commercial paper issued by Prulease. In addition, there will be a commitment fee, payable if the average daily outstanding borrowings are less than 50 percent of the average daily available commitment during the period October 1, 1980, through September 30, 1982, of an amount equal to (i) 1.125 percent multiplied by (ii) the excess of such average daily available commitment during such period over such average daily outstanding borrowings during such period, multiplied by (iii) a fraction, the numerator of which is the number of months in such period and the denominator of which is 12. Such fee, if any, is payable on September 30, 1982, and annually thereafter if the termination date is extended. The amendment also contains provisions for annual extensions of the termination date. The effective cost of borrowings under the Credit Agreement, as proposed to be amended, based on the 8.75 percent interest rate for commercial paper issued by Prulease on July 15, 1980, and assuming no commitment fee, would be 10.38 percent.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given, that any interested person may, not later than September 11, 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, as amended by said post-effective amendment, 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 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, as amended by said post-effective amendment or as it may be further amended, may be 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. 80-25697 Filed 8-21-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Privacy Act of 1974; Notice of Clarification

AGENCY: Department of the Treasury, United States Customs Service

ACTION: To provide clarification for the general public with regard to the Privacy Act system Internal Security Records System, Treasury/Customs 00.127

SUMMARY: Systems exempt in whole or part from provisions of 5 USC 552a, and the reasons therefore, are published for each constituent unit of the Department in *Title 31 of the Code of Federal Regulations.* One listing for the U.S. Customs Service has been found to be incomplete. This notice is provided to inform the general public of this omission.

DATES: Not applicable. No public comments required.

ADDRESSES: Entry Procedures and Penalties Division, Office of Regulations and Rulings, United States Customs Service, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Pinter, Chief, FOIA and Privacy Branch, United States Customs Service, (202) 566-8669.

Dated: August 6, 1980.

W. J. McDonald,

Assistant Secretary (Administration).

The system description for the Internal Security Records System Treasury/Customs 00.127 indicates that, since its creation in 1975 (in accordance with 5 USC 552a), it has been determined to be an exempt system of records. To provide the reasons for this determination, the system name should have appeared in the listing under § 1.36 al and bl and in paragraph c. These paragraphs relate to exemptions (j)(2), (k)(2) and (k)(5), respectively. However, the system name in the al listing was inadvertently omitted.

This notice is provided to inform the general public that records requested from this system may be exempt under (j)(2), (k)(2) and (k)(5) for the reasons provided in section 1.36.

The Privacy Act regulation is currently being reviewed for revision and, therefore, no action will be taken to update only § 1.36al until the entire regulation is reviewed.

[FR Doc. 80-25292 Filed 8-21-80; 8:45 am]

BILLING CODE 4810-22-M

Customs Service

[521851]

Extension of Time for Comments Concerning Courier Services; Invitation To the Public to Comment

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time permitted for the submission of comments in response to a notice published in the Federal Register on June 19, 1980 (45 FR 41565), inviting the public to comment on Customs handling of importations by courier services. Comments were to have been received on or before August 18, 1980. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATE: Comments must be received on or before September 18, 1980.

ADDRESS: Comments, preferably in triplicate, should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2426, U.S. Customs Serivce, 1301 Contitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harold Loring, Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8237).

Dated: August 14, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-25717 Filed 8-21-80; 8:45 am]

BILLING CODE 4810-22-M

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 3]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $673,000 has been established for the company.

Name of Company:
PRESTIGE CASUALTY COMPANY
Business Address:
5454 West Fargo Avenue
Skokie, Illinois 60077
State of Incorporation:
Illinois

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should ennotate their reference copies of Treasury Circular 570, 1980 Revision, at page 44510 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: August 14, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-25537 Filed 8-21-80; 8:45 am]
BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Park Central Hotel, 705 18th Street, NW, Washington, DC, on October 27 and 28, 1980. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., on October 27 and 28, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC (202-389-3702) prior to October 17.

The meeting will be closed from 8:30 a.m. to 5 p.m., on October 27, and from 8:30 a.m. to 1 p.m. on October 28, for consideration of specific proposals in accordance with provisions set forth in Subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 15, 1980.

Max Cleland,

Administrator.

[FR Doc. 80-25663 Filed 8-21-80; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 165
Friday, August 22, 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).

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1

[M-288 Amdt. 3; August 18, 1980]

CIVIL AERONAUTICS BOARD.

Notice of continuation of item from the August 14 meeting.

TIME AND DATE: 10 a.m., August 15, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dockets 37949 and 36595, petition of the American Society of Travel Agents, Inc. (ASTA) for revocation of exemption and motion of ASTA for consolidation of dockets 36595 and 37949 (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1577-80 Filed 8-19-80; 4:15 pm]

BILLING CODE 6320-01-M

2

[M-289 Amdt. 1; August 19, 1980]

CIVIL AERONAUTICS BOARD.

Short Notice of Addition to the August 21, 1980 board meeting.

TIME AND DATE: 9:30 a.m., August 21, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1a. Air carrier tariffs governing "involuntary" refunds. (Memo No. 9873, BCP.)

1b. Draft Order to Show Cause proposing an increase in domestic baggage liability limits from $750 to $1000 per passenger. (Memo No. 9874, BCP, BDA, OGC.)

4a. Docket 38216, application of Yukon Air Service, Inc. d/b/a Air North for a certificate of public convenience and necessity and a petition for an order to show cause for an expedited fitness hearing. (Memo No. 9872, BDA.)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1578-80 Filed 8-19-80; 4:15 pm]

BILLING CODE 6320-01-M

3

[M-288 Amdt. 2; August 18, 1980]

CIVIL AERONAUTICS BOARD.

Notice of deletion and addition of items to the August 14, 1980 board meeting

TIME AND DATE: 9:30 a.m., closed meeting; 2 p.m., open meeting, August 14, 1980.

PLACE: Room 1012, closed; room 1027, open, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Closed (deleted): 1. Background Information Relating to U.S.-Philippine Negotiations Scheduled to Begin September 1, 1980, in Manila. (BIA)

Closed (added): 4a. Upcoming consultations with China. (BIA)

Open (added): 7a. Dockets 37949 and 36595, Petition of the American Society of Travel Agents, Inc. (ASTA) for Revocation of Exemption and Motion of ASTA for Consolidation of Dockets 36595 and 37949. (BDA)

Open (deleted): 19. Docket 37588, *Palm Beach Environmental Study.* (Memo 9448-E, BDA.)

STATUS: 1-4a, closed; 5-22, open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1579-80 Filed 8-19-80; 4:15 pm]

BILLING CODE 6320-01-M

4

[M-290, August 18, 1980]

CIVIL AERONAUTICS BOARD.

Short notice of closed meeting, August 15, 1980.

TIME AND DATE: 8 a.m., August 15, 1980.

PLACE: Room 1012, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Background Information Relating to U.S.-Philippine Negotiations Scheduled to Begin September 1, 1980 in Manila. (BIA)

STATUS: Closed:

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: This Item was originally scheduled for the August 14, 1980 Board Meeting. However, due to time constraints it was not possible to reach discussion of it then. Therefore, the members decided to schedule another Closed Board Meeting on this Item for the following morning. Accordingly, the following Members have voted that a short notice meeting be held on August 15, 1980 and that no earlier announcement of the meeting was possible:

Chairman Marvin S. Cohen.
Member Elizabeth E. Bailey.
Member Gloria Schaffer.
Member George A. Dalley.

For Closure reason and Persons Expected to Attend, please see M-288 dated August 7, 1980.

[S-1580-80 Filed 8-19-80; 4:15 pm]

BILLING CODE 6320-01-M

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, August 26, 1980.

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public.

1. Freedom of Information Act Appeal No. 80-S-FOIA-280, involving a request by a charging party for access to all material contained in his age charge file.

2. Several proposed contracts for services needed in connection with court cases.

3. Revised proposal of the Contracts and Procurement Directive, EEOC Order 365.

4. State and Local Program: Proposed allocation of remaining fiscal years 1980 and 1981 funds and proposed charge contracts for individual 706 agencies.

5. Management Directives establishing a system of notification to agencies of policy issuances under development.

6. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued August 19, 1980.

[S-1581-80 Filed 8-19-80; 4:15 pm]

BILLING CODE 6750-06-M

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published August 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., August 20, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item number, Docket number and Company

CAP–2(B): Project 2342, Pacific Power & Light Co.

Kenneth F. Plumb,

Secretary.

[S-1583-80 Filed 8-20-80; 1:31 pm]

BILLING CODE 6450-85-M

7

FEDERAL ENERGY REGULATORY COMMISSION.

August 20, 1980.

TIME AND DATE: 10 a.m., August 27, 1980.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—460th Meeting, August 27, 1980, Regular Meeting (10 a.m.)

CAP–1. Docket No. ER80–518, New York State Electric & Gas Corp.
CAP–2. Docket No. ER80–222, Georgia Power Co.
CAP–3. Docket No. EL78–23, Sierra Pacific Power Co. versus Utah Power & Light Co.

Miscellaneous Agenda—460th Meeting, August 27, 1980, Regular Meeting

CAM–1. Docket No. RM79–64, revised requirements for filing changes in rate schedules and the preparation and submission of supporting data.
CAM–2. Docket No. QF80–9, Brooks County Dairy; small power production and cogeneration facilities—qualifying status.
CAM–3. Docket No. QF80–12, Furniture Division of the Singer Co.; small power production and cogeneration facilities—qualifying status.
CAM–4. Docket No. RM80–59, revisions of Form No. 1–F, Annual Report for Public Utilities and Licensees (class C and class D) and Form No. 2–A, Annual Report for Natural Gas Companies (class C and class D).
CAM–5. Docket No. GP80– , NGPA well category determination USGS New Mexico, El Paso Natural Gas Co., FERC No. JD80–34000.

Gas Agenda—460th Meeting, August 27, 1980, Regular Meeting

CAG–1. Docket No. TA80–2–28 (PGA80–3, IPR80–3, AP80–2, LFUT80–2, TT80–2, and ST80–2), Mississippi River Transmission Corp.
CAG–2. Docket No. TA80–2–22 (PGA80–5, IPR80–2, LFUT80–2 and RD&D80–2), Consolidated Gas Supply Corp.
CAG–3. Docket No. TA80–2–24 (PGA80–1), Equitable Gas Co.
CAG–4. Docket No. TA80–1–33 (PGA80–1) (IPR80–1) and (GRI80–1), El Paso Natural Gas Co.
CAG–5. Docket No. TA80–2–31 (PGA80–2), (IPR80–2) and (LFUT80–2), Arkansas Louisiana Gas Co.
CAG–6. Docket No. TA80–2–12 (PGA80–2 and GRI80–1, Distrigas Corp. and Distrigas of Massachusetts Corp.
CAG–7. Docket No. TA80–2–26 (PGA80–2, LAFUT80–2, AP80–2 and TT80–1), Natural Gas Pipeline Co. of America.
CAG–8. Docket No. TA80–2–27 (PGA80–3 and IPR80–3), North Penn Gas Co.
CAG–9. Docket No. TA80–2–60 (PGA80–2), Locust Ridge Gas Co.
CAG–10. Docket No. TA80–2–21 (PGA80–4, IPR80–3, LFUT80–2, TT80–2 and AP80–2), Columbia Gas Transmission Corp.
CAG–11. Docket No. RP80–95, National Fuel Gas Supply Corp.
CAG–12. Docket No. RP80–75, Southern Natural Gas Co.
CAG–13. Docket No. RP77–51, Public Service Co. of North Carolina versus Transcontinental Gas Pipe Line Co.
CAG–14. Docket No. OR78–1 (PD49–G–1, et al.), Trans Alaska Pipeline System.
CAG–15. Docket No. OR78–1, Trans Alaska Pipeline System.
CAG–16. Docket No. CI80–290, Kerr-McGee Corp.; Docket No. CI80–403, General American Oil Co. of Texas; Docket No. CI80–328, Anadarko Production Co.; Docket No. CI80–303, Pan Eastern Exploration Co.
CAG–17. Docket Nos. RI74–188 and RI75–21, Independent Oil & Gas Association of West Virginia.
CAG–18. Docket No. CP80–257, Southern Natural Gas Co. and Florida Gas Transmission Co.
CAG–19. Docket No. CP78–256, Algonquin Gas Transmission Co. and Algonquin LNG.
CAG–20. Docket No. CP80–316, Columbia Gulf Transmission Co. and Michigan Wisconsin Pipe Line Co.
CAG–21. Docket No. CP80–395, Mississippi River Transmission Corp.
CAG–22. Docket No. CP80–297, Michigan Wisconsin Pipe Line Co.
CAG–23. Docket No. CP79–229, Transcontinental Gas Pipe Line Corp.
CAG–24. Docket No. CP74–150, Transcontinental Gas Pipe Line Corp.
CAG–25. Docket No. CP80–382, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–26. Docket No. CP80–375, Consolidated Gas Supply Corp., Northern Natural Gas Co., Division of Internorth, Inc., Michigan Wisconsin Pipe Line Co. and El Paso Natural Gas Co.

Power Agenda—460th Meeting, August 27, 1980, Regular Meeting

I. Licensed Project Matters

P–1. Reserved.

II. Electric Rate Matters

ER–1. Docket No. ER80–520, Montaup Electric Co.
ER–2. Docket No. ER80–495, Iowa Public Service Co.
ER–3. Docket No. ER80–235, Public Service Co. of New Mexico.
ER–4. (A) Docket No. E–9563, Bonneville Power Administration (Wheeling rates); (B) Docket No. EF80–2011, Bonneville Power Administration (system rates); Docket No. RM80– , proposed rulemaking on review of Federal rate schedules; (C) Docket No. EF79–4011, Southwestern Power Administration (system rates); (D) Docket No. EF79–4011, Southwestern Power Administration (System rates); (E) Docket No. EF79–4021, Southwestern Power Administration (Sam Rayburn Dam project).
ER–5. Docket No. E–7704, the Electric & Water Plant Board of the City of Frankfort, Ky. versus Kentucky Utilities Co.; Docket No. E–7669, Public Service Co. of Indiana; Docket No. E–7937, Indianapolis Power & Light Co.; Docket No. E–8053, Kentucky Utilities Co.
ER–6. Docket No. E–7777 (phase II), Pacific Gas & Electric Co.; Docket No. E–7798, Pacific Power & Light Co.
ER–7. Docket No. EL80–4, Metropolitan Edison Co.

Miscellaneous Agenda—460th Meeting, August 27, 1980, Regular Meeting

M–1. Docket No. RM80–65, exemption of small hydroelectric power projects of 5 megawatts or less from all or part of part I of the Federal Power Act.
M–2. (A) Docket No. RM79–55, small power production and cogeneration facilities—qualifying status; (B) Docket No. RM79–55, Windfarms, Ltd.; small power production and cogeneration facilities—qualifying status.
M–3. Reserved.
M–4. Reserved.
M–5. Docket No. RM80–14, final regulations under sections 105 and 106(b) of the Natural Gas Policy Act of 1978.
M–6. Docket No. RM80–21, regulations under section 110 of the Natural Gas Policy Act of 1978.
M–7. Docket No. RM80– , blanket certificate authorization for certain new sales of committed or dedicated natural gas.

M–8. Docket No. RM79–53, part 273 regulations under the Natural Gas Policy Act of 1978.

Gas Agenda—460th Meeting, August 27, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Reserved.

II. Producer Matters

CI–1. Reserved.

III. Pipeline Certificate Matters

CP–1. Docket No. RP75–79 (phase II), Lehigh Portland Cement Co. versus Florida Gas Transmission Co.; Docket No. CP77–44, Abitibi Corp. versus Florida Gas Transmission Co.
CP–2. Docket No. CP79–150, Northwest Pipeline Corp.
CP–3. Docket No. CP80–176, Michigan Wisconsin Pipe Line Co.
CP–4. Docket Nos. CP79–337, CP79–450 and CP76–37, El Paso Natural Gas Co.
CP–5. Docket No. SA80–59, Southern Natural Gas Co.

[S–1584–80 Filed 8–20–80; 3:04 pm]
BILLING CODE 6450–85–M

8

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 54935, August 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Aug. 21, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting:

Application for Permission to Convert from a State Mutual to State Stock Form—First Financial Savings & Loan Association, Stevens Point, Wisconsin.
Application for Permission to Convert from a State Mutual to State Stock Form—First Federal Savings & Loan Association of High Point, High Point, North Carolina.
Regulation On Conversion From State Stock to Federal Charter.
Regulation On Trust Powers Authorization.

Announcement is being made at the earliest practicable time.

No. 381, August 20, 1980.

[S–1585–80 Filed 8–20–80; 3:05 pm]
BILLING CODE 6720–01–M

9

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 54935, August 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Aug. 21, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Regulation On Mutual Fund Investment Counting Toward Liquidity.

Announcement is being made at the earliest practicable time.

No. 382, August 20, 1980.

[S–1585–80 Filed 8–20–80; 3:05 pm]
BILLING CODE 6720–01–M

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 54517, August 15, 1980.

PREVIOUSLY ANNOUCED TIME AND DATE OF THE MEETING: 9 a.m., August 20, 1980.

CHANGE IN THE MEETING: Withdrawal of the following item from the open session:

4. Special Docket No. 724—Application of Sea-Land for benefit of Star-Kist Foods, Inc.—Consideration of the Record.

[S–1586–80 Filed 8–20–80; 3:50 pm]
BILLING CODE 6730–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 25, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will held on Tuesday, August 26, 1980, following the 10:00 a.m. open meeting, and on Thrusday, August 28, 1980, at 10:00 a.m. An open meeting will be held on Tuesday August 26, 1980, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioner Loomis, Evans, and Friedman determined to hold the aforesaid matter of the open meeting scheduled for Tuesday, August 26, 1980, at 10:00, will be:

1. Consideration of whether to grant the application filed by the investment companies in the Union Service Group, the affiliated service companies of the Union Service Group, J. & W. Seligman & Co., and J. & W. Seligman & Co., Inc., seeking an order of the Commission pursuant to Section 17(b) of the Investment Company Act of 1940 (the "Act"), and Section 17(d) of the Act and Rule 17d–1 thereunder to permit the externalization of the presently internalized advisory, management, and distribution functions of the investment companies. For further information, please contact Glen A. Payne at (202) 272–3015.
2. Consideration of whether to grant the application of First Florida Securities, Inc. for relief pursuant to Rule 252(f) of Regulations A. For further information, please contact Thomas J. Baudhuin at (202) 272–2644.
3. Consideration of whether to grant the request by Carole E. Broderick, Esq., one of the attorneys for the plantiff class in *Alten, et al.* v. *Cabot, Cabot & Forbes Land Trust*, to interview, and if necessary take deposition testimony of, two present Commission staff members of the Division of Corporation Finance concerning their review of proxy and other materials filed with the Commission. For further information, please contact Douglas J. Scheidt at (202) 272–2454.
4. Consideration of whether to adopt proposed amendments to Form MSD, the registration from used by municipal securities dealers that are banks or separately identifiable departments or divisions of banks. For further information, please contact Thomas G. Lovett at (202) 272–2411.

The subject matter of the closed meeting scheduled for Tuesday, August 26, 1980, following the open meeting, will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.

The subject mater of the closed meeting scheduled for Thursday, August 28, 1980, at 10:00 a.m., will be:

Litigation matters.
Regulatory matters bearing enforcement implications.
Regulatory matter bearing enforcement implications and formal order of investigation.
Settlement of administrative proceedings of an enforcement nature.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Freedom of Information Act appeals.
Chapter XI proceeding.
Formal order of investigation.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Administrative proceeding of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Siegelbaum at (202) 272–2468.

August 19, 1980.

[S–1582–80 Filed 8–20–80; 1:31 pm]

BILLING CODE 6010–01–M

Friday
August 22, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions of the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determination, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

California: CA80-5117	May 23, 1980.
Florida: FL79-1118	Aug. 17, 1979.
Illinois: IL79-2053	Aug. 24, 1979.
Kansas:	
KS80-4055	July 18, 1980.
KS80-4054	July 18, 1980.
Louisiana:	
LA80-4026	June 13, 1980.
LA80-4027	June 13, 1980.
LA80-4039	May 23, 1980.
Maine: ME80-2009	Mar. 14, 1980.
Massachusetts: MA80-2045	July 7, 1980.
South Carolina:	
SC79-1016	Feb. 2, 1979.
SC79-1020	Feb. 2, 1979.
SC79-1062	Apr. 6, 1979.
SC79-1130	Sept. 28, 1979.
SC79-1047	Mar. 16, 1979.
SC79-1048	Mar. 16, 1979.
Texas:	
TX79-4035	Sept. 28, 1979.
TX79-4041	Sept. 28, 1979.
TX80-4001	Jan. 4, 1980.
TX80-4003	Jan. 4, 1980.
TX80-4006	Jan. 4, 1980.
TX80-4018	Mar. 14, 1980.
TX80-4028	Apr. 25, 1980.
TX80-4031	June 6, 1980.
TX80-4032	June 6, 1980.
TX80-4034	June 6, 1980.
West Virginia: WV80-3016	May 30, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decision being superseded.

Iowa: IA78-4106 (IA80-4047)	Nov. 24, 1978.
Kentucky:	
KY79-1018 (KY80-1097)	Feb. 2, 1979.
KY79-1023 (KY80-1095)	Feb. 2, 1979.
KY79-1034 (KY80-1094)	Feb. 9, 1979.
KY79-1106 (KY80-1090)	July 6, 1979.
KY79-1143 (KY80-1096)	Nov. 9, 1979.
KY79-1144 (KY80-1098)	Nov. 16, 1979.
KY79-1159 (KY80-1093)	Dec. 7, 1979.
Michigan:	
MI79-2016 (MI80-2066)	May 4, 1979.
MI79-2019 (MI80-2068)	May 4, 1979.
South Caroline: SC79-1124 (SC80-1092)	Sept. 7, 1979.
Tennessee:	
TN79-1007 (TN80-1100)	Jan. 5, 1979.
KY79-1144 (KY80-1098)	Nov. 16, 1979.
Washington: WA78-5103 (WA80-5125)	June 16, 1980.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 15th day of August 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. CA80-5117 - Mod. #4 (45 FR 35110 - May 23, 1980) Imperial, Kern, Los Angeles, Orange, Riverside San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, Calif.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
LABORERS:					
Group 1	$8.98	1.25	2.55	.95	.12
FOOTNOTES:					
a. Employer contributes $.23 per hour to Holiday Fund plus $.14 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.34 per hour to Vacation Fund, 5 years but less than 10 years $.44 per hour to Vacation Fund, over 10 years $.54 per hour to Vacation Fund.					
Add:					
ELECTRICIANS:					
Vandenberg AFB:					
Electricians	19.50	1.10	3%+1.50		.03
Cable Splicers	21.00	1.10	3%+1.50		.03
LINE CONSTRUCTION:					
Vandenberg AFB:					
Lineman	19.50	1.10	3%+1.50		.03
Cable Splicer	21.00	1.10	3%+1.50		.03
Groundman	15.25	1.10	3%+1.50		
DECISION NO. FL79-1118 Mod. #4 (44 FR 48564 - August 17, 1979) Pinellas County, Florida					
Change:					
Sprinklerfitters	11.36	.75	1.05		.10

MODIFICATION PAGE 2

Decision No. IL79-2053 - Mod. #1 (44 FR 48833 August 24, 1979) Madision and St. Clair Counties, Illinois	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Residential and Commerical:					
Residential and Commerical	$12.31	.65	.35		
Spray and Blast	13.76	.65	.35		
Repaint Residential	12.31	.65	.35		
Industrial and Taping:					
Industrial and Taping	13.01	.65	.35		
Spray and Blast	14.01	.65	.35		
Hazardous work, Bridges, Grain Elevators, Radio and TV Towers and Stacks	13.26	.65	.35		
Smoke Stacks, Radio, TV and Electricial Towers 150 Feet or Higher	15.76	.65	.35		

MODIFICATION PAGE 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS80-4055, MOD.#1 (45 FR 48411, July 18, 1980) Shawnee County, KANSAS Residential Construction					
CHANGE:					
Boilermakers	$13.87	1.375	1.10		.05
Ironworkers	13.35	.80	1.50		.05
DECISION #KS80-4054, MOD.#1 (45 FR 48409, July 18, 1980) Shawnee County, KANSAS Building construction					
CHANGE:					
Boilermakers	$13.87	1.375	1.10		.05
Ironworkers	13.35	.80	1.50		.05

MODIFICATION PAGE 4

DECISION NO. LA80-4026 - MOD. #3 (45 FR 40438-June 13, 1980) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers - Zone 1	$13.32	.775	.90		.04
Carpenters:					
Zone 5:					
Carpenters & soft floor layers	11.65	.70	.60		.06
Millwrights	12.04	.70	.60		.06
Piledrivermen	11.75	.70	.60		.06
Zone 6:					
Carpenters & soft floor layers	11.485	.70	.60		.06
Millwrights	12.04	.70	.60		.06
Piledrivermen	11.75	.70	.60		.06
Cement masons - Zone 1	11.31				
Zone 2	11.95				
Ironworkers - Zone 1	11.77	.93	.65		.08
Marble, tile & terrazzo workers & finishers:					
Zone 1 - Tile & terrazzo workers	11.45	.40			.10
Painters:					
Zone 1 - Group 1	12.615		.30		
Group 2	12.815		.30		
Group 3	12.96		.30		
Group 4	14.405		.30		
Plasterers - Zone 3	12.62				
Plumbers & pipefitters:					
Zone 2	12.75	.88	.955		.09
Roofers:					
Zone 5 - Roofers	11.38		.20		.04
Kettlemen	7.88		.20		.04
ADD:					
Roofers:					
Zone 2:					
Preparers remove old roofing. place, stock or more materials, tools or equipment for the journeymen	4.55	.45			

MODIFICATION PAGE 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA80-4027 - MOD. #2 (45 FR 40451-June 13, 1980) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Parishes, Louisiana					
CHANGE:					
Painters:					
Zone 1 - Group 1	$12.615		.30		
Group 2	12.96		.30		
Group 3	14.405		.30		
DECISION NO. LA80-4039 - MOD. #3 (45 FR 35136-May 23, 1980) Bossier, Caddo & Calcasieu Parishes, Louisiana					
CHANGE:					
Asbestos workers:					
Calcasieu Parish	13.32	.775	.90		.04
Cement masons:					
Calcasieu Parish	11.95				
Painters:					
Calcasieu Parish:					
Group 1	12.615		.30		
Group 2	12.815		.30		
Group 3	12.96		.30		
Plasterers:					
Calcasieu Parish	12.62				
Roofers:					
Bossier & Caddo Parishes:					
Roofers	11.38		.20		.04
Kettlemen	7.88		.20		.04
Decision No. ME80-2009 - Mod. #1 (44FR 16817 March 14, 1980) York County, Maine					
Change:					
Electricians	$12.65	.75	3%+.25		.02

MODIFICATION PAGE 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MA80-2045 MOD#2 (45 FR 45794 - July 7, 1980) Worcester County, Massachusetts					
CHANGE:					
IRONWORKERS:					
Entire County	12.85	1.15	2.05		.10
MARBLE SETTERS:					
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northbridge, Oakham, Oxford, Paxton, Ruthland, Shrewsburg, Sutton, Upton, Uxbridge, Webster, West Boylston, Westboro and Worcester	11.50	.95	1.35		.02
PAINTERS:					
Remainder of County;					
Brush	12.38	.90	1.65		.04
Steel	14.50	.90	1.65		.04
Sandblasting/Spray	13.38	.90	1.65		.04
Repaint	10.52	.90	1.65		.04
Residential	9.29	.90	1.65		.04
PILEDRIVERMEN	12.80	1.00	1.00		
PLUMBERS:					
Remainder of County	12.08	1.15	.90		.05
SPRINKLER FITTERS	14.28	.85	1.20		.08
TERRAZZO WORKERS and TILE SETTERS:					
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge,					

DECISION NO. MA80-2045 MOD #2 (cont.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS and TILE SETTERS: (cont.)					
Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, West Boylston, Westboro and Worcester	11.50	.95	1.35		.02
Hubbardston, Gardner, Phillipston, Petersham, Athol, Royalston and Winchenden	10.90	.85	1.50		

DECISION NO. SC79-1016 - MOD. #2 (44 FR 6888 - February 2, 1979) Beaufort, Colleton, Hampton, and Jasper Counties, South Carolina	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Sprinkler fitters	$11.00	.85	1.20		.08
DECISION NO. SC79-1020 - MOD. #2 (44 FR 6888 - February 2, 1979) Chester, Chesterfield, Fairfield, Kershaw, and Lancaster Counties, South Carolina					
Change:					
Sprinkler fitters	11.00	.85	1.20		.08
DECISION NO. SC79-1062 - MOD. #2 (44 FR 20937 - April 6, 1979) Georgetown and Horry Counties, South Carolina					
Change:					
Asbestos Workers	10.65	.55	.50		.02
Boilermakers	11.75	1.275	1.10		.04
Plumbers & Steamfitters:					
Georgetown	10.00	.55	.50		.10
Sprinkler fitters	11.00	.85	1.20		.08

MODIFICATION PAGE 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. SC79-1130 - MOD. #1 (45 FR 56107 - September 28, 1979) Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties, South Carolina					
OMIT: Hampton County					
CHANGE: Power Equipment Operators: Backhoe	$ 4.38				
DECISION NO. SC79-1047 - Mod. #2 (44 FR 16322 - March 16, 1979) Greenville County, South Carolina					
CHANGE: Ironworkers, structural and ornamental	10.50	.60	.50		.02
DECISION NO. SC79-1048 - MOD. #2 (44 FR 16295 - March 16, 1979) Spartanburg County, South Carolina					
Change: Sprinkler Fitters	11.00	.85	1.20		.08

MODIFICATION PAGE 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4035 - MOD. #5 (44 FR 56108-September 28, 1979) Gregg County, Texas					
CHANGE: Carpenters: Carpenters	$10.60				.015
Millwrights	13.25				.015
Piledrivermen	11.10				.015
DECISION NO. TX79-4041 - MOD. #4 (44 FR 56108 - September 28, 1979) Taylor County, Texas					
CHANGE: Plumbers & pipefitters	10.68	.50	.70		.05
DECISION NO. TX80-4001 - MOD. #7 (45 FR 1376-January 4, 1980) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE: Cement masons	11.40				
DECISION NO. TX80-4003 - MOD. #7 (45 FR 1380-January 4, 1980) Jefferson & Orange Cos., Texas					
CHANGE: Asbestos workers: Orange County	13.32	.775	.90		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4006 - MOD. #6 (45 FR 1388-January 4, 1980) Travis County, Texas					
CHANGE:					
Elevator constructors:					
Mechanics	$11.71	1.195	.95	4%+a+b	.035
Helpers	70%JR	1.195	.95	4%+a+b	.035
Glaziers	10.26		.50		.01
ADD:					
Roofers:					
Roofers; deckmen	8.21	.50			
Kettlemen	7.27	.50			
Waterproofer	7.72	.50			
DECISION NO. TX80-4018 - MOD. #2 (45 FR 16828-March 14, 1980) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
CHANGE:					
Asbestos workers	12.95	.55	1.00		
DECISION NO. TX80-4028 - MOD. #5 (45 FR 28013-April 25, 1980) Galveston & Harris Cos., Texas					
CHANGE:					
Glaziers	13.39	.67	.875		.03
Marble setters:					
Galveston County	12.26				
Harris County	12.42	.89	.30		.06
Terrazzo workers:					
Galveston County	12.26				
Harris County	12.42	.89	.30		.06
Tile setters:					
Galveston County	12.26				
Harris County	12.42	.89	.30		.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4031 - MOD. #3 (45 FR 38250 - June 6, 1980) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
CHANGE:					
Building Construction:					
Bricklayers	$11.50	.70	.55		.03
DECISION NO. TX80-4032 - MOD. #3 (45 FR 38254-June 6, 1980) Bexar County, Texas					
CHANGE:					
Elevator constructors:					
Mechanics	12.30	1.195	.95	4%+a+b	.035
Helpers	70%JR	1.195	.95	4%+a+b	.035
Line construction:					
Lineman	12.73	.60	3%		1/2%
Cable splicer	12.98	.60	3%		1/2%
Groundman	7.00	.60	3%		1/2%
Marble setters	10.52	.57	.30	.25	
Terrazzo workers	10.52	.57	.30	.25	
Tile setters	10.52	.57	.30	.25	
DECISION NO. TX80-4034 - MOD. #3 (45 FR 38255-June 6, 1980) Brazos County, Texas					
CHANGE:					
Glaziers	13.39	.67	.875		.03

MODIFICATION PAGE 13

DECISION NO. WV80-3016 - Mod. #1
(45 FR 36771 - May 30, 1980)
Statewide, West Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers and Stone Masons:					
Area 1	14.08	.65	.50		.02
Area 3	13.24	.65	.74		.02
Area 4	13.88	.65			.03
Area 7	11.34	.80	1.00		
Area 8	11.70				
Electricians:					
Area 1					
Wiremen	15.00	.50	3%+.75		.04
Cable Splicers	16.50	.50	3%+.75		.04
Area 2					
Contracts $15,000 or less:					
Wiremen	10.67	.50	3%+.67	.77	.06
Cable Splicers	10.97	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	13.57	.50	3%+.67	.77	.06
Cable Splicers	13.87	.50	3%+.67	.77	.06
Area 3					
Wiremen	11.95	.50	3%+1.00	2.00	.05
Cable Splicers	13.145	.50	3%+1.00	2.00	.05
Area 4					
Wiremen	13.20	.50	3%+1.00	1.25	.04
Cable Splicers	13.45	.50	3%+1.00	1.25	.04
Area 5	15.95	7%	14%		½%
Area 6					
Contracts under $12,000:					
Wiremen	7.40	.50	3%+1.25	1.75	.04
Contracts $12,000 or more:					
Wiremen	12.35	.50	3%+1.25	1.75	.04
Cable Splicers	12.50	.50	3%+1.25	1.75	.04
Area 8					
Wiremen	14.02	.50	3%+1.00	1.00	.04
Cable Splicers	14.73	.50	3%+1.00	1.00	.04
Area 9					
Wiremen	14.52	.50	3%+1.00	1.00	.04
Cable Splicers	15.25	.50	3%+1.00	1.00	.04
Area 10					
Wiremen	14.52	.50	3%+1.00	1.00	.04
Cable Splicers	15.25	.50	3%+1.00	1.00	.04

MODIFICATION PAGE 14

DECISION NO. WV80-3016 (Con't)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians: (Continued)					
Area 11					
Wiremen	12.40	.80	3%+.70		3/4%
Area 12					
Wiremen	12.40	.80	3%+.70		3/4%
Area 13					
Wiremen	13.20	.80	3%+.70		3/4%
Area 14					
Wiremen	10.86	.50	3%		½%
Cable Splicers	11.26	.50	3%		½%
Area 15					
Contracts $15,000 or less:					
Wiremen	10.97	.50	3%+.67	.77	.06
Cable Splicers	11.27	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	13.87	.50	3%+.67	.77	.06
Cable Splicers	14.17	.50	3%+.67	.77	.06
Area 16					
Contracts $15,000 or less:					
Wiremen	11.17	.50	3%+.67	.77	.06
Cable Splicers	11.47	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	14.07	.50	3%+.67	.77	.06
Cable Splicers	14.37	.50	3%+.67	.77	.06
Area 17					
Contracts under $30,000:					
Wiremen	6.95	.50	3%		3/4%
Contracts $30,000 or more:					
Wiremen	10.95	.50	3%		3/4%
Ironworkers:					
Area 1	13.14	1.00	1.60		.09
Area 2	13.47	.90	2.10		.05
Area 3	12.95	1.00	1.60		.03
Line Construction					
Area 1					
Linemen	15.08	.70	3%+.50	.90	
Cable Splicers and Lineman Welder	16.59	.70	3%+.50	.90	

DECISION NO. WV80-3016 (Con't)

Line Construction:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 1 (Continued):					
Mechanized Equipment					
Operator	12.06	.70	3%+.50	.90	
Groundmen	9.80	.70	3% + .50	.90	
Area 2					
Linemen and all mechanized equipment operators	13.47	.70	3%+.67	.77	
Cable Splicers	13.77	.70	3%+.67	.77	
Groundmen	10.77	.70	3%+.67	.77	
Area 4					
Linemen and Equipment operators	11.95	.50	3%+1.00	2.00	
Cable Splicers	13.145	.50	3%+1.00	2.00	
Groundmen and Truck Drivers	9.56	.50	3%+1.00	2.00	
Area 5					
Linemen and Equipment Operators	13.20	.50	3%+1.00	1.25	
Cable Splicers	13.45	.50	3%+1.00	1.25	
Groundmen	10.56	.50	3%+1.00	1.25	
Area 6					
Linemen, Equipment Operators, and Truck Drivers	14.50	7%	14%	10%	
Cable Splicers	16.00	7%	14%	10%	
Groundmen	10.08	7%	14%	10%	
Area 7					
Linemen and Operators (All mechanized equipment)	12.35	.50	3%+1.25	1.75	
Cable Splicers	13.585	.50	3%+1.25	1.75	
Groundmen	9.88	.50	3%+1.25	1.75	
Area 8					
Linemen	12.40	.80	3%+.70		
Equipment Operators	11.78	.80	3%+.70		
Truck Drivers and Groundmen	8.06	.80	3%+.70		
Area 9					
Linemen	12.40	.80	3%+.70		
Equipment Operators	11.78	.80	3%+.70		
Truck Drivers and Groundmen	8.06	.80	3%+.70		

DECISION NO. WV80-3016 (Con't)

Line Construction: (Continued)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 10					
Linemen	13.20	.80	3%+.70		
Equipment Operators	12.58	.80	3%+.70		
Truck Drivers and Groundmen	8.86	.80	3%+.70		
Area 12					
Linemen and Operators (all mechanized equipment)	13.77	.70	3%+.67	.77	
Cable Splicers	14.07	.70	3%+.67	.77	
Groundmen	11.01	.70	3%+.67	.77	
Area 13					
Linemen and Operators (all mechanized equipment)	13.97	.70	3%+.67	.77	
Cable Splicers	14.27	.70	3%+.67	.77	
Groundmen	11.17	.70	3%+.67	.77	
Painters:					
Area 1					
Painters:					
An area within 50 miles of Huntington, W.V.	10.65	.45	.35		.02
An area beyond 50 miles of Huntington, W.V.	12.11	.45	.35		.02
Bridge and Hazardous work (include towers, smoke stacks, flag poles, and tanks):					
An area within 50 miles of Huntington, W.V.	12.77	.45	.35		.02
An area beyond 50 miles of Huntington, W.V.	14.23	.45	.35		.02
Area 3					
Painters	12.25		.50		
Structural Steel after erection	13.45		.50		
Bridge painting	13.35		.50		
Towers, tanks, and stacks	13.90		.50		
Sandblasting	14.55		.50		
Repainting of industrial and structural steel	12.65		.50		
Sprayers shall receive an additional $2.00 per hour above the aforementioned applicable rates					

MODIFICATION PAGE 17

DECISION NO. WV80-3016 (Con't)

	New Basic Hourly Rates	Repaint Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters: (Continued)						
Area 5						
Brush	10.70	9.74	.55			
Air Compressor Operator	10.70	9.74	.55			
Roller, Spray, Dipping, and Mitten Work	11.13	10.16	.55			
Water Blasters, Steam jenny, nozzle men, swinging scaffold and boatswain chair, window belt and window jack work	11.68	11.03	.55			
Brush painters on Bridge, Needle Beam, Cable Work, Power Tool Work, Brush and Flame Cleaning	12.12	11.53	.55			
Sandblasting	12.49	11.91	.55			
All stacks, vent pipes, flag poles in excess of 30 feet high, all towers, elevated tanks, electrical switch yards, transformer banks, and television towers	13.60	13.10	.55			
Spray painter or sandblaster on bridges needle beam cable work	12.12	11.53	.55			

MODIFICATION PAGE 18

DECISION NO. WV80-3016 (Con't)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters: (Continued)					
Area 6					
Brush & Roller	11.02	.65	.60		.02
Glove	11.27	.65	.60		.02
Spray, Sandblasting, and steam cleaning	12.02	.65	.60		.02
Height over 40 feet - Brush	11.52	.65	.60		.02
Locks and Dams - Brush	12.10	.65	.60		.02
Towers - Brush	13.34	.65	.60		.02
Elevated Tanks over 35' - Brush & Roller	13.34	.65	.60		.02
Standpipe tanks over 35 feet - Brush and Roller, Powerline towers - Brush, flagpoles over 40 feet - Brush, and Substations - Brush	13.34	.65	.60		.02
Railroad & Highway Bridges:					
Brush	12.34	.65	.60		.02
Spray and Sandblasting	13.34	.65	.60		.02
Glove and Roller	12.59	.65	.60		.02
Plumbers and Pipefitters:					
Area 1	12.48	.75	1.00	1.248	.04
Area 2	12.73	.75	1.00	1.273	.04
Area 3	12.98	.75	1.00	1.298	.04
Area 4	13.23	.75	1.00	1.323	.04
Area 5	12.59	.75	1.13	1.26	.05
Area 7	13.53	.50	1.00		
Area 8					
Zone 1	13.77	.60	1.95		.02
Zone 2	13.97	.60	1.95		.02
Zone 3	14.17	.60	1.95		.02
Zone 4	14.42	.60	1.95		.02
Area 9					
Contracts $75,000 or less	8.55	.67	.80		.09
Contracts over $75,000	13.06	.67	.80		.09
Area 10	14.25	.65	.80		.05

STATE: Iowa COUNTY: Linn
DECISION NO. IA80-4047 DATE: Date of Publication
Supersedes Decision No. IA78-4106, dated Nov. 24, 1978 in 43 FR 55169
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.18	.55	1.00		.10
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	13.81		.55		.02
CARPENTERS:					
Carpenters	12.50	.55	.55		.08
Millwrights	14.00	.65	1.30		.25
Piledrivermen	13.00	.55	.55		.08
CEMENT MASONS	11.84	.45			
ELECTRICIANS	14.07	.65	3%+1.00		3/4%
ELEVATOR CONSTRUCTORS	12.065	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.045	.82	a	.035
GLAZIERS	12.86	.75	1.00		.02
IRONWORKERS	13.50	.58	.75		.06
LABORERS:					
GROUP 1 - Common Laborers	10.77	.40	.80		.05
GROUP 2 - Machine Rock Drills, Vibrators, Air, Electric or gasoline powered jack hammers, tampers, chipping hammers, power driven buggies, cutting torches, chain saws, sewer tile layers, mason mortar makers	11.12	.40	.80		.05
LATHERS	12.57				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welder; Technician; All rigs setting assembled "H" fixtures and steel transmission structures	11.96	.45	7%	b	1/2%
GROUP 2 - Groundmen; Truck driver (without winch); Experienced (not less than 6 months)	.7.77	.45	7%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	7.89	.45	7%	b	1/2%

DECISION NO. IA80-4047

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (cont'd):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 9.57	.45	7%	b	1/2%
GROUP 5 - Groundman-1st 6 months	6.58	.45	7%	b	1/2%
PAINTERS:					
Brush & rollers	12.82				.03
Paperhangers	13.07				.03
Sandblasting; Spraying	13.47				.03
PLASTERERS	13.77				
PLUMBERS & STEAMFITTERS	14.35	.60	.70		.13
ROOFERS	10.30				
SHEET METAL WORKERS	13.65		.88		.06
SOFT FLOOR LAYERS	12.50	.55	.55		.08
SPRINKLER FITTERS	14.10	.85	1.20		.08
TILE SETTERS	12.98		.55		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES
a - Employer contributes 8% of basic hourly rate for over 5 years' service; 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven Paid Holidays A thru G
b - Paid Holidays A thru G

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA80-4047

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Fayette
DECISION NUMBER: KY80-1097 DATE: Date of Publication
Supersedes Decision Number: KY79-1018, dated February 2, 1979, in 44 FR 6866
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.75	.60	.25		
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS & STONE MASONS	12.45	.45	.50		
CARPENTERS & SOFT FLOOR LAYERS	12.40	.70	.70		.05
CEMENT MASONS	12.20				
ELECTRICIANS	14.20	.45	3%+.50		.01
ELEVATORS CONSTRUCTORS:					
Mechanics	13.62	1.195	.82	a + b	.035
Helpers	9.53	1.195	.82	a + b	.035
Probationary Helpers	50%JR				
GLAZIERS	13.25				
IRONWORKERS	12.75	1.70	1.60		.06
LATHERS	11.65		.10		
LINE CONSTRUCTION:					
Linemen & equipment operators	14.70	.60	3%		½ of 1%
Cable splicers	14.95	.60	3%		½ of 1%
Groundman-truck drivers	11.76	.60	3%		½ of 1%
Groundmen	11.03	.60	3%		½ of 1%
MARBLE, TILE, & TERRAZZO WORKERS	10.85	.45	.50		.01
MILLWRIGHTS & PILEDRIVERMEN	12.90	.70	.70		
PAINTERS:					
Brush, drywall finishers, paperhangers	9.90	.45			
Steeple jack work, window jack work, work in enclosed buildings over 35' in height above permanent working floor area, steam cleaning	10.30	.45			
Sandblasting & spray	10.55	.45			
PLASTERERS	9.65				
PLUMBERS & PIPEFITTERS	13.85	1.05	1.00		.05
ROOFERS	9.90	.75			.02
SHEET METAL WORKERS.	12.88	1.563	1.47		.16
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. KY80-1097

FOOTNOTES:

a. Seven Paid Holidays - New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.

c. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.30	.40	.70		
GROUP II	9.70	.40	.70		
GROUP III	9.90	.40	.70		
GROUP IV	10.00	.40	.70		
GROUP V	10.50	.40	.70		
GROUP VI	10.80	.40	.70		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheeting and shoring, signalman for concrete bucket, and general cleaning.

GROUP II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric bush and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman.

GROUP III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman.

GROUP IV - Powderman and Blaster.

GROUP V - Caisson holes (6 ft. & over) pressure and free air including tools

GROUP VI - Tunnel man and tunnel sand miner, cofferdam (pressure and free air), sand hog or mucker (pressure or free air).

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening troncher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Boyd
DECISION NUMBER: KY80-1095 DATE: Date of Publication
Supersedes Decision Number: KY79-1023, dated February 2, 1979, in 44 FR 6874
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.15	.50	.70		.03
BOILERMAKERS	11.70	1.275	1.20		.04
BRICKLAYERS & STONE MASONS	13.48	.45	.50		
CARPENTERS	12.70	.75	1.25		.05
CEMENT MASONS	11.92		.60		
ELECTRICIANS:					
Wiremen	14.02	.50	3%+1.00	1.00	.04
Cable splicers	14.73	.50	3%+1.00	1.02	.04
ELEVATOR CONSTRUCTORS:					
Mechanics	12.95	1.045	.69	8%+a+b	.025
Helpers	9.065	1.045	.69	8%+a+b	.025
GLAZIERS	11.30		.80		
IRONWORKERS - Structural, Ornamental & Reinforcing	11.92	.90	1.20		.01
LATHERS	11.725		.10		
LINE CONSTRUCTION:					
Linemen	15.08	.70	3%+.50	.90	
Cable splicers	16.59	.70	3%+.50	.90	
Groundmen	9.80	.70	3%+.50	.90	
Mechanical equipment operator	12.06	.70	3%+.50	.90	
MILLWRIGHTS	10.79	.40	.37		.03
PAINTERS:					
Brush & paperhanging, roller, drywall, saping, spray, steamcleaning, mittens or rags, sandblasting, drywall machine operator	11.64		1.00		.06
PILEDRIVERMEN	13.03	.75	1.25		.05
PLASTERERS	11.92		.60		
PLUMBERS & PIPEFITTERS:					
Area 1 - Within a 5 mile radius of 17th St. and Winchester Ave., Ashland	13.22	.90	1.30	1.00	
Area 2 - over 5 miles and within a 15 mile radius of 17th St. and Winchester Ave., Ashland	13.42	.90	1.30	1.00	
Area 3 - over 15 miles and within a 30 mile radius of 17th St. and Winchester Ave., Ashland	13.62	.90	1.30	1.00	

DECISION NO. KY80-1095

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS (cont'd)					
Area 4 - over a 30 mile radius of 17th St. and Winchester Ave., Ashland	$13.72	.90	1.30	1.00	
ROOFERS:					
New construction	13.50		.65		
Re-roofing	9.30		.65		.095
SHEET METAL WORKERS	12.56	1.20	.825		
SOFT FLOOR LAYERS	10.67	.55	1.00		.03
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					
LABORERS:					
GROUP 1	10.59	.35	.47		
GROUP 2	10.74	.35	.47		
GROUP 3	10.76	.35	.47		
GROUP 4	10.79	.35	.47		
GROUP 5	10.84	.35	.47		
GROUP 6	11.09	.35	.47		
GROUP 7	11.29	.35	.47		
GROUP 8	11.79	.35	.47		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Laborers, carpenter tenders, cement finisher tenders, concrete men, wrickers and wall men, flag men and water boys, handling of empty oxygen and acetylene bottles

GROUP 2 - Hod carriers and mortar men, lather and plaster tenders

GROUP 3 - Wrapping, heating, and applying hot and cold tar on all pipes, applying tape on pipes and operating of tester

GROUP 4 - Deck hand and scow men

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LABORERS' CLASSIFICATIONS DEFINITIONS (cont'd)

GROUP 5 - Jackhammer and electrical, gas or air power driven tools, burning torch wagon, drill operators and tile layers, handling of all creosote material, signal men, and asphalt rakers

GROUP 6 - Rock and powder men

GROUP 7 - Sand hog or mucker, and tunnel miners

GROUP 8 - Caisson workers

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

DECISION NO. KY80-1095

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS (Cont'd)

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.77	d	e		
Group 2	9.87	d	e		
Group 3	10.02	d	e		
Group 4	10.07	d	e		
Group 5	10.12	d	e		
Group 6	10.17	d	e		
Group 7	10.42	d	e		

DECISION NO. KY80-1095

TRUCK DRIVERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 -Warehousemen, yardmen, truck helpers, pickups, station wagons, panel trucks, flat-body material trucks (straight jobs), greasers, washers, tiremen, dump trucks (up to 5 cu. yds.)
GROUP 2 - Tank trucks (straight)
GROUP 3 - Dump trucks (5 cu. yds. or over), semi-dump trucks, semi-trailers (whether flat, rack or pole and hauled or pushed by trucks or tractors), agitator or mixer trucks (up to 5 cu. yds.), tank trucks (semi)
GROUP 4 - Lowboy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck cranes, monirail trucks
GROUP 5 - Material checkers & receivers, mechanics helpers
GROUP 6 - Agitator or mixer trucks (5 cu. yds. and over)
GROUP 7 - Tri-axle dump trucks, hydraulic lifts, tailgate trucks, farm type tractors, ross carriers, athey wagons or similar equipment, A-frame, hydro-lifts, dual purpose trucks, end dumpsters, mechanics

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate for 5 years or more of service, 6% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Employer contributes $93.17 per month per employee employed 30 days or more.

e. Employer contributes $60.67 per month per employee employed 30 days or more.

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Henderson
DECISION NO: KY80-1094 DATE: Date of Publication
Supersedes Decision Number: KY79-1034,dtd.Feb.9,1979, 44 FR 8504
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.61	.65	1.00		.03
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, PLASTERERS, TILE SETTERS, & TERRAZZO WORKERS	10.99	.45	.40		
CARPENTERS	12.27	.70	1.00		
CEMENT MASONS	12.30	.85	.65		
ELECTRICIANS:					
Wiremen	13.28	.50	3%		1/8 of 1%
Cable splicers	13.53	.50	3%		1/8 of 1%
GLAZIERS	10.905	.48	.50	.25	
IRONWORKERS:					
Structural, Ornamental, & Reinforcing	10.22	.55	.75		.025
MILLWRIGHTS	12.29	.60	.90		
PILEDRIVERMEN	12.52	.70	1.00		
PAINTERS:					
Brush & Rollers	11.90	.80	.40		
Drywall tapers, Paperhangers	12.15	.80	.40		
Sandblasters, Power tools, Spray	12.90	.80	.40		
PLUMBERS & PIPEFITTERS	14.98	.85	1.05		.05
ROOFERS	12.28	.75	.70		
SHEET METAL WORKERS	12.97	.55	.55		.03
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY80-1094

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 9.90	.85	.75		.09
GROUP B	10.10	.85	.75		.09
GROUP C	10.20	.85	.75	..	.09
GROUP D	10.90	.85	.75		.09

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP A
Building & Construction Laborers, Scaffold Builders other than for Mason or Plasterers, Ironworkers' Helpers, Mechanic Helpers, Mechanic Tenders, Window Washers & Cleaners, Roofers' Helpers, Railroad Laborer, Masonary Wall Washers (interior & exterior), Cement Finishers' Helpers, Carpenters Helper; all portable water pumps with discharge up to 3".

GROUP B
Waterproofing Handling of Creosote Lumber on like treated material (excluding railroad material), Asphalt Rakers & Lutemen, Kettlemen, Air Tool Operating, Vibrators, Chipping Hammer Operator, Jackmen & Sheeting Men Working in ditches 6' in depth or deeper, assembly of Unicrete Pump, Chain Saw Operators, Tile Layers (sewer or field), Sewer Pipe Layers (metallic & non-metallic), Motor-driven Wheelbarrows & Concrete Buggies, Hyster Opera-pump Creto Assemblers, Conveyors Assemblers, Core Drill Operators, Cement, Lime, or Silica Clay Handlers (bulk or bag), Pneumatic Spikers, Deck, Engine & Winch Operator, Water Main & Cable Ducking (metallic & non-metallic)

GROUP C
Plaster Tenders, Mortar Mixers, Welders (acetylene or electric), Cutting Torch or Burner, Cement Nozzle Laborers, Cement Gun Operator, Scaffold Builders when working for Plasterer or Masons, Mason Tenders.

GROUP D
Dynamite Men

DECISION NO. KY80-1094

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

DECISION NO. KY80-1094

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.29	.35	.35		
GROUP 2	7.41	.35	.35		
GROUP 3	7.52	.35	.35		
GROUP 4	7.60	.35	.35		
GROUP 5	7.64	.35	.35		
GROUP 6	7.35	.35	.35		
GROUP 7	7.47	.35	.35		
GROUP 8	7.11	.35	.35		
GROUP 9	7.19	.35	.35		

TRUCK DRIVERS' CLASSIFICATIONS DEFINITIONS

GROUP 1
Single axle straight truck, wet or dry, over 3(34E) batches
GROUP 2
Tandem trucks or dog-legs, trucks over 15 ton payload, single-axle semi-truck (3-axle unit), Low-boys single axle (3-axle unit), Winch trucks or A-frames when used to transport material; Batch truck wet or dry, over 3(34E) batches, farm tractors pulling trailers
GROUP 3
Tandem axle semi-trucks (4-axle unit), drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Tournatrailers, Tournarockers or similar equipment 12 cu. yds. & under; Low-Boys, Tandem axle (4 axle unit), drivers on pavement breakers
GROUP 4
Tandem-Tandem Semi-Trucks (5-axle unit Low Boys Tandem (5 axle unit)
GROUP 5
Drivers on equipment when not self-loaded or pusher loaded on such Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Tournatrailers, Tournarockers or similar equipment over 12 cu. yds., Truck Mechanic Drivers on mixer trucks all types
GROUP 6
Drivers on bituminous distributors two-man
GROUP 7
Drivers on bituminous distributors one-man
GROUP 8
Drivers of pickup trucks when hauling equipment, supplies, & material to & from & on the job site
GROUP 9
Helpers, Greasers, Tire Men & Members tenders batch boards

SUPERSEDEAS DECISION

STATE: Kentucky COUNTIES: Hardin, Jefferson, & Meade

DECISION NUMBER: KY80-1090 DATE: Date of Publication
Supersedes Decision Number: KY79-1108, dated July 6, 1979, in 44 FR 39905
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.75	.60	1.25		
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS & STONE MASONS	11.44	.50	.40		.01
CARPENTERS	10.75	.55	.55		.05
CEMENT MASONS	10.94	1.00	.70		.08
ELECTRICIANS	15.10	.75	3%+1.25		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	13.62	1.195	.82	a + b	.035
Helpers	9.53	1.195	.82	a + b	.035
GLAZIERS	8.90	.35	.45		
IRONWORKERS:					
Structural, ornamental, reinforcing, riggers, fence erectors, sheeters, machinery movers, and conveyormen	12.75	1.70	1.60		.06
LATHERS	11.79		.20		.01
LINE CONSTRUCTION:					
Linemen, line truck operators & hole diggers	13.30	.50	3%+.60		½ of 1%
Groundmen	8.246	.50	3%+.60		½ of 1%
MARBLE MASONS	11.10	.50	.40		
MARBLE FINISHERS	9.65				
MILLWRIGHTS	13.85	.70	.85		.05
PAINTERS:					
AREA 1 - 35 mile radius from the Jefferson County Courthouse, Louisville, KY.:					
Brush, roller, drywall painting, taping, & finishing, and paperhanging;	10.41	.35	.20		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack work over 50' in height	10.76	.35	.20		.03
Spray	10.86	.35	.20		.03

DECISION NO. KY80-1090

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (cont'd):					
AREA 1					
REPAINT WORK:					
Brush, roller, drywall painting, taping, & finishing, and paperhanging	$ 9.72	.35	.20		.03
Spray	9.64	.35	.20		.03
AREA 2 - over a 35 mile radius from the Jefferson County Courthouse, Louisville, KY.:					
Brush, roller, drywall painting, taping, & finishing, and paperhanging	10.76	.45	.40		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack over 50' in height	11.11	.45	.40		.03
Spray	11.21	.45	.40		.03
REPAINT WORK:					
Brush, roller, drywall painting, taping, & finishing, and paperhanging	10.07	.45	.40		.03
Spray	10.52	.45	.40		.03
PILEDRIVERMEN	11.00	.55	.55		.05
PLASTERERS	11.85				.02
PLUMBERS & PIPEFITTERS:					
AREA 1 - Jefferson County:					
Plumbers	14.42	1.05	1.40	.77	.15
Pipefitters	14.56	.80	1.55		.11
AREA 2 - Hardin (northern portion of county up to but not including Elizabethtown) and Meade Counties:					
Plumbers	14.92	1.05	1.40	.77	.15
Pipefitters	15.06	.80	1.55		.11

DECISION NO. KY80-1090

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (cont'd):					
AREA 3					
Hardin (remainder of County) County:					
Plumbers	$15.17	1.05	1.40	.77	.15
Pipefitters	15.31	.80	1.55		.11
ROOFERS:					
Roofers	8.80	.65	.45		
Slab, tile, & precast concrete slab	9.20	.65	.45		
SHEET METAL WORKERS	12.88	1.563	1.47		.15
SOFT FLOOR LAYERS	10.75	.55	.55		.05
SPRINKLER FITTERS	14.30	.85	1.20		.08
TERRAZZO WORKERS	11.10	.50	.40		
TERRAZZO FINISHERS	9.65				
TILE LAYERS	11.10	.55	.55		
TILE FINISHERS	9.65				
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental					
TRUCK DRIVERS:					
Truck helper & warehousemen;	8.86	.525c	.50c	d	
Driver, 3 tons and under, greaser, tire changer and mechanic helper;	8.98	.525c	.50c	d	
Driver, over 3 tons, semi-trailer or pole trailer, dump trucks, tandem axle, farm tractor when used to pull building material or equipment;	9.09	.525c	.50c	d	
Driver, concrete mixer trucks (all types, hauling only on jobsites);	9.16	.525c	.50c	d	
Driver, Euclid & other heavy earth moving equipment and low-boy, winch truck and A-frame & monorail truck when used to transport building materials	9.26	.525c	.50c	d	

DECISION NO. KY80-1090

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$8.30	.35	.60		
Group 2	8.50	.35	.60		
Group 3	8.65	.35	.60		
Group 4	8.80	.35	.60		
Group 5	9.50	.35	.60		
Group 6	7.60	.35	.60		

LABORERS' CLASSIFICATIONS DEFINITIONS

Group 1 - General laborers, mobile sweepers

Group 2 - Power driven Georgia buggy, chain saw, vibrator operator, mesh handler, power tools (air, diesel, electric, gasoline), wagon drill, pipelayer, wall man, chip & bush hammer, concrete saw, gasoline tamper machine, walk behind trenching machine, burner man, joint maker, asphalt raker

Group 3 - Air track driller, mason tender, side rail setter (metal), stackman

Group 4 - Powderman, introflax burning rod, gunnite nozzle man operator, sewer & tunnel laborers (free air), sand hog or mucker (free air)

Group 5 - Holeman drilled, piers, augured caissons, sand miner (tunnel free air), caisson workers

Group 6 - Traffic flagman

DECISION NO. KY80-1090

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

DECISION NO. KY80-1090

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate for 5 years or more of service, or 6% of the basic hourly rate for 6 months to five years of service as Vacation Pay Credit.

c. Employer contribution to employees whose names appear on the payroll and have been employed a minimum of 20 work days within any 90 consecutive day period.

d. Vacation and pay equal to 40 hours to any employee who has been regularly employed on a project for one year and who has worked a minimum of 1200 hours during the year.

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Franklin
DECISION NUMBER: KY80-1096 DATE: Date of Publication
Supersedes Decision Number: KY79-1143,dtd.Nov.9,1979, 44 FR 65308
DESCRIPTION OF WORK: BUILDING PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.75	.60	1.25		
BOILERMAKERS	13.20	1.27	1.20		.04
BRICKLAYERS & STONEMASONS	12.45	.45	.50		
CARPENTERS & SOFT FLOOR LAYERS	12.40	.70	.70		.05
CEMENT MASONS	12.20				
ELECTRICIANS	14.35	.45	3%+.50		.01
ELEVATOR CONSTRUCTORS:					
Mechanics	13.62	1.195	.82	a + b	.035
Helpers	9.53	1.045	.69	a + b	.035
Probationary Helpers	50%JR				
GLAZIERS	13.25				
IRONWORKERS	12.75	1.70	1.60		.06
LATHERS	11.65		.10		
LINE CONSTRUCTION:					
Linemen & equipment operators	14.70	.60	3%		½ of 1%
Cable splicers	14.95	.60	3%		½ of 1%
Groundmen-truck drivers	11.76	.60	3%		½ of 1%
Groundmen	11.03	.60	3%		½ of 1%
MARBLE, TILE, TERRAZZO WORKERS	10.85	.45	.50		.01
MILLWRIGHTS & PILEDRIVERMEN	12.90	.70	.70		.05
PAINTERS:					
Brush, drywall finishers, paperhangers	10.15	.45			
Steeple jack work, window jack work, work in enclosed buildings over 35' in height from permanent work floor area, steam cleaning	10.65	.45			
Sandblasting & spraying	10.90	.45			
PLASTERERS	9.65				
PLUMBERS & PIPEFITTERS:					
Western 3/4 of County, including the City of Frankfort:					
Plumbers	15.17	1.05	1.40		.15
Pipefitters	16.21	.85	1.59		.12
Remainder of County	14.60	1.05	1.00		.05

DECISION NO. KY80-1096

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	$ 8.80	.65	.45		
Slate, tile, & precast concrete slab	9.20	.65	.45		
SHEET METAL WORKERS	12.88	1.563.	1.47		.16
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS - Rate for craft					

FOOTNOTES:

a. Seven Paid Holidays - New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.

c. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day

LABORERS:					
GROUP I	9.30	.35	.47		
GROUP II	9.70	.35	.47		
GROUP III	9,90	.35	.47		
GROUP IV	10,00	.35	.47		
GROUP V	10,50	.35	.47		
GROUP VI	10.80	.35	.47		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheeting and shoring, signalman for concrete bucket, and general cleaning.

DECISION NO. KY80-1096

LABORERS' CLASSIFICATIONS DEFINITIONS (cont'd)

GROUP II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric bush and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman.

GROUP III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman.

GROUP IV - Powderman and Blaster.

GROUP V - Caisson holes (6 ft. & over) pressure and free air including tools

GROUP VI - Tunnel man and tunnel sand miner, cofferdam (pressure and free air), sand hog or mucker (pressure or free air).

POWER EQUIPEMNT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

DECISION NO. KY80-1096

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

SUPERSEDEAS DECISION

STATES: Kentucky & Tennessee

LOCATION: Fort Campbell (located in Christian County, Ky. and Montgomery County, Tn.)

DECISION NUMBER: KY80-1098

DATE: Date of Publication

Supersedes Decision Number: KY79-1144, dated November 16, 1979, in 44 FR 66137

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.70	.75	1.25		.05
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, TERRAZZO WORKERS, CEMENT MASONS, & PLASTERERS	10.45	.45	.40		
CARPENTERS & SOFT FLOOR LAYERS	11.50	.45	.25		.02
ELECTRICIANS:					
Wiremen:					
Kentucky portion	12.65	.50	13%		½ of 1%
Tennessee portion	12.40	.60	3%		½ of 1%
Cable splicers:					
Kentucky portion	12.90	.50	13%		½ of 1%
Tennessee portion	12.65	.60	3%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	10.81	1.195	.82	a + b	.035
Helpers	7.57		.82	a + b	.035
Probationary Helpers	50%JR				
GLAZIERS	10.50	.60	.50	c	.02
IRONWORKERS	12.20	.80	.80		.12
LATHERS	10.20		.30	.90	.01
MILLWRIGHTS & PILEDRIVERMEN	12.00	.45	.25		.07
PAINTERS:					
Brush & roller	10.45	.40	.60		.10
Spray work, drywall finishing	10.70	.40	.60		.10
Structural steel, swing stage, & chair, & motor stage	10.80	.40	.60		.10
Paperhangers	10.95	.40	.60		.10
Sandblasting	11.20	.40	.60		.10
PLUMBERS & PIPEFITTERS	12.14	.75	.80		.07
ROOFERS	9.25	.60	.45	.26	
SHEET METAL WORKERS	13.00	.53	.32		.07
SPRINKLER FITTERS:					
Kentucky portion	14.30	.85	1.20		.08
Tennessee portion	11.94	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY80-1098

FOOTNOTES:
a. Seven Paid Holidays - New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.
b. Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.
c. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$8.30	.40	.70		
Group 2	8.45	.40	.70		
Group 3	8.80	.40	.70		

LABORERS' CLASSIFICATIONS DEFINITIONS

Group 1 - General laborers; wrecking labor on buildings, clearing right-of-way and building site; carpenter tenders; truck spotters and dumpers; axe and cross cut saw filer; concrete pudlers and form strippers.

Group 2 - All power driven tools; hod carriers; mason tenders; finisher tenders; mortar mixers; jack hammers; vibrators; wagon drill; core drill; test drill; well drill; concrete pump machine; tunnel boring machine; men in tunnel and crib ditch work; signal men; riprap rock setters and handlers; asphalt rakers; tampers and smoothers; pipelayers; grout pump men; chain saw; pipe clearing; doping and wrapping; swampers and straight cable hooking; cement guns; grade checkers machine excavating; batch plant scale man; sand hog free air; sand hog compressed air; cutting torch man on salvage work; road form setters; brick slingers; hand spikers; power buggy; handling of creosote material; sandblasters; curing of concrete and apply hardner; air and gas tampers; concrete saw; power posthole diggers and green cut men on concrete work.

Group 3 - Powdermen; blasters

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POWER EQUIPMENT OPERATORS: (Kentucky portion)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

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POWER EQUIPMENT OPERATORS: (Tennessee Portion)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$10.98	.50	.50		.20
CLASS B	10.36	.50	.50		.20
CLASS C	9.73	.50	.50		.20
CLASS D	9.23	.50	.50		.20

CLASS A: Shovels, backhoes, draglines, cranes, derricks, gantreys, graddall, winches with boom, motor patrol, trenching machines (18" or over), pile driver, tug boat operator, mechanic, forklift, central mixing plant, locomotive engineers, straddle carrier, core drills, tower cranes, hydro-cranes, austin western and all similar type cranes, drilling of piling (all types), tugger, hoist more than one drum, earth freezing equipment, sideboom, dredge operator & engineer, hopto, pump crete, mucking machine, cableway, finishing machine, central compressor, derrick boat, concrete pump, welders, helicopters, de-watering system (all types) sweeper, bulldozers, pans, pulls, scrapers, traxcavators, front end loaders, concrete placing machines, two tower cranes requiring three operators.

CLASS B: Trenching machines (18" or smaller), tandem rollers, pavers, mixer mobiles, backfillers, blade graders, dinkey operators, elevating graders, winches operated from trucks and tractors without booms, distributors bituminous surfaces, hoist (1) drum, mixers, grout pumps, motor boat, switchman, brake man, elevator earth compactors, tractors, conveyors.

CLASS C: Locomotive fireman on boilers, air compressor (stationary), earth drills, scale operators, motor crane driver and oiler, pumps 4" and larger, oilers on gantreys, greasers, drill helpers.

CLASS D: Air compressor, mechanic helper, firemen (low pressure pumps under 4"), oilers, welding machine operators, deckhand.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Kentucky COUNTIES: Boone, Campbell, Kenton, & Pendleton

DECISION NUMBER: KY80-1093 DATE: Date of Publication

Supersedes Decision Number: KY79-1159, dated December 7, 1979, in 44 FR 70635

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.16	.75	1.25		.02
BOILERMAKERS	11.70	1.275	1.20		.04
BRICKLAYERS & STONE MASONS	13.595	.65	.45		.02
CARPENTERS	14.30	.90	1.10		.075
CEMENT MASONS	14.23	.90	.95		.30
ELECTRICIANS	14.10	.70	3%+.80		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	14.32	1.195	.82	a + b	.035
Helpers	10.02	1.195	.82	a + b	.035
Probationary Helpers	50%JR				
GLAZIERS	14.10		.60		.01
IRONWORKERS:					
Reinforcing	14.33	1.00	1.60		.02
Structural & Ornamental	14.08	1.00	1.60		.03
LATHERS	14.02	-	.35		.025
LINE CONSTRUCTION:					
Linemen & machine operators	13.90	.70	3%+.60		½ of 1%
Groundmen	10.41	.70	3%+.60		½ of 1%
MARBLE SETTERS	13.435	.65	.45		
MARBLE SETTER FINISHERS	12.35				
MILLWRIGHTS	14.84	.60	1.10		.10
PAINTERS:					
Brush, roller, taping, paperhanging, wall covering, & washing	14.70				
Steamcleaning (40' or over	14.85		.35		
Taping (on stilts)	15.10		.35		
Spray	15.20		.35		
Sand & water blasting	15.60		.35		
Drywall machine operators	15.70		.35		
PILEDRIVERMEN	14.30	.90	1.10		.075
PIPEFITTERS	14.60	1.025	1.90		.08
PLASTERERS	14.895		1.00		.02
PLUMBERS & GAS FITTERS	13.82	1.05	1.20		.07
RESILIENT FLOOR LAYERS	11.50	.75	.85		.05
ROOFERS	15.47		1.20		.02
SHEET METAL WORKERS:					
Pendleton County	12.88	1.563	1.47		.16
Remaining Counties	13.83	1.06	.85		.06
SPRINKLER FITTERS	14.30	.85	1.20		.08

DECISION NO. KY80-1093

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	$13.385	.65	.45		
TERRAZZO FINISHERS	12.35				
TILE SETTERS	13.385	.65	.45		
TILE FINISHERS	12.35				
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate for 5 years or more of service, or 6% of the basic hourly rate for 6 months to five years of service as Vacation Pay Credit.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

DECISION NO. KY80-1093

LABORERS - Boone, Campbell, & Kenton Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group A	$12.35	.80	.80		.10
Group B	12.45	.80	.80		.10
Group C	12.50	.80	.80		.10
Group D	12.55	.80	.80		.10
Group E	12.70	.80	.80		.10
Group F	12.85	.80	.80		.10
Group G	13.10	.80	.80		.10

LABORERS' CLASSIFICATIONS DEFINITIONS

Group A - Common laborers, cement masons tenders, hand operated mechanical sweeper, signal man

Group B - Bottom man, pipe layers

Group C - Burning torch operator, jack hammer, mechanical and air tamper operator, mechanical concrete buggies, power operated mechanical mule, concrete pump hose man, vibrator man

Group D - Plaster tender, mason tender, stone mason tender, bottom jackhammer man

Group E - Plaster mixer pump operator

Group F - Tunnel laborer

Group G - Gunnite nozzle operator

DECISION NO. KY80-1093

LABORERS - Pendleton County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.30	.40	.70		
GROUP II	9.70	.40	.70		
GROUP III	9.90	.40	.70		
GROUP IV	10.00	.40	.70		
GROUP V	10.50	.40	.70		
GROUP VI	10.80	.40	.70		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheeting and shoring, signalman for concrete bucket, and general cleaning.

GROUP II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric bush and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman.

GROUP III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman.

GROUP IV - Powderman and Blaster.

GROUP V - Caisson holes (6 ft. & over) pressure and free air including tools

GROUP VI - Tunnel man and tunnel sand miner, coffordam (pressure and free air), sand hog or mucker (pressure or free air).

DECISION NO. KY80-1093

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$13.94	1.11	1.25		.11
GROUP B	13.82	1.11	1.25		.11
GROUP C	12.78	1.11	1.25		.11
GROUP D	12.35	1.11	1.25		.11
GROUP E	9.49	1.11	1.25		.11

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS

CLASS A - Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer & tower, concrete plants (over 4 yds. capacity), concrete pumps, cranes (all types, including A-frame, boom truck, cherry picker), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator hoist or winch), hoes (all types), hoisting engines or shaft or tunnel work, hoisting engines, industrial type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator class A mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), Rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shedder, trench machines (over 24" wide), truck mounted concrete pumps tug boat, tunnel machine, wheel excavator.

CLASS B - Asphalt paver, automatic subgrader machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - Dirt), lead grease man, maintenance operators Class B, power grader, power scoops & scrapers, push cat, trench machines (24" wide & under).

CLASS C - Air compressors on tunnel work (low pressure), asphalt plant, locomotive (narrow gauge), mixers, concrete (more than 1 bag capacity), mixers, side loader (1 bag capacity), power boilers over 15 lbs. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers (asphalt, utility operator - small equipment), welding machines & generators.

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POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS (cont'd)

CLASS D - Backfillers, bar, joint & mesh installing machines, batch plant bull floats, burlap & curing machines, compressors (portable - sewer, heavy & highway), concrete plant (capacity 4 yds. & under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill (highway with integral power), farm type tractors with attachment (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenches, hydro seeders, plant mixers, post driver, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macadam), self-propelled power spreaders, self-propelled sub-graders, steam fireman, survey instrument man, tractor (pulling sheepfoot roller or grader), vibratory compactors (with integral power), Boring machine operators (48" or less), hydro hammer, pavement breaker.

CLASS E - Drum fireman (asphalt plant, helpers, inboard-outboard motor boat-launch, oil heaters (asphalt plants), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen.

STATE: Michigan COUNTIES: See Below
DECISION No. MI80-2066 DATE: Date of Publication
Supersedes Decision No. MI79-2016, dated May 4, 1979 in 44 FR 26450
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories) and Heavy (excluding Bridge, Airport and Sewer) Construction Projects.

COUNTIES: Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac Shiawassee & Tuscola

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$13.85	1.61	1.69		.07
Remainder of Counties	12.60	1.05	1.78		.02
BOILERMAKERS	13.065	1.28	1.30	2.00	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee Cos.:					
Bricklayers & Stonemasons	12.45	.80	1.30		
Marble-Tile-Terrazzo Workers	11.70	.80	1.30		
St. Clair & Sanilac Cos.					
Bricklayers & Stonemasons	14.28	1.40	1.30		
Marble Setters	13.38	1.00	1.40		
Terrazzo Workers	12.42	1.00	1.40		
Tile Setters	12.88	1.00	1.40		
Remainder of Counties					
Bricklayers & Stonemasons	12.77	1.05	.95		
Marble-Tile-Terrazzo Workers	12.20				
CARPENTERS:					
Sanilac (Except the West 5 Miles & St. Clair Cos.					
Carpenters & Piledrivermen	12.78	1.00	11%	11%	.04
Soft Floor layers	11.49	1.00	7%	8%	.03
Remainder of Counties & the West 5 Miles of Sanilac County:					
Carpenters & Piledrivermen	11.99	.60	.80		.02
Soft Floor Layers	11.34	.60	.80		.01
CEMENT MASONS:					
St. Clair & Sanilac Counties	13.40	1.40	1.30		
Lapeer County	11.10	.80	1.30		
Genesee & Shiawassee Counties	10.80	.70	.75		.02
Remainder of Counties					
Cement Masonry on sidewalks, curbs & Gutters not related to highway, road & Street Constr.	12.07	1.05	.95		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Iosco County; Northern ½ of Co., Contracts over $35,000	$13.30	.75	3%+.30		1/10of1%
Contracts under $35,000	11.35	.75	3%+.30		1/10of1%
Bay Co., & Southern ½ of Iosco co.,	14.00	.75	3%+.68		½ of 1%
Genesee, Lapeer & Shiawassee Cos.,	12.55	.60	3%+1.50		.02
Saginaw & Tuscola Cos	13.65		3%+1.25		½ of 1%
Remainder of Counties	14.40	1.65	3%+1.20		.05
ELEVATOR CONSTRUCTORS:					
St. Clair County:					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Remainder of Counties:					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cos.,	9.64	.55	.70		.02
St. Clair County	9.77	.55	.65		
Bay, Huron, Iosco, Tuscola & Saginaw Cos.,	9.15		.50	.25	.01
IRONWORKERS:					
Structural & Ornamental	13.90	9%	17%	18%	.09
Reinforcing	12.08	.98+.50	19%	19%	.12
Fence Erectors	11.59	9%	17%	18%	.09
LABORERS:					
Iosco County; Unskilled Motar & Plaster Mixers, Sewer & Caisson Workers, Plasterer Tenders,	7.35	.65	.35	.55	.04
Cement Gun Nozzlemen	7.50	.65	.35	.55	.04
	7.95	.65	.35	.55	.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Saginaw & Genesee Counties	$13.02	1.06	.30		.01
PAINTERS:					
Bay Iosco Cos., Huron (West of M-53) Cos., & the Townships of Akron, Almer, Columbia, Elkland, Ellington, Elmwood, Fairgrove, Gilford, Novesta, & Wisner in Tuscola Co.					
Commercial - Old	9.55	.55	.80		.02
Commercial - New	10.15	.55	.80		.02
Industrial	10.95	.55	.80		.02
Spray & Sandblasting	11.00	.55	.80		.02
Saginaw Cos., & Remainder of Tuscola County:					
Brush	9.95		.35		.02
Spray	10.70		.35		.02
Genesee, Lapeer & Shiawassee Cos.	10.70	.50	.70		10.00p/mo
Western ½ of Shiawassee Cos	13.00	.65	.40		.0025
Huron (East of Hwy 53) St. Clair & Sanilac Cos., Commercial & Industrial					
Brush	14.28	.65	.90		.01
Open Steel & Spray	14.83	.65	.90		.01
PLASTERERS:					
Lapeer County	11.35	.80	1.30		
Bay, Huron, Iosco, Saginaw & Tuscola Counties	11.29	.88	.20		
Genesee & Shiawassee Cos.	12.22	.80	1.00		.03
St. Clair & Sanilac Cos.,	13.68	1.40	1.30		
PLUMBERS AND STEAMFITTERS:					
Bay Iosco., N. ½ of Tuscola & the NW ½ of Huron (running from the Port Autin south to Sanilac County line)	15.12	1.12	.70		.05
Genesee, Lapeer & Shiawassee Cos.,	14.44	1.17	1.70		.03
Saginaw & S. ½ of Tuscola (including Carco, Washjamerga ans South of the Lapeer County line Cos.,	12.87	1.09	1.50	1.25	.07
Remainder of Huron Cos., St. Clair & Sanilac Cos.,	12.00	1.25	1.60	1.90	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bay, Iosco, Saginaw & Tuscola Cos.	$11.95	1.05	.60		
Genesee, Lapeer & Shiawassee Cos., Composition	12.25	.60	.60		
Slate & Tile	12.70	.60	.60		
St. Clair, Sanilac & Huron Cos.,	9.95				
SHEET METAL WORKERS:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	12.86	.80	1.00		.03
Genesee, Lapeer & Shiawasee Cos.,	10.65	.79	1.20	1.00	
St. Clair & Sanila Counties	11.305	1.81	1.73	1.24	.12
SPRINKLER FITTERS	14.61	.85	1.20		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw & Tuscola					
Under 8 cubic yards	9.40	b31.00	b37.00	.50	
8 cu. yds. & over	9.50	b31.00	b37.00	.50	
Euclid Type Equipment	9.70	b31.00	b37.00	.50	
Genessee, Lapeer & Shiawassee	9.60	b32.50	b37.00		
Huron, St. Clair & Sanilac					
Pole Trailers, Low Boys Straddle Carriers, Double Bottoms & Special Load Permit Drivers	11.30	b32.50	b37.00		
Semi Drivers	11.20	b32.50	b37.00		
All Other Truck Drivers	11.05	b32.50	b37.00		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day. plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per week; Per Employee, (plus $3.00 per week - optical & dental H&W T/D in Bay, Iosco, Saginaw & Tuscola Cos. - only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Cos.					
CLASS A	$ 9.49	.65	.35		.04
CLASS B	9.61	.65	.35		.04
CLASS C	9.69	.65	.35		.04
CLASS D	10.26	.65	.35		.04
Genesee, Lapeer & Shiawassee Cos.					
CLASS A	10.44	.75	.85		.04
CLASS B	10.59	.75	.85		.04
CLASS C	10.69	.75	.85		.04
CLASS D	10.79	.75	.85		.04
CLASS E	11.04	.75	.85		.04
St. Clair & Sanilac Cos.					
CLASS 1	11.13	.65	.35		.04
CLASS 2	11.25	.65	.35		.04
CLASS 3	11.38	.65	.35		.04
CLASS 4	11.30	.65	.35		.04
CLASS 5	11.48	.65	.35		.04

LABORERS:

Bay, Huron, Saginaw & Tuscola Counties

CLASS A - All Construction Laborers on Building & Heavy Construction not specified in classes. B, C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a battery; Mechanized Buggy Operator and Motar Mixer when done by hand.

CLASS B - Mechanized Mortar Mixers; Air, electric and gas driven tools; vibrators

CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayers; Signal Men & Top Man; Windlass and Tugger Operator; Caisson Worker

CLASS D - Drillers & Plasters; Burners

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LABORERS (CONT'D)

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified in Classes B & E below

CLASS b - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller); Signal Men & Top men (on caisson work; Air, Gasoline or Electric Tool Operators.

CLASS C - Jackhammer & Air Spade; Tunnel Men Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Vertified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - Tunnel Miners

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; all Demolition Laborers

GROUP 2 - Mortar Mixers (Hand or Machine)

GROUP 3 - Air, Electric, Gas, Tool. Pump Operators

GROUP 4 - Concrete Gas Buggies; Concrete Saw Operators, Plasterers Tenders

GROUP 5 - Crock or Pipelayers - caisson workers in buildings

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LC-ZONE-I

LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$14.38	1.50	9%		½%
Cable Splicer	15.00	1.50	9%		½%
Combination equipment Operator & Groundman	11.52	1.50	9%		½%
Combination Driver-Groundman	10.84	1.50	9%		½%
Groundman	9.98	1.50	9%		½%

LC-ZONE-II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Technician	$12.50	.45	3%+4%	a+5%	.5%
Cable Splicer	13.01	.45	3%+4%	a+5%	.5%
Combination Digger Operator Tractor Operator Groudman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman: Distribution Line Truck Driver Operator Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day;Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

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MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.73	.95	1.50	11%	.05
CLASS B	13.50	.95	1.50	11%	.05
CLASS C	13.10	.95	1.50	11%	.05
CLASS D	12.86	.95	1.50	11%	.05
CLASS E	12.49	.95	1.50	11%	.05
CLASS F	10.77	.95	1.50	11%	.05
CLASS G	9.89	.95	1.50	11%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Crane with boom and jib 120' or longer
CLASS D - Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operting compressor or welding machine
CLASS G - Fireman or Oiler

ICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	.05

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welderl operator
CLASS F - Oiler or fireman

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.55	.95	1.50		.05
CLASS B	13.30	.95	1.50		.05
CLASS C	12.80	.95	1.50		.05
CLASS D	11.65	.95	1.50		.05
CLASS E	11.45	.95	1.50		.05
CLASS F	10.25	.95	1.50		.05
CLASS G	9.55	.95	1.50		.05

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

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MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION IOSCO COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: *See Below
DECISION No. MI80-2068 DATE: Date of Publication
Supersedes Decision No.: MI79-2019 dated May 4,1979 in 44 FR 26457
DESCRIPTION OF WORK: Building Construction (including Residential) and Heavy (Excluding Bridge, Airport and Sewer) Construction Projects.

*Counties: Macomb, Monroe, Oakland, Washtenaw & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Monroe County	$13.83	.55	1.40		.04
Twps. of Bridgewater, Dexter, Freedom, Lima, Lydon, Manchester, Sharon & Sylvan in Washtenaw County	12.60	1.05	1.78		.02
Remainder of Counties & the Remainder of Washtenaw County	13.85	1.61	1.69		.07
BOILERMAKERS:					
Monroe County	13.575	1.075	1.00		.03
Remainder of Counties	13.065	1.28	1.30	2.00	.03
BRICKLAYERS & STONEMASONS:					
West of Hwy #23 in Monroe Cos.	13.37	1.16	.55		.05
Washtenaw County	15.47		1.30		
Remainder of Counties & East of Hwy. #23 in Monroe County	14.07	1.28	8%+.60	11%	.06
CARPENTERS & PILEDRIVERMEN					
Washtenaw County	12.84	.60	.80		.05
Remainder of Counties	12.78	1.00	11%	11%	.04
CEMENT MASONS:					
South of Hwy. #151 in Monroe County	14.14	.60			.02
Washtenaw County	15.37		1.30		
Remainder of Counties & North of Hwy. #151 in Monroe County	13.29	1.00	11%		.02
ELECTRICIANS:					
Washtenaw County	13.07	1.00+4%	3%+.70	10%	.26
Monroe County:					
Building	15.10	.85	3%+.95		.3%
Residential	9.42	.65	3%+.55		.1%
Remainder of Counties:					
Building	14.40	1.65	1.20		.05
Residential	14.40	1.65	1.20		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Monroe County:					
Constructors	$15.23	1.195	.95	a	.035
Helpers	70%JR	1.195	.95	a	.035
Washtenaw County					
Constructors	12.41	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Remainder of Counties					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
GLAZIERS	9.77	.55	.65		
IRONWORKERS:					
Monroe County	15.26	1.06	1.68		.09
Remainder of Counties:					
Structural & Ornamental	13.90	9%	17%	18%	.09
Reinforcing	12.08	98+.50	19%	19%	.12
Fence Erectors	11.59	9%	17%	18%	.09
Riggers & Machinery Erectors	11.60	1.84	1.88+1.10	18%	.08
LABORERS: (BUILDING, RESIDENTIAL & HEAVY)					
Monroe County:					
Construction Laborer & Capenter Tender	10.97	.65	.35	.90	.04
Mortar Mixer, Mason & Plaster Tender,	11.17	.65	.35	.90	.04
LATHERS:					
Monroe County; excluding s/w corner-eastern portion of Washtenaw County & Remainder of Counties	12.08	1.62	1.07		.04
MILLWRIGHTS:					
Washtenaw County	12.84	.60	.80		.05
Remainder of Counties	12.50	1.00	13%	23%	.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Washtenaw County	$15.47		1.30		
Remainder of Counties:					
Marble Mason	14.61	1.00	1.75		
Marble Mason Finishers	7.74	.85	.70	.95	
PAINTERS:					
Brush - Roller	12.10	1.01	1.35	1.15	50.00p/y
Spray	12.60	1.01	1.35	1.15	50.00p/y
Drywall Tapers	12.35	1.01	1.35	1.15	50.00p/y
PLASTERERS:					
South of Hwy. #151 in Monroe Cos.	14.65	.60			.01
Washtenaw County	15.47		1.30		
Remainder of Counties & Remainder of Monroe Cos.	13.22	.85	.75		
PLUMBER & STEAMFITTERS:					
Monroe County	14.45	1.06	.80		.12
Washtenaw County	13.53	1.25	.85		.05
Remainder of Counties:					
Plumbers	12.00	1.25	1.60	1.90	.07
Pipefitters	14.06	1.75	1.65	1.70	.05
ROOFERS:					
Monroe County	13.34	1.20	1.00		.02
Washtenaw County:					
Composition	10.65	.94	.65	1.05	.10
Slate	11.68	.94	.65	1.05	.10
Remainder of Counties:					
Composition	14.41	1.05	1.05	1.20	
Slate	15.41	1.05	1.05	1.20	
SHEET METAL WORKERS:					
Monroe County	13.155	1.20	1.57		.045
Remainder of Counties	11.305	1.81	1.73	1.24	.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Washtenaw County	$12.84	.60	.80		.05
Remainder of Counties	11.49	1.00	7%	8%	.03
SOUND & COMMUNICATION WORKERS:					
Wayne, Oakland & Macomb Cos:					
Electrical Technician	8.28	b1.60	b6.00		
Electrical Technician Jr.	6.86	b1.60	b6.00		
SPRINKLER FITTERS:					
Monroe County	12.37	.75	1.05		.08
Remainder of Counties	15.055	80+.50	1.05		.10
TILE & TERRAZZO WORKERS:					
Washtenaw County	13.47		1.00		
Remainder of Counties:					
Terrazzo Workers	12.42	1.00	1.40		
Terrazzo Workers' Finishers	11.02	1.00	.50	1.00	
Tile Setters	12.88	1.00	1.40		
Tile Setters' Finishers	9.27	.85	.80	.90	
TRUCK DRIVERS: Building, Heavy & Residential Construction Pole Trailer; Low Boys; Straddle Carrier; Double Bottoms & special Load Permits	11.30	b32.50	b37.00		
Semi Drivers	11.20	b32.50	b37.00		
All Other Truck Drivers	11.05	b32.50	b37.00		
TRUCK DRIVERS: Underground Construction					
Truck Drivers (Except dump trucks of 8 cu. yd. capacity or over, pole trailers, semis, low boys, Euclid, double bottom & Fuel trucks	10.31	b36.50	b37.00		
Truck Drivers on dump trucks 8 cu, yds. capacity or over, Pole trailers, semis & fuel trucks	10.44	b36.50	b37.00		
Low boys, Euclid & double bottom driver	10.64	b36.50	b37.00		

FOOTNOTES: a. 7 Paid Holidays-New Years Day-Memorial Day-Independence Day-Labor Day Thanksgiving Day-Day after Thanksgiving-Christmas Day plus Employer contributes 8% or Regular Hourly Rate to Vacation Pay Credit for employee who has worked in Business more than 5 years & 6% for employees in business less than 5 years.

b. Per Week; Per Employee

LABORERS BUILDING, RESIDENTIAL & HEAVY Washtenaw County:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.04	.65	.35	1.00	.04
GROUP 2	10.24	.65	.35	1.00	.04
GROUP 3	10.36	.65	.35	1.00	.04
Wayne, Oakland & Macomb Cos:					
GROUP 1	10.53	1.00	.95	1.10	.04
GROUP 2	10.13	1.00	.95	1.10	.04
GROUP 3	10.30	1.00	.95	1.10	.04
GROUP 4	10.28	1.00	.95	1.10	.04
GROUP 5	10.55	1.00	.95	1.10	.04
GROUP 6	10.38	1.00	.95	1.10	.04
GROUP 7	10.43	1.00	.95	1.10	.04
GROUP 8	10.80	1.00	.95	1.10	.04

LABORERS: BUILDING, RESIDENTIAL & HEAVY
Washenaw County:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar mixers; Material Mixers (hand or machine) Air, Gas, Electric Tool Oprs., Power Buggie Oprs., Scaffold Building or Dismantler; Windlass Oprs., Tar and Kettle Oprs.,
GROUP 3 - Crock or Pipe Layers; Caisson Workers

Wayne, Oakland & Macomb Counties:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar Mixers, Scaffold Builders
GROUP 3 - Signal men, Air gas or electric tool oprs., Windlass and Tugger Opr., Jackhmmer and Vibrator Opr.,
GROUP 4 - Crock grade man
GROUP 5 - Furnace Battery Heater Helper
GROUP 6 - Crock and Pipe Layers
GROUP 7 - Caisson Workers
GROUP 8 - Lansing Burners, Blasters, Powderman

LABORERS: OPEN CUT CONSTRUCTION WASHTENAW COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.20	.65	.35	.55	.04
CLASS 2	9.28	.65	.35	.55	.04
CLASS 3	9.33	.65	.35	.55	.04
CLASS 4	9.38	.65	.35	.55	.04
CLASS 5	9.43	.65	.35	.55	.04
WAYNE, OAKLAND, & MACOMB COS:					
CLASS 1	9.26	1.00	.95	.95	.04
CLASS 2	9.34	1.00	.95	.95	.04
CLASS 3	9.39	1.00	.95	.95	.04
CLASS 4	9.44	1.00	.95	.95	.04
CLASS 5	9.04	1.00	.95	.95	.04
MONROE COUNTY					
CLASS 1	9.20	.65	.35	.55	.04
CLASS 2	9.30	.65	.35	.55	.04
CLASS 3	9.40	.65	.35	.55	.04
CLASS 4	9.45	.65	.35	.55	.04
CLASS 5	9.55	.65	.35	.55	.04

CLASS 1 - Construction Laborer
CLASS 2 - Mortar, & Material Mixers, Concrete Form Man, Signal Man, Wheel Point Man, Manhole, Headwall & Catch Basin Building, Guard Rail Builders & Fence Erectors.
CLASS 3 - Air, gasoline, Electric Tool Oprs., Vibrator Oprs., Drillers, Pumpman Tar kettle Oprs., bracers, rodder, Reinforced Steel or Mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench Excavating Grade Man
CLASS 5 - Pipelayer

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION WASHTENAW & MONROE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.83	.65	.35	.55	.04
CLASS 2	9.91	.65	.35	.55	.04
CLASS 3	9.96	.65	.35	.55	.04
CLASS 4	10.11	.65	.35	.55	.04
CLASS 5	10.31	.65	.35	.55	.04
CLASS 6	10.56	.65	.35	.55	.04
Wayne, Oakland & Macomb Cos:					
CLASS 1	9.26	1.00	.95	.95	.04
CLASS 2	9.34	1.00	.95	.95	.04
CLASS 3	9.39	1.00	.95	.95	.04
CLASS 4	9.59	1.00	.95	.95	.04
CLASS 5	9.74	1.00	.95	.95	.04
CLASS 6	9.99	1.00	.95	.95	.04

CLASS 1 - Tunnel, Shaft & Caisson laborer, dump man Shanty man, Hog house tender, Testing Man (on gas)
CLASS 2 - Manhole, Headwall catch basin builder, Bricklayers Tender, Mortar man, Material mixer, fence Erector & Guard rail Builder
CLASS 3 - Air Tool oprs., (Jackhammer man, Bruch Hammer man & Grinding Man) First Bottom man, Second bottom man, Cage Tender, Car pusher, carrier man, Concrete man, concrete form man, Concrete repair man, Cement invert laborer, Cement finisher, concrete shoveler, conveyor man, Floor man, Gasoline & Electric Tool Oprs., Gunnite man, grout Opr., Heading dinry man, inside lock tender, pea gravel opr., pump man, outside lock tender, Vibrator man, top signal man switch man, track man, Tugger man, Utility man, Vibrator man, top signal man, switch man, track man, Tugger man, Utility man, Vibrator man, Winch Opr., concrete saw opr., (under 40 H.P.)
CLASS 4 - Tunnel, shaft & Caisson mucker, Bracer man, Under Plate man, Long Haul Dinky driver & well point man
CLASS 5 - Tunnel, shaft, & Cassion Miner, Driller Runner, Key board Opr., Power Knife Opr., reinforced steel or mesh man (Wire Mesh, Steel Mats, Dowell Bars, Etc.)
CLASS 6 - Dynamite man & Powerman

LANDSCAPE LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS "A" Landscape Specialist, including air, gas, diesel, electric tool and/or equipment	$ 7.21				
CLASS "B" Landscape Laborers, Truck Drivers, Material Haulers & Small Power Equipment	5.46				

LINE CONSTRUCTION Wayne, Macomb & Remainder of Washtenaw, Monroe & Oakland Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$14.38	1.50	9%		½%
Cable splicers	15.00	1.50	9%		½%
Combination Equipment Oprs. & Groundman	11.52	1.50	9%		½%
Combination Driver-Groundman	10.84	1.50	9%		½%
Groundman	9.98	1.50	9%		½%
LINE CONSTRUCTION: Twys. of Lyndon, Manchester Sharon & Sylvan in Washtenaw Cos., Twps. of Bedford, Erie LaSalle & Whiteford in Monroe County-Twp. of Holly in Oakland Cos.,					
Lineman; Technician	12.50	.45	3%+4%	a+5%	.5%
Cable Splicers	13.01	.45	3%+4%	a+5%	.5%
Combination-Digger Operator: Tractor Operator Groundman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Opr., Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

POWER EQUIPMENT OPERATORS: BUILDING, RESIDENTIAL & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.73	.95	1.50	11%	.05
CLASS B	13.50	.95	1.50	11%	.05
CLASS C	13.10	.95	1.50	11%	.05
CLASS D	12.86	.95	1.50	11%	.05
CLASS E	12.49	.95	1.50	11%	.05
CLASS F	10.77	.95	1.50	11%	.05
CLASS G	9.89	.95	1.50	11%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom & jib or leads 140' or longer
CLASS C - Crane with boom & jib 120' or longer
CLASS D - Regular Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operating compressor or welding machine
CLASS G - Firemen or oiler

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POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib or longer tower crane & derrick operator (where operators work stations is 501 or more above first sub level)
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger & gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. P. or over)

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: See below*
DECISION NUMBER: SC80-1092 DATE: Date of Publication
Supersedes Decision No.: SC79-1124 dated September 7, 1979 in 44 FR 52578
DESCRIPTION OF WORK: Residential construction projects consisting of single family homes and apartments up to and including 4 stories.

*Counties: Aiken, Allendale, Bamberg, Barnwell, Calhoun, Edgefield, Hampton, and Orangeburg

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning & Heating Mechanic	$ 5.00				
Bricklayers	6.35				
Carpenters	5.01				
Concrete Finisher	5.50				
Drywall Finisher	6.19				
Drywall hanger	5.45				
Electricians	5.30				
Insulation Installer	4.86				
Laborers:					
Laborers, Unskilled	3.50				
Mortar Mixers	4.48				
Pipelayers	4.29				
Painters, brush	4.75				
Plumbers & Steamfitters	6.30				
Roofers	5.13				
Sheet Metal Workers	5.25				
Soft Floor Layers	4.00				
Tile Setters	5.00				
Truck Drivers	3.50				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.55				
Bulldozers	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: TENNESSEE

COUNTIES: FAYETTE, SHELBY, & TIPTON

DECISION NUMBER: TN80-1100

DATE: DATE OF PUBLICATION

Supersedes Decision Number TN79-1007, dated January 5, 1979, in 44 FR 1668.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 6.13				
BRICKLAYERS	8.95				
CARPENTERS	5.93				
CARPET INSTALLERS	5.50				
CEMENT MASONS	5.24				
DRYWALL FINISHERS	6.51				
DRYWALL HANGERS	7.04				
ELECTRICIANS	7.54				
INSULATION INSTALLERS	7.001				
IRONWORKERS	4.50				
LABORERS:					
Unskilled	3.84				
Mortar mixers	4.25				
Mason tenders	4.25				
Asphalt rakers	5.01				
PAINTERS	5.97				
PLUMBERS & PIPEFITTERS	7.76				
ROOFERS	6.76				
SHEET METAL WORKERS	7.48				
SOFT FLOOR LAYERS	4.63				
TILE SETTERS	5.25				
TRUCK DRIVERS	4.75				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.50				
Motor grader	6.50				
Payer	5.95				
Roller	5.56				
Tractor	4.40				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (i) (ii)).

[FR Doc. 80-25318 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: Washington

COUNTIES: Clallam, King, Kitsap, Pierce, Snohomish, and Thurston

DECISION NUMBER: WA80-5125

DATE: Date of Publication

Supersedes Decision No. WA78-5103 dated June 16, 1978, in 43 FR 26271

DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS:					
King County	$12.48				
CARPENTERS	14.93	.75	.95		.04
CEMENT MASONS	11.46				
DRYWALL TAPERS	13.04	.72	.70		.04
ELECTRICIANS:					
Clallam, King, and Kitsap Counties	8.75	.85	3%+.40	.18	.03
ELEVATOR CONSTRUCTORS	15.735	1.045	.82	*	.03
IRONWORKERS	13.66	.93	1.70		.10
LABORERS	7.70				
PAINTERS	10.92				
PLUMBERS:					
Clallam and King Counties	13.42				
Remaining Counties	8.30	.85	.30	.37	.11
ROOFERS:					
Pierce and Thurston Cos.	10.18	.65	.40		.02
Remaining Counties	12.71	.75	1.00		.03
SHEET METAL WORKERS:					
Clallam and Kitsap Cos.	12.24	.37	.83	1.50	.06
King and Snohomish Cos.	14.45				
SOFT FLOOR LAYERS:					
King and Snohomish Cos.	12.08	.63	1.25		.05

*VACATION PAY (Elevator Constructors):
Employer contributes 8% of basic hourly rate for 5 years or more of service as vacation pay credit and 6% of basic hourly rate for 6 months to 5 years of service. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses 29 CFR 5.5 (a) (1) (ii)

Federal Register

Friday
August 22, 1980

Part III

Environmental Protection Agency

Intent To Issue Guideline for Evaluating the Profit Element of Subagreements for Architectural/Engineering (A/E) Services Funded Under Title II of the Clean Water Act

ENVIRONMENTAL PROTECTION AGENCY

Intent To Issue Guidance for Evaluating the Profit Element of Subagreements for Architectural/Engineering (A/E) Services Funded Under Title II of the Clean Water Act

Construction Grants Program—Catalog of Federal Domestic Assistance No. 66.418

Purpose of This Notice

The Environmental Protection Agency (EPA) invites interested persons to review and comment on a proposed policy memorandum entitled "Criteria and Guidelines for evaluating the Profit Element of Subagreements for Architectural/Engineering Services."

The proposed policy memorandum would provide guidance to grantee, State and EPA reviewers who approve the profit element of A/E subagreements. The policy memorandum sets forth criteria for establishing the range of profits that are normally considered reasonable by EPA. This means that only that portion of the profit element that is less than or equal to the amount determined by the evaluation criteria would be normally eligible for grant participation.

Where and When To Send Comments

Any comments received by October 15, 1980, will be considered in developing the final document. Please submit comments to Mr. James R. Murphy, Municipal Construction Division (WH-547), Office of Water Program Operations, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (telephone 202-426-8945.)

Dated: August 13, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

Program Requirements Memorandum

Subject: Criteria and guidlines for Evaluating the Profit Element of Subagreements for Architectural/Engineering Services

From: Henry L. Longest II, Deputy Assistant Administrator for Water Program Operations (WH-546)

To: Regional Administrators (Regions I-X) Attention: Water Division Directors

Purpose

The purpose of this memorandum is to establish National guidelines for evaluating the profit element of subagreements for architectural/engineering (A/E) services funded under Title II of the Clean Water Act.

For the purpose of this memorandum, the terms profit, cost and price have the definitions contained in the Environmental Protection Agency (EPA) subagreement regulations (40 CFR 35.936 thru 35.938).

The profit evaluation criteria and guidelines contained in this memorandum are not intended to be an absolute requirement nor are they intended to restrict the amount of profit paid by the grantee to the consultant. Rather, the evaluation criteria is intended to provide guidance to the grantee, State and EPA regional offices on the range of profits that are normally considered allowable by EPA.

Background

EPA regulation 40 CFR 35.936-4 states that "only fair and reasonable profits may be earned by contractors in subagreements under EPA grants." This requirement applies to all subagreements, including contracts for architectural/engineering services.

EPA enacted its current policy of having each regional office develop internal review procedures and guidelines for evaluating profits in a memorandum dated January 18, 1977, from Alvin L. Alm to the Regional Administrators. The decision to allow the regional offices to develop internal guidelines was made after considering the wide variety of existing circumstances and in preference to establishing, at that time, numerical profit limits or formulas in a national policy. It should be noted that EPA distributed drafts of a proposed national policy for establishing profit ranges and weighted guidelines in September 1976, but a number of offices within the agency, as well as associations representing the A/E profession, expressed a strong objection to the issuance of the proposed policy. Accordingly, a decision was made, at that time, not to establish profit ranges and weighted guidelines as national policy.

In carrying out the responsibilities mandated by the January 18, 1977 memorandum, the regional offices have developed differing internal guidelines for evaluting profit levels. The differences between the regional guidelines and the variation in their application have created a concern about the lack of a uniform national profit policy. The January 18, 1977 memorandum stated that "It is essential that the agency maintain some level of consistency among the regions in the performance of cost reviews, cost analyses and profit levels allowed." The memorandum also stated that EPA would continue to explore various options for the possible future issuance of direct labor and profit gudelines.

On June 8, 1977, the California State Water Resources Control Board, issued "Bulletin No. 29H—Guidelines for Architectural/Engineering Services." This bulletin included an evaluation criteria for reviewing the profit elements of A/E subagreements.

Over the past two years the California guidelines have been discussed and examined in depth both within EPA and the consulting engineering profession. Although everyone is not in complete agreement with all the provisions of the California guidelines, the consensus is that proper application of guidelines can provide for a fair and reasonable profit for the performance of engineering services. Accordingly, EPA is establishing a review criteria based on the principles of the California Guidelines.

In understanding the following profit guideline criteria, it should be recognized that:

A. EPA regulation 40 CFR 35.937-7 defines profit as "the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on Federal procurement principles, it may vary from the firm's definition of profit for other purposes.)"

B. Federal procurement principles do not consider the following expenses to be considered as allowable costs: interests on borrowed capital, job cost overruns, bad debts including losses on other contracts and uncollectable accounts. Various other expenses such as entertainment costs are also considered unallowable. Accordingly, these expenses, if incurred on an EPA funded project, must be paid out of the profit element of the subagreement.

Discussion

EPA regulation 40 CFR 35.937(b) describes the Agency's policy regarding subagreements for architectural/engineering services as follows:

Policy. Step 1, step 2, or administration or management of step 3 project work may be performed by negotiated procurement of architectural or engineering services. The Federal Government's policy is to encourage public announcement of the requirements for personal and professional services, including engineering services. Subagreements for engineering services shall be negotiated with candidates selected on the basis of demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices. All negotiated procurement shall be conducted in a manner that provides to the maximum practicable extent, open and free competition. Nothing in this subpart shall be construed as requiring competitive bids or price competition in the procurement of architectural or engineering services.

EPA regulation 40 CFR 35.937-7 states that: Profit should be sufficient to attract

professionals who possess the talents and skills necessary to accomplish the project objectives and to stimulate efficient and expeditious completion of the project.

EPA regulation 40 CFR 35.937–7 describes the objectives of profit negotiations between the grantee and the A/E as follows: The exercise of sound business judgement and good administrative practice including the determination of a fair and reasonable profit based on the firm's assumption of risk and input to the total performance, *and not merely the application of a predetermined percentage factor.* (emphasis added)

Policy

It is EPA policy that only that portion of the profit element that is less than or equal to the amount determined by the profit guideline criteria is eligible for grant participation.

In certain exceptional circumstances a profit beyond the range of the criteria may be approved by EPA. Any request for approval of a profit in excess of that allowed by the evaluation criteria should be submitted by the grantee to the EPA regional office. The EPA regional office will make the final determination on the request. If a waiver to the evaluation criteria is approved by the regional office, the justification should be documented and included in the official grant file.

Weighted Guidelines

Cost element (From EPA Form 5700–41)	Approvable profit as a percent of cost element	
	CPFF contract	Lump sum contract
1. Direct Labor Cost (Item 7)	Up to 24	Up to 26
2. Indirect Cost (Item 8)	Up to 16	Up to 18
3. Other Direct Cost (Items 9a,9b,9d).	Up to 7	Up to 7
4. Subcontract Cost (Item 9c)	[1] 4 to 8	[1] 4 to 8
5. Additional Profit Factor to be Applied to those Subcontracts Involving Less Experienced Contractors, Unusual Risks or Responsibilities.	Up to 5	Up to 5
6. Additional Profit Factor to be Applied to those Subagreements Involving the Design of an Innovative and Alternative Technology Project (See attached memorandum).	Up to 2	Up to 2

[1] Subcontract cost/total cost item 9c/item 10:

[In percent]

Less than 30%	Up to 8.
Between 30–70%	Up to pro-rata share between 4–8.
Greater than 70%	Up to 4.

Application of Profit Guideline Criteria

The procedures for applying the weighted guidelines, and a more detailed description of the evaluation criteria, are outlined below:

1. The profit guideline criteria should be applied whenever EPA performs a preaward cost and price review under applicable regulations including all subagreements for A/E services where price is not the prime consideration in the award of the contract, and to all lower tiered subcontracts thereunder.

2. The weighted guidelines should be applied independently to the prime contract and applied independently to each subcontract including lower tiered subcontracts. Accordingly, no attempt should be made, when applying the evaluation criteria, to allocate profit between the various contract levels within a subagreement.

3. For the purpose of applying the profit guideline criteria, total cost is the approvable amount shown in Item 10 of EPA Form 5700–41 and total profit is the approvable amount shown in Item 11 of the same form.

4. The maximum profit that normally will be approved by EPA for an A/E subagreement is determined by multiplying the dollar value of each approvable cost element by the corresponding maximum weighted guideline and summing the results.

5. The maximum profit should not exceed 20 percent of the total approvable cost for lump sum (LS) contracts and 18 percent of the total approvable cost for cost plus fixed fee (CPFF) contracts.

The profit ceiling may be increased an additional 2 percent for a Step 2 subagreement involving the design of an innovative and alternative technology project. This additional 2 percent premium is risk compensation to be added to the profit and is not subject to any profit limitations. See attached March 20, 1980 memorandum.

6. If the total negotiated profit is less than or equal to the value determined by the procedures described in Item 3 and Item 4 above, and all other appropriate requirements have been met, the negotiated profit should be approved by the EPA reviewing office.

7. The weighted guidelines criteria should only be used to determine the maximum profit that will normally be approved by EPA. The actual profit negotiated by the grantee should be based on the A/E's assumption of risk and input to total performance and not simply on the application of a percentage factor.

8. The weighted profit guideline criteria should only be applied to negotiated lump sum and cost plus fixed fee contracts.

9. In certain circumstances and A/E may be required to enter into an agreement with less experienced, but otherwise qualified small, minority or woman owned business enterprises. In such instances an additional profit factor of up to 5 percent may be applied to the approvable value of the subcontract(s). However EPA does not normally require the utilization of less experienced subcontractors on more than 20 percent of the total work of the subagreement. Accordingly, the additional profit factor should not be applied to subcontract(s) cost in excess of 20 percent of the total approvable value of the subagreement.

The additional profit, which cannot exceed 1 percent of the total cost of the subagreement (0.05 x 0.20) is intended to compensate the A/E for the increased risk and liability associated with the utilization of less experienced subcontractors.

10. If the grantee believes that special circumstances justify a total subagreement price or profit above that which is approved by EPA, such additional cost shall be borne by the grantee.

11. The profit evaluation criteria assumes indirect (total allowable overhead) cost between 100 and 175 percent of direct labor cost. For extraordinarily high or low overhead costs, adjustment of profit downward or upward, respectively, may be appropriate.

12. For negotiated profits within the guideline criteria, the record of the negotiations shall be considered adequate justification for meeting the objectives of 40 CFR 35.937–7—negotiation of profit.

13. The profit guideline criteria recognizes the differences in risk between a lump sum (LS) contract and a cost plus fixed fee (CPFF) contract. In a true CPFF contract only the fixed fee is limited to the original contract amount, the cost ceiling is a figure to be periodically evaluated, and if necessary, adjusted upward or downward by contract amendment, provided of course, that any incremental costs are normal and necessary to the proper completion of the original scope of work.

EPA regulations require all CPFF contracts to include a cost ceiling or a limitation of cost clause. Normally, the provisions of a CPFF contract require the A/E to notify the grantee and EPA, in writing, whenever there is reason to believe that (1) the costs to be incurred within the next 60 days, when added to all previously incurred costs, are expected to exceed 75 percent of the estimated contract cost, or (2) the total costs (exclusive of fee) are expected to exceed the cost ceiling. The A/E's revised estimate of that total cost should accompany the notification. The grantee should review and act on the A/E's revised estimate within a reasonable period of time. If the grantee determines that additional services are needed for the proper completion of the original scope of work, and if the costs are necessary and reasonable, the grantee should submit a request to EPA for additional funds. Unless EPA takes action on the request, either in the form of a grant increase or a release of contingency funds, the agency will not be obligated to reimburse the grantee for costs incurred in excess of the amount

initially funded. Furthermore, the A/E is not obligated to continue performance once he has incurred costs up to the approved cost ceiling. An A/E who incurs cost in excess of the amount approved by the grantee does so at his own risk. While the costs incurred in the perfomance of a cost-reimbursable contract may vary from the initially agreed-to estimate, the fee remains fixed as an expressed dollar amount and is subject only to adjustment by reason of an approved change in the scope of work. In the event that the work cannot be completed within the initially agreed-to estimate, the grantee, with the approval of EPA, can require the A/E to provide additional services without an increase in fee by simply amending the contract amount, or the contract can be terminated. However, if a CPFF contract is terminated solely because the incurred costs have reached a predetermined cost ceiling, the A/E would not be required to provide a completed product.

The profit guidelines criteria are designed to allow a higher profit for a lump sum contract than for a CPFF contract. However, some contracts may combine the contractural provision of a lump sum contract and a CPFF contract. In such instances, the contractural provisions that describe the cost ceiling, the limitation of cost clause, or the not to exceed clause must be closely examined in order to properly classify the contract as to type. Accordingly, for the purpose of applying the profit guideline criteria, any contract, regardless of its stated designation, should be evaluated as a lump sum (LS) contract if:

a. The contract contains an absolute upper limit, i.e., the cost ceiling cannot be exceeded under any circumstances.

b. The contract establishes a guaranteed maximum price.

c. The language used to define the upper limit of the contract is the same as the language normally used to define the upper limit of a lump sum contract, e.g., the contract ceiling may not be increased without a change in scope.

Profit Negotiation

The grantee, when negotiating the amount of profit with the consulting engineer, should give consideration to the following factors:

1. Consulting engineers input to total performance:

a. Direct Labor—Evaluate the comparative quality and level of the talents, skills and experience to be employed. Consider the mix of professionals, para-professionals and non-professionals.

b. Overhead Expense and General and Administrative Expenses—Consider the amount of labor within the overhead pool and how this labor would be treated if it were considered as direct labor under the contract. Consider whether the costs are routine expenses such as utilities, depreciation, and maintenance, and accordingly, given less profit consideration than the pool as a whole.

c. Equipment—Equipment generally includes purchases of capital items which may or may not be an integral part of the final product. When equipment is not an integral part of the final product, consider the availability of equipment; when equipment will be an integral part of the final product, consider the complexity of equipment; and in all cases the ratio of equipment costs to total costs should be considered.

d. Materials and Supplies—Evaluate the managerial and technical effort necessary to obtain materials and services required to directly support the project (i.e., number of orders, availability of resources, accountability systems, the complexity of the contractor's task, and the ratio of material or supplies costs to total costs).

e. Other Direct Costs—This include costs for such items as travel, subsistence, printing, laboratory and ADP services. Analysis of these costs should be similar to the analysis of purchases and subcontracts.

2. Sub-Consultants and Subcontracts: Analyze from the standpoint of what talents, skills, and experience they possess, and how they will be used on the project.

3. Past Performance of the Architect/Engineer: Consider known past performance of the architect/engineer in management ability, cost control, timely performance and thoroughness of work.

4. Size of Project: Small projects may justify a higher profit level.

Implementation

The proposed effective date of this policy is November 1, 1980.

The policy is to be applied to all A/E subagreements approved by the EPA regional office, or other cognizant agency, on or after the effective date.

Attachment to Program Requirements Memorandum

Subject: Engineering Fees for Innovative and Alternative Technology (I&A) Construction Grant Projects.
From: Harold P. Cahill Jr., Director, Municipal Construction Division (WH-547).
To: Water Division Directors, Regions I-X.
Dated: March 20, 1980.

Policy

In arriving at contracts for Step 2 architect-engineer (A/E) services on innovative and alternative (I&A) technology projects, the Region will encourage grantees to increase the contract fee (line 11. of 5700-4) in recognition of the increased reputational risk of I&A projects as an incentive to develop these peojects in the constructing grants program.

Background

Section 201(g)(5) of the Clean Water Act gives the Environmental Protection Agency (EPA) the authority to make construction grants to projects that use I&A technologies. EPA encourages and, where possible, assists in development of I&A technologies for wastewater treatment construction grants projects (40 CFR 35.908(a)). I&A projects are more complex and involve more risk than conventional projects. As a result, the Clean Water Act provides I&A projects 85 percent Federal funding and a cost-effectiveness preference of 15 percent. Further, if the I&A project fails within two years of final inspection, the Act provides 100 percent funding for the eligible costs for necessary modifications or replacement.

Generally, the fee component of A/E contract price includes additional compensation based on complexity of work and, in some cases, for technical risks. However, such risks are usually based on the degree of assurance of recoupement of costs as indicated by the type of contract utilized. To assure A/E's give I&A technologies adequate consideration, additional compensation for Step 2 work is necessary.

Implementation

Grantees may negotiate an increase in the free component by up to two percent of the contract amount for design of I&A projects. This additional two percent premium is risk compensation to be added to the profit and is not subject to any profit limitations. In determining the additional contract fee amount warranted, grantees should consider the following:

1. The additional contract fee may not exceed two percent of the total cost component of the Step 2 design.

2. The increased contract fee for I&A projects is for Step 2 work only.

3. The I&A increase should be proportionate to the I&A portion of the project. For example, if the project is 100 percent innovative and/or alternative, the I&A increase may not exceed two percent. If the project is 50 percent innovative and/or alternative, the I&A increase may not exceed one percent.

4. The I&A increase is grant eligible only when requested by the grantee and certified by the State. While EPA supports and encourages use of the I&A increase, it is not mandatory.

[FR Doc. 80-25614 Filed 8-21-80; 8:45 am]
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Federal Register

Friday
August 22, 1980

Part IV

Department of Labor

Mine Safety and Health Administration

Electrical Components and Headlights for Mobile Diesel-Powered Transportation Equipment; Removal of Design Restrictions

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 36.

Electrical Components and Headlights for Mobile Diesel-Powered Transportation Equipment

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify MSHA's requirements and conditions for approval of permissible mobile diesel-powered transportation equipment for use in gassy metal and nonmetal mines by amending 30 CFR Part 36. The proposed amendments would remove current design restrictions which prohibit the use of certain electric-powered accessories on permissible mobile diesel-powered transportation equipment. The change would allow operators of gassy mines to obtain equipment incorporating advanced technology, and thereby afford greater safety and health protection for the miners. Interested persons may participate by submitting written comments to the address provided below.

DATES: Comments must be received on or before October 21, 1980.

ADDRESS: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

Rulemaking for Part 36 was initiated by the Department of the Interior, Bureau of Mines, on September 24, 1959 (24 FR 7696). After extensive public participation, the regulations were re-proposed on November 3, 1960 (25 FR 10534). Part 36 was promulgated as a final rule on January 24, 1961 (26 FR 645).

The Federal Mine Safety and Health Amendments Act of 1977 (the Amendments Act), Pub. L. 95–164, 91 Stat. 1290 *et seq.*, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91–173, 83 Stat. 742, 30 U.S.C. § 801 *et seq.*, (1976 ed.), and repealed the Federal Metal and Nonmetallic Mine Safety Act of 1966, Pub. L. 89–577, 80 Stat. 772, 30 U.S.C. § 721 *et seq.*, (1976 ed.). The resulting law, the Federal Mine Safety and Health Act of 1977 (the Mine Act), 30 U.S.C. § 801 *et seq.*, established a single statute applicable to all mining. Section 301(a), (b)(1) and (c)(2) of the Amendments Act, 91 Stat. 1317, 1318, 30 U.S.C. §§ 961(a), (b)(1) and (c)(2) (Supp. I (1977)), transferred responsibility for mine safety and health from the Secretary of the Interior to the Secretary of Labor and provided that current standards, rules and regulations issued by the Secretary of the Interior were to remain in effect under the new Mine Act.

This proposed amendment of 30 CFR Part 36, Subparts B and C is authorized under Section 101(a) of the Mine Act, 91 Stat. 1291, 30 U.S.C. § 811 (Supp. I (1977)).

II. Discussion and Summary of the Proposed Rule

A. General Discussion

Presently Part 36 of 30 CFR prohibits the use of all electrical devices except self-contained, battery-powered headlights on permissible mobile diesel-powered transportation equipment for use in gassy metal and nonmetal mines. Since 1961, manufacturers of mining equipment have developed and designed electric-powered devices which MSHA believes present no hazard as an ignition source in gassy mines. Examples are engine-driven lighting units which provide a high level of illumination; and methane detection instrumentation which are incorporated into mobile equipment safety controls. These devices materially contribute to the safety of miners. MSHA has accepted certain of these devices as safe for use in gassy mines under Part 18 [Electric Motor-Driven Mine Equipment and Accessories] and Part 27 [Methane-Monitoring Systems], but has been unable to approve mobile diesel-powered equipment which incorporates the same devices because of the restrictions presently existing in Part 36.

The proposed amendments to Part 36 would revise the requirements for approval and certification of mobile diesel-powered transportation equipment in gassy metal and nonmetal mines. The resulting rule would change Subpart B which contains construction and design criteria, and Subpart C which contains testing requirements. Subpart A, which establishes general requirements, would remain unaltered.

The proposed rule would permit MSHA to investigate for approval and certification, mobile diesel-powered transportation equipment containing electric devices whose construction and design satisfy the applicable requirements of 30 CFR Parts 18, 20, and 27. If the rule is promulgated as proposed, operators could more readily obtain permissible equipment which meets MSHA's mandatory requirements for gassy mines. With the installation of such state-of-the-art devices, operators' compliance with mandatory standards would be facilitated. MSHA believes that this also will result in a safer working environment for metal and nonmetal miners using diesel haulage equipment.

This rulemaking proposes to amend 30 CFR Part 36, Sections 36.32 and 36.33 of Subpart B and revoke Section 36.51 of Subpart C.

B. Section-by-Section Analysis

Section 36.32. Section 36.32 entitled "Restriction of electrical components" now provides that mobile diesel-powered transportation equipment will not be investigated for approval and certification unless the electrical components of the equipment are restricted to headlight units constructed in accordance with present Section 36.33, and tested pursuant to present § 36.51. Since 1961, electrically-powered accessories have been developed which can operate safely on diesel equipment in metal and nonmetal gassy mines. These accessories, such as methane detection and engine-driven illumination systems, offer technology which will contribute to miners' safety and health at gassy workplaces.

This proposed amendment to § 36.32 would permit the investigation for certification and approval of mobile diesel-powered transportation equipment having: (1) electrical *components* which are certified under 30 CFR Part 18 (Electric Motor-Driven Mine Equipment and Accessories), 30 CFR Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps), or 30 CFR Part 27 (Methane-Monitoring Systems), and which bear the certification data assigned by MSHA; or (2) electrical *systems* which meet the requirements of either Part 18 or Part 27.

This amendment of the regulation will facilitate compliance with the requirements of certain mandatory standards in MSHA's metal and nonmetal "Gassy mines" section (30 CFR Part 57.21–1 through .21–101).

The proposed rule would continue the restriction against electric starting currently implicit in § 36.32, and specifically stated in § 36.21. MSHA seeks comments specifically directed to this issue.

The proposed rule also changes the heading of § 36.32 to retain consistency with the substantive revisions.

Section 36.33. Section 36.33 (Headlight units) currently states that any headlight unit used on mobile diesel-powered transportation equipment shall be constructed as a locked or sealed unit containing the battery; conform to the applicable requirements in Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps), or be constructed with equivalent safeguards acceptable to MSHA; and be mounted in a fixed position on the mobile equipment and protected from external damage. The Section also requires that at least one headlight unit must be provided on the front and rear of each piece of equipment.

MSHA recognizes that certain engine-driven illumination systems can be safely used in gassy mines. They also illuminate more effectively than self-contained battery-powered units. The proposed rule, therefore, deletes the provisions in § 36.33 which restrict lighting units on mobile diesel-powered transportation equipment to self-contained devices. The proposal retains the requirements that each vehicle must have at least one headlight on each end, and that any lighting fixtures on the equipment must be protected from damage.

The effect of the amendment is to provide for the alternative of either engine-driven lighting systems which meet the requirments of Part 18 (Electric Motor-Driven Mine Equipment and Accessories) and whose components are certified under Part 18, or self-contained devices certified under Part 20. Regardless of the type of lighting used, each end of mobile equipment still must have at least one such unit and each unit must be protected. Interested parties are invited to comment on any foreseeable problems relating to this proposed amendment.

The proposed rule makes the additional editorial changes of renumbering the retained paragraphs and changing the heading to retain consistency with the substantive revisions to § 36.33.

Section 36.51. Section 36.51 currently provides that headlight units must be inspected and tested according to the applicable criteria contained in 30 CFR Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps). The proposal would revoke the Section because the inspection and testing criteria for all electric devices installed on mobile diesel-powered equipment are referenced in proposed §§ 36.32 and 36.33.

Interested individuals or organizations are asked to submit written comments and data on issues raised by this proposed rulemaking. If requested, MSHA will hold a public hearing pursuant to Section 101(a)(3) of the Mine Act.

III. Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978) and the Department of Labor's final guidelines for implementing the Executive Order (44 FR 5570, January 26, 1979).

IV. Drafting Information

The principal persons responsible for preparation of this proposed rule are: George J. Dvorznak, Approval and Certification Center, MSHA, and Mitchell M. Eskenazi, Office of the Solicitor, Department of Labor.

PART 36—MOBILE DEISEL-POWERED TRANSPORTATION EQUIPMENT FOR GASSY NONCOAL MINES AND TUNNELS

Subpart B—Construction and Design Requirements

1. It is proposed to revise the title and wording of 30 CFR § 36.32 "Restriction of electrical components"as follows:

§ 36.32 Electrical components and systems.

(a). Electrical components on mobile diesel-powered transportation equipment shall be certified under Parts 18, 20, or 27 of this chapter, as applicable, and shall bear the certification number assigned by the Mine Safety and Health Administration (MSHA).

(b) Electrical systems on mobile diesel-powered transportation equipment shall meet the requirements of Parts 18 or 27 of this chapter, as applicable.

2. It is proposed to revise the title of § 36.33 "Headlight units" and change the wording of the Section by deleting paragraphs (a) and (b). The remaining two paragraphs are revised and redesignated (a) and (b), as follows:

§ 36.33 Headlights and lighting fixtures.

(a) Headlights and lighting fixtures on mobile diesel-powered transportation equipment shall be protected from external damage by recessing them in the equipment frame, enclosing them within a shield of substantial construction, or otherwise protecting them in accordance with sound engineering practice.

(b) Mobile diesel-powered transportation equipment shall be equipped with at least one headlight on each end.

§ 36.51 [Revoked]

3. It is proposed to revoke 30 CFR 36.51, *Inspection and tests of headlight units.*

Note.—As a result of the above actions, the table of contents for 30 CFR Part 36 would be changed as follows:

Sec.
36.32 Electical components and systems.
36.33 Headlights and lighting fixtures.

The table of contents for "36.51 Inspection and tests of headlight units" would be deleted since the section is proposed to be revoked.

(Sec. 101, Pub. L. 91-173, as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. § 811))

Dated: August 14, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 80-25682 Filed 8-21-80; 8:45 am]
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Friday
August 22, 1980

Part V

Department of Labor

Mine Safety and Health Administration

Definition of Signaling Device; Removal of Design Restriction Requirement

DEPARTMENT OF LABOR

30 CFR Part 23

Definition of Signaling Device

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends 30 CFR Part 23, which sets forth the requirements and conditions for MSHA approval of permissible telephones and signaling devices for use in mines. The proposed amendment would delete a portion of the definition of "Signaling Device" because new developments in communications technology no longer require the design restriction included in the current definition. The amendment would also add a new paragraph (g) to § 23.7 which would require all line powered telephone and signaling devices to be equipped with a standby power source. Interested persons may participate in the rulemaking process by submitting written comments, suggestions and objections to the address provided below.

DATE: Comments must be received on or before October 21, 1980.

ADDRESS: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

The definition of a signaling device set forth in section 23.2 was issued on April 11, 1939, by the Bureau of Mines, as part of Schedule 9B (4 FR 1555) pursuant to An Act for the Protection of the Lives of Miners in the Territories, 51st Congress, Chapter 564 (1891). The specifications in Schedule 9B were not mandatory until the enactment of the Federal Coal Mine Safety Act (Pub. L. 89-552, sec. 212, 66 Stat. 709) in 1952. Schedule 9B became Part 23 when amended by Supplement I (20 FR 2975) on May 4, 1955. Subsequent amendments to Part 23 have not changed the definition of a signaling device.

Pursuant to section 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811), the Secretary of Labor proposes to amend 30 CFR 23.2(f) to conform with advances in technology which have occurred since 1939.

II. Purpose and Effect of Rule

Section 23.2 is the "Definitions" section of 30 CFR Part 23. Section 23.2(f) defines "signaling device" and states that only signaling devices which are not designed to operate from a lighting or power circuit will be approved by MSHA as permissible equipment for use in mines. Because of the provision, MSHA is only allowed to approve telephones and signaling devices which are powered exclusively by batteries. This is a design restriction which was included in the definition in 1939 for two reasons: (1) signaling devices powered exclusively by batteries provided continuous communications in the event the mine power circuit failed or was cut off; and (2) technology at that time could not provide a means to insure that mine power circuits would be adequately isolated from signaling system circuits. Although § 23.7(a) requires circuits external to telephone and signaling devices to be intrinsically safe, insufficient isolation of the signaling system circuit from the mine power circuit could result in a higher level of current and voltage in the signaling system circuit, causing it to become unsafe. Damage to such a circuit could generate a spark capable of initiating an explosion in mines that have gassy or dust-laden atmospheres.

New technology, including the application of the concept of intrinsic safety and the use of solid state components has eliminated the hazards against which the restrictions contained in § 23.2(f) were directed. Communication systems exist today in which isolation between power circuits and intrinsically safe circuits is achieved through physical separation of bare circuit components and specially designed barrier circuits. The barrier circuits limit the maximum voltage and current that can be transmitted to the signaling system. Most European mine communication systems use a power supply that is isolated from the power circuit in this way and which continuously supplies a small current to the telephone or signaling device so as to maintain a "trickle" charge on the standby batteries in each device. The batteries provide communication capabilities when the mine power circuit is off.

The proposed rule would eliminate the current design restriction in § 23.2 (f) and permit MSHA to accept applications for the approval of telephones and signaling devices operated from mine power or lighting circuits. Also, a new paragraph would be added to § 23.7 to limit the approval of the line powered telephones and signaling devices to those provided with a standby power source, such as storage batteries with a charging feature. The new requirement is necessary to retain the communication capabilities provided by telephones and signaling devices powered exclusively by batteries. The amendment will also make Part 23 consistent with 30 CFR 75.1600-2(c) which requires operators who use a communication system that is powered solely from the mine electric system to provide a means to permit continued communications in the event the mine electric power fails or is cut off. The amended Part 23 would permit MSHA to approve mine telephones and signaling devices that increase the protection of miners' safety by providing more reliable communications and a direct connection to commercial lines for emergency situations.

III. Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044 and the Department of Labor's final guidelines for implementing the Executive Order (44 FR 5570, January 26, 1979).

IV. Drafting Information

The principal persons responsible for preparation of this proposed rule are: Robert P. Lenart, Approval and Certification Center, MSHA; Herbert P. LeVan, Office of Standards, Regulations and Variances, MSHA; and Inga A. Watkins, Office of the Solicitor, Department of Labor.

Dated: August 14, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

Part 23, Chapter 1 of Title 30, Code of Federal Regulations, is proposed to be amended as follows:

PART 23—TELEPHONES AND SIGNALING DEVICES

§ 23.2 [Amended]

* * * * *

1. By revising paragraph (f) of § 23.2 to read as follows:

(f) "Signaling device." As used in this part, a signaling device is one that gives visual or audible signals.

§ 23.7 [Amended]

* * * * *

2. By adding a paragraph (g) to § 23.7 to read as follows:

(g) Line powered telephones and signaling devices shall be equipped with standby power sources capable of permitting the telephones or signaling devices to continue functioning in the event the line power fails or is cut off.

(Sec. 101, Pub. L. 91–173, 83 Stat. 745 as amended by Pub. L. 95–164, 91 Stat. 1291, (30 U.S.C. 811)

[FR Doc. 80-25713 Filed 8-21-80; 8:45 am]

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Friday
August 22, 1980

Part VI

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Demonstration Project; Requirements for Participating State Agencies

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[Amdt. No. 180]

Food Stamp Program; Demonstration Project; Requirements for Participating State Agencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of intent.

SUMMARY: This Notice announces the Department of Agriculture's intention to conduct a demonstration project under the authority of Subsection 17(b)(1) of the Food Stamp Act of 1977. This project will provide information on the costs, operation, and results of offering extra service to Food Stamp Program participants during early morning, evening and weekend hours in a variety of settings. This Notice solicits applications from program service areas, as defined herein, to participate in the project.

DATES: Potential sponsors shall apply, as instructed in the Notice, by close of business, October 21, 1980. Applications postmarked after this date will not be considered.

EFFECTIVE DATE: The reporting and recordkeeping requirements contained in this Notice are pending approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. This Notice will become effective August 22, 1980. The reporting and recordkeeping requirements may be subject to revision prior to implementation if the requirements as presently formulated are not approved without change by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, USDA, Room 658, 500 12th Street, S.W., Washington, D.C. 20250. Telephone (202) 447–8325.

SUPPLEMENTARY INFORMATION: Sections 11(e)(2) and 11(e)(13) of the Food Stamp Act of 1977 (Title XIII, Pub. L. 95–113) call for the U.S. Department of Agriculture (USDA) to set minimum standards which all State welfare agencies in charge of food stamp operations must meet in establishing facilities for food stamp certification and issuance. Pursuant to these provisions, the Department's Food and Nutrition Service (FNS) issued proposed regulations in the Federal Register on July 13, 1979 and final rules on January 11, 1980. The regulations defined a set of standards for days and hours of operation in a variety of program service areas and were based on population and distance variables. They also required State agencies to assess their county-level certification and issuance needs and to develop corrective action plans for those locales which do not meet minimum standards.

One issue remaining in the development of standards for points (locations) and hours is the potential needs to provide extra hours of service outside of "normal" business hours (i.e., 35 or 40 hours per week). Both Congressional and Departmental hearings have indicated that the working poor may be precluded from participating in the program because of the unavailability of service during early morning, evening, or weekend hours. Lack of these "extra" hours may cause employed applicants to sacrifice work hours (and income they represent) to apply for and obtain benefits. The Departent had initially considered developing detailed regulations which would have extended such services at least in the more populous areas. However, after extended deliberations, it was concluded that more information was needed on an extra service requirement before FNS could offer a public rulemaking.

As a result, FNS is undertaking a demonstration project which will provide more information on whether such additional services are needed, and if so, what the service requirements might be. The demonstration project will test a variety of approaches to providing extra service to food stamp households in different program service areas. During the course of this project, food stamp households in the demonstration sites will be able to apply for certification and receive benefits during the extra hours and at designated locations in the same manner as they now do under the current service arrangements. FNS is therefore publishing the following Notice of Intent to solicit potential sponsors.

Notice of Intent

Subsection 17(b)(1) of the Food Stamp Act of 1977 permits the Department of Agriculture to test program changes (conduct demonstrations) that might improve the delivery of food stamp benefits to eligible households and increase the efficiency of the Food Stamp Program. This Notice announces the Department's intention to conduct a demonstration project to assess the feasibility, costs, and outcomes of providing extra service at selected sites around the country.

In the preamble to the proposed rulemaking on standards for points and hours of service published in the Federal Register on July 13, 1979, the Department's Food and Nutrition Service (FNS) announced its decision to conduct a demonstration project to obtain more information about providing extra service outside of normal working hours and locations. From this demonstration project FNS hopes to learn about: (1) the extent to which various types of Food Stamp Program participants make use of the extra service and whether such service is necessary for these participants or merely a convenience; (2) any administrative, operational, and other obstacles associated with providing extra service; and (3) the cost of providing extra service.

In the preamble to the proposed rulemaking FNS suggested a set of possible standards relating to number of extra service hours and locations to the size of the service area. The standards were:

—Counties with more than 2,500 and fewer than 25,000 participating households should provide at least four extra hours of basic certification service, in no more than two blocks of time, every two weeks.

—Counties with more than 25,000 but fewer than 75,000 households should provide at least eight extra hours of basic certification service, in no more than four blocks of time, every two weeks, at no fewer than two locations.

—Counties with more than 75,000 households should offer a total of at least 12 hours of basic certification service, in no more than six blocks of time, at no fewer than three locations, every two weeks.

These standards should be viewed only as one possible set of *guidelines* to be used by sponsors applying to participate in the demonstration project. Applicants are encouraged to develop their own plans for extra points and hours of service which they estimate to be most suitable to their service areas. FNS is interested in examining a variety of plans to provide extra service (e.g., weekend hours, evening or early morning hours, service at locations not used during normal operation, etc.).

State or local welfare agencies already providing "extra" service may also apply if they with to expand the level of extra service they currently provide.

For purposes of this demonstration, the food stamp service areas which may apply to sponsor projects are limited to State or local welfare agencies (administrative units) responsible for the

operation of the Food Stamp Program in counties, parishes, townships, or incorporated cities, or similar areas of a State. A potential sponsor may apply with the intention of operating a demonstration site in the entire service are or in a portion of the area it serves such as a county precinct or a city ward.

All potential sponsors must provide in their applications a description of: (1) the services to be provided; (2) the blocks of time to be involved (how many and when); (3) the number of locations to be used; (4) the staff required to provide extra service; (5) the cost of providing extra service; and (6) the rationale for their particular proposals.

To apply for the project, applicants may plan to provide extra certification services, extra issuance services, or both. While FNS' primary interest is in extra certification, FNS is also interested in extra issuance service. Sponsors may elect to provide any combination of extra service (e.g., early morning, evening, and weekend hours) in excess of the current levels of service. Alternatively, sponsors may choose to reschedule their current hours of operation to provide service outside the "normal" business hours. For those potential sponsors planning to shift their current hours of operation, FNS shall provide additional funding under the demonstration project for *only* those costs directly associated with demonstration activities (e.g., data collection, additional staff). Sponsors must maintain the current level of service to food stamp participants during this project; i.e., sponsors may not reduce the number of current hours or staffing levels.

FNS will establish procedures for monitoring the conduct of the demonstration activities. The evaluation of the demonstration project will be conducted by an independent contractor selected by FNS. The sponsors shall provide the evaluation contractor with access to all information pertaining to the project operations and shall cooperate with the contractor in implementing evaluation procedures.

A. Basic Operational Requirements

1. Extra hours may be contiguous with normal hours of operation (e.g., with extra hours beginning when regular hours end), separated by closure of the facility for one or more hours, or provided during weekends.

2. Sponsors shall provide the expedited certification and issuance services required in §§ 273.2(i) and 274.2(g) of the Food Stamp Program Regulations during their extra hours of service.

3. Sponsors must notify program participants of the availability of extra service at least 30 days prior to the initiation of the demonstration. Sponsors must also notify the participants of the termination of the demonstration at least 30 days before such termination takes effect.

4. Sponsors shall develop and conduct efforts to ensure that potential participants are informed of the availability of the extra service.

5. Sponsors must provide the extra service for a period of six months.

6. Sponsors must cooperate with the evaluation contractor in providing data for evaluation purposes, in accordance with the procedures developed by the contractor and approved by FNS, including data on program participation, project operations, staff training, and costs.

7. Sponors must provide information to FNS on program participation during the period beginning three months prior to the start of the demonstration projects. Such information must include: (1) the number of participants by week; and (2) data on the characteristics of the current participant population (e.g., age, sex, employment status, Public Assistance status, handicapping condition, minority status).

B. Sponsor Responsibilities

The sponsors of the extra service demonstration shall be responsible for:

1. Selecting those locations (points) in which extra service will be provided to Food Stamp Program participants.

2. Providing sufficient staff at each location where extra service will be available to ensure adequate and timely service.

3. Establishing a firm schedule of extra hours at individual service sites. This schedule shall be strictly adhered to so that the participants can rely on and use effectively the times available.

4. Preparing and implementing activities to ensure that potential participants are informed of the extra service.

5. Preparing notices and notifying program participants of the availability of extra service prior to the initiation of the demonstration project and before its termination.

6. Providing reports on program participation, operation, and costs in a form and on a schedule determined by FNS.

7. Maintaining records of the operation of the demonstration in accordance with procedures developed by the contractor and approved by FNS.

8. If conditions require any changes in the operation of the demonstration project, sponsors must obtain approval from FNS to institute such changes.

C. Federal Responsibilities

1. FNS will engage a contractor to develop monitoring and data collection procedures for the demonstration as well as to evaluate the demonstration.

2. FNS will monitor the operation of the demonstration.

3. FNS will provide funding for the demonstration project based on the budgets netogiated with the sponsors selected to conduct the demonstration.

D. Records

All records pertaining to this demonstration shall be available to FNS representatives or their designees for purposes of inspection and verification. Such records shall be maintained for a period of three (3) years from the date of project completion.

E. Federal Financial Participation

1. FNS shall pay 100 percent of those approved administrative costs associated with the demonstration project which are identified as over and above such costs as are usual or customary to normal Food Stamp Program operations.

(a) To be eligible for 100 percent funding as specified above, administrative costs must be specifically identifiable with the demonstration.

(b) Funding shall be provided through the State agency Program Letter of Credit for costs incurred from conducting the demonstration.

(c) FNS shall assume the cost for any data compilations which are separate and in addition to those recordkeeping requirements necessary for normal program operation and which are performed by the sponsors at the request of the evaluation contractor.

(d) The sponsor shall receive no additional reimbursement from FNS for activities which it would normally undertake as a result of its regular hours of food stamp operations, but which it might choose to conduct during the extra service hours.

(e) Sponsors shall receive no additional reimbursement from FNS for providing extra service beyond the six-month demonstration period.

F. Applications

Potential sponsors of extra service demonstration projects shall submit their applications using the Federal Assistance Short Form (AD-625), prescribed by the Office of Management and Budget (OMB) Circular A-102. Application kits can be obtained from and applications shall be submitted in one original and two copies to the

Director, Program Development Division, Family Nutrition Programs, Room 658, Food and Nutrition Service, USDA, Washington, D.C. 20250; Attention: *Extra Points and Hours Demonstration Project.* At least one copy must contain original signatures. Applications must be sent to the address noted above by close of business, October 21, 1980. Applications postmarked after that date will not be considered. Sponsors shall provide the name, address, and telephone number of the person to contact about the application. Any sponsor questions about completing an application should be directed to Robert Davis or Linda Basham at (202) 447–8332. All applications shall be sumitted in accordance with all appropriate requirements as established under OMB Circular A–95 and must be signed by the representative with authority to commit the sponsor to the demonstration project. To ensure that no commitment is made without appropriate officials being informed and giving their concurrence, the following requirements must be met before FNS will consider the application:

(1) If any local administrative unit (e.g., county or district) submits an application for participation in this project, then written concurrence from the State central office must accompany any such application.

(2) If other agencies or units/functions within the State agency will be involved in this project (e.g., in the delivery of information to participants about extra hours, or in the provision of certification services for AFDC applicants), then a plan for documenting their willingness to participate must be included as well.

In addition the sponsors' applications must include the following:

(a) A detailed description of the service area in which the sponsor provides certification and issuance services including a geographic description of the area, demographic and economic descriptions of the population, and current and historical participation in the Food Stamp Program.

(b) A description of the sponsoring agency including its organization, relationship to parent agencies, scope of authority, and other programs administered by the agency and including the address(es) of service points, their current hours of operation, and the number of certification and issuance staff emplyed at each location.

(c) An assessment of the need for extra service in the Food Stamp service area to serve as justification for installing the demonstration at the applicant's site.

(d) A description of the point or points in the service area which will provide extra service, including a detailed schedule of the extra service to be provided. This description should include any services in addition to food stamp certification that will be provided (e.g., AFDC certification, ATP card issuance, coupon issuance, etc.)

(e) Plans for conducting activities to inform eligible nonparticipants of the availability of extra service.

(f) Plans for notifying current participants about the availability of extra service prior to the initiation of the demonstration and about termination of extra services before the end of the demonstration.

(g) A description of the staffing of the demonstration project, including a project director, which will be used in conducting the demonstration and providing extra service and the number of hours each staff member will be assigned to the project. An organization chart of staff assigned to the demonstration should be included.

(h) A detailed description of the administrative procedures to be used, and a work plan which establishes a schedule for development and implementation of the demonstration project. The work plan should include a description of and anticipated deadlines for:

(1) staff procurement or assignment for the project;

(2) staff training;

(3) any acquisition of additional facilities;

(4) modification of any existing programs currently employed to reach the potential participant population.

(i) A discussion of any foreseeable problems, and proposed procedures for handling such situations.

(j) A proposed budget for conducting the demonstration activities, including a budget for administrative costs to be funded at 100 percent Federal Financial Participation.

G. Monitoring and Evaluation

The monitoring of the demonstration activities will be be carried out by FNS. The evaluation of the demonstration will be conducted by a contractor engaged by FNS for that purpose.

H. Selection of Sponsors

1. *Federal procedures.* All applications for sponsorship of demonstration projects will be reviewed by a panel of FNS and other Deparmental representatives. Applications will be ranked on the criteria established in 2. below.

2. *Criteria for selection.* (a) Workable and efficient plan for meeting the need for extra service as evidenced by the justification or rationale.

(b) Consistency of the work Plan with the defined need for exta service.

(c) Clarity and completeness of the work plan.

(d) The adequacy of the plans and procedures for notifying current and potential participants.

(e) Variability of demonstration sites including considerations of:

(1) A mix of geographic locations and administrative structures across the seven FNS administrative regions;

(2) Sizes of service areas;

(3) A mix of strategies for the delivery of extra service.

(f) The capability of applicants to conduct the demonstration based on:

(1) Description of the qualifications of staff;

(2) Adminstrative and supervisory capacity;

(3) Current participation level of the target population within the project area.

(4) Evidence of a past history of efficient and effective operation by the sponsor in administering program service.

(g) The amount of Federal funding sought for participation in the project, including considerations of:

(1) Amount of funding requested for the extra services to be provided.

(2) Cost-effectiveness of the plans for providing extra services.

3. *Selection.* USDA will notify all applicants of those service areas selected for demonstration project operations.

(91 Stat. 958 as amended (7 U.S.C. 2011–2027))

Dated: August 6, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-25831 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-30-M

Friday
August 22, 1980

Part VII

Environmental Protection Agency

National Pollutant Discharge Elimination System (NPDES); Memorandum of Agreements

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1585-5; Public Notice No. 80GA008]

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Georgia

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Georgia. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290, et. seq.). In order for the State of Georgia's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. NE., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25802 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-6; Public Notice No. 80MS003]

August 22, 1980.

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Mississippi

The United States of Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Mississippi. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290. et. seq.). In order for the State of Mississippi's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days to the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25854 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-7; Public Notice No. 80SC003]

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of South Carolina

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of South Carolina. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290, et. seq.). In order for the State of South Carolina's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest

based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 am and 4:30 pm Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881–2328.

August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25855 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-8; Public Notice No. 80TN005]

Notice of Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Tennessee

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Tennessee. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et seq.). A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 FR 32854, et seq.) and on May 19, 1980 (45 FR 33290, et seq.). In order for the State of Tennessee's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881–2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25856 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

Federal Register

Friday
August 22, 1980

Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commission

Section 8 Housing Assistance Payments Program—State Housing Agencies

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 883

[Docket No. R-80-760]

Section 8 Housing Assistance Payments Program—State Housing Agencies

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

ACTION: Final rule.

SUMMARY: The regulations governing the Section 8 Program for State Housing Agencies were published as an interim rule on January 30, 1980. The interim rule had completely revised the prior regulation to accomplish three major objectives. First, the language of the regulations was simplified and the format altered to make the regulations easier to read and use. Second, some clarifying changes were made to the processing instructions in order to respond to recurring questions, to reduce and level out field office workload, and to assure coordination of this program with other Section 8 regulations (Parts 880, 881 and 882). Third, rent, cost and amenities limitations, and requirements for cost justification of rents in certain cases were added to control and reduce the cost of the program. In addition, relocation requirements were revised to provide more equitable treatment to tenants temporarily and permanently displaced under the Program. The basic relationship between State Agencies and HUD which allows Agencies to certify that certain program requirements are met was not altered in the interim regulation.

This rule revises and makes final certain sections of the January 30, 1980 interim rule based on comments received. It is impractical to revise the interim rule in its entirety at this time in response to comments, so the Department has determined that only the specified changes will be made final. It is important that they take effect during this fiscal year.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Lynda M. Murphy, Office of State Agency and Bond Financed Programs, Room 6138, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, 202–426–7113. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The interim rule revising the Section 8 State Housing Agencies regulations (24 CFR Part 883) in their entirety was published in the Federal Register at 45 FR 6886 for public comment. Interested parties were given until March 31, 1980 to submit comments on this amended regulation.

The Section 8 Program for State Housing Agencies is a rental assistance program. Under this program, the government provides the difference between the approved rent for an eligible lower-income family, including elderly and handicapped single persons, and the family's contribution to the established rent. Program funds are administered by State Agencies to whom HUD has granted a set-aside of contract authority for assignment by the Agency for use with existing, new construction, substantial rehabilitation and moderate rehabilitation projects. After HUD approves the new construction and substantial rehabilitation projects selected by the Agency, the construction and management is overseen by the State Agency. The projects may be processed under special Fast Track procedures if the Agency provides permanent financing without Federal mortgage insurance. The Section 8 program does not provide financing.

More than 50 individuals and organizations submitted written comments. After careful consideration of these comments, the Department has determined to revise the entire regulation. At this time it is not practical to quickly complete a total revision, therefore, this final rule changes only the sections of the interim rule which require revision in order to enhance the State Housing Agencies' production capability this fiscal year. A revision of the rest of the interim rule is being prepared for publication at a later date as a final rule.

A discussion of the principal changes contained in this partial revision and of the more recurrent and significant comments on these sections is set forth below.

1. *Agency Notification and Selection Requirements.* In response to several comments, § 883.204 is being revised to require State Agencies to have a system for open and competitive selection of projects.

2. *Definition of Partially-Assisted Project.* Many comments pointed out that the definition in § 883.302 of partially-assisted project ("A project for non-elderly families under this part which includes more than 50 units of which 20 percent or fewer are assisted") could conflict with state statutes which require that more than 20 percent of the units be assisted. Some comments noted that pending Federal legislation (H.R. 5741—the Mortgage Subsidy Bond Tax Act of 1979), if passed, would require that at least 20 percent of the units of any project financed with the proceeds of obligations tax-exempt under § 103(b)(4)(A) of the Internal Revenue Code be available for Section 8-eligible tenants. If strictly interpreted, the requirements of § 883.302 and of H.R. 5741 would conflict, unless the total number of units is divisible by five. The definition is being changed in two respects, which are appropriate regardless of whether H.R. 5741 becomes law. A partially-assisted project under Part 883 is being defined as one in which the number of assisted units is not more than 20 percent of the units in the project, rounded up to the next higher whole number of units. An alternative higher percentage is provided where required by State Agency enabling legislation. Use of the provision permitting a higher percentage for each state will require approval of the Assistant Secretary for Housing.

3. *Fair Market Rents and Detrending.* Many of the comments objected to the requirement for detrending of the Fair Market Rents (FMRs) for individual projects based on anticipated construction time as provided in § 883.305(b)(1). Since the anticipated construction period for development is only one of many factors considered by HUD in determining the FMRs for an area, the comments objected to providing for a reduction to the FMRs and Contract Rents based solely upon this one factor.

The language for the detrending of FMRs due to reduced construction time has been retained. The forthcoming handbook will, however, explain that detrending will not require the total housing expense to be less than the maximum FMR limitation except in those cases where increased rents are required for a project that is already substantially under construction and where FMRs published after execution of the Agreement are applied. Detrending is not required when rents are increased by use of the Financing Cost Contingency.

4. *Replacement Cost Limits.* Some comments expressed the concern that the concept of replacement cost limits in § 883.305(c) was unclear. Paragraph (c)(1) is being revised and clarified to be consistent with the other Section 8 regulations, 24 CFR Parts 880 and 881. Paragraph (c)(2) of that section has been revised to clarify that replacement cost of a project consists of costs attributable to dwelling use, which are subject to

dollar limits, and costs not attributable to dwelling use, which must be reasonable. Costs not attributable are described in terms compatible with the Treasury regulations for purposes of the exemption provided by § 103(b)(4)(A) of the Internal Revenue Code. This section is also being revised in order to clarify that the replacement cost limits apply to all units in a project even when less than 100 percent of the units are subsidized, except where a project fits the definition of "partially-assisted" under this Part.

5. *Limitations on Distributions.* Some comments suggested that § 883.306(b) was not clear in stating that the six percent and ten percent returns on equity were maximums, and that Agencies were free to impose lower limitations. This section requires the Agencies to "certify that distributions will not exceed the following *maximum* returns * * *" Accordingly, no change is necessary since the language permits Agencies to impose lower ceilings.

6. *Foreclosure and Other Transfers.* Many comments strongly objected to the provisions of § 883.307(d) which requires that the Agreement, the Contract and the ACC continue in effect in the event of foreclosure, assignment or deed in lieu of foreclosure or other disposition of a property. State Agencies argue that, as public lenders taking the financial risk for the development and long term management of Section 8 projects, they should be entitled to some flexibility with respect to continuation of the subsidy arrangement, to protect their financial interests. Unlike a private lender or an owner, they have a clear responsibility under their State enabling legislation to protect the interest of the families receiving subsidies under this program.

The Department feels the only types of Section 8 projects likely to encounter such difficulties are those with less than 100 percent of the units subsidized. In recognition of State Agencies' positions as public lenders and in an effort to encourage projects with less than 100 percent of the units subsidized, the language in § 883.307(d) has been revised to permit amendment or termination of the contracts for a project with approval of the Assistant Secretary for Housing. Approval to amend or terminate the Agreement, Contract, or the ACC may be granted on a case by case basis where the State Agency demonstrates that the interests of the subsidized tenants will be protected. Such approval will not be unreasonably withheld.

7. *Certifications of Actual Financing Terms.* Several comments stated that certifications as to actual financing terms required under § 883.308(c) should be submitted to HUD on a timely basis. It is expected that the certifications are to be filed promptly after the terms are finally known. However, the Department will defer including a specific time limit until this entire rule is finalized since other substantive changes will be made to this section.

8. *Relocation Requirements.* Numerous comments were received concerning the relocation requirements of Section 883.311. Most of the comments were critical of the requirements set forth in Section 883.311(b) regarding temporary relocation and permanent displacement of tenants in projects not covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). The consensus of those who submitted comments was that the new requirements would impose unreasonable financial and administrative burdens on private owners.

This section of the regulation is being totally revised and will be included in the subsequent revision of this Part. A final § 883.311(b)(9) has been added to the interim rule which provides that the lump-sum rental assistance payment provided to a permanent displacee who cannot otherwise be relocated to an affordable replacement dwelling need not exceed $4,000.

In addition, paragraph (c) is being revoked since Part 812 contains the rules for making single persons eligible for Section 8 assistance.

9. *Increases in Contract Rents or Utility Allowances Before Contract Execution.* Comments pointed out that the language of § 883.408(d) appeared to conflict with the provisions of § 883.308(e) by implying that adjustments permitted under the Financing Cost Contingency (FCC) provisions of § 883.308 could only be applied prior to execution of the HAP Contract. The interim rule was not intended to impose this limitation. The language of § 883.408(d) has been changed to indicate clearly that the FCC is a separate adjustment not limited to the period of time between execution of the Agreement and execution of the HAP Contract.

10. *Format for Submission of Cost Certifications.* Section 883.411(a) of the interim regulations requires that the owner's cost certifications be consistent with a HUD-prescribed format. Many comments pointed out that HUD does not presently prescribe a format for cost certification, and that this requirement may be unduly rigid in view of the HFAs' use of their own procedures for underwriting, processing, and construction oversight. The subsection is being revised to require that the owner's cost certifications be consistent with any HUD requirements. Until such requirements are established, HFA's may use their current format for cost certification by the owner, including the summary which is to be transmitted to HUD with the HFA's certification that it has reviewed and approved the owner's cost certifications. HUD may, in its revised handbook, specify minimum requirements or a standard format of owner's cost certification, and may also require submission of summary information in a standard format for purposes of data-gathering and cost comparability analysis. The requirement in paragraph (a)(3) of the interim regulation is being deleted, because the summary to be submitted to HUD under paragraph (a) will serve the purpose of data-gathering. Paragraph (a) is being condensed for simplicity.

11. *Contract Term.* The large majority of the many comments received on this issue objected to the imposition of 30- and 40-year Contract terms for uninsured projects in § 883.603. These longer one-term Contracts would put uninsured projects at a significant disadvantage compared to insured projects with their 20-year Contract term. Both syndication and resale of uninsured projects would be adversely affected by this provision. The regulation is being revised so that both insured and uninsured projects are treated in a substantially equal manner. After the initial term of 20 years, there will be an option to renew at intervals of not more than five years, up to a maximum of 30 or 40 years, depending on whether or not the project fits the criteria for receiving a 30-year or 40-year commitment and the actual term of the permanent financing.

12. *Reduction of Number of Units Covered by Contract.* Many comments expressed uncertainty about the applicability of the provisions of § 883.605 to certain tenants. The requirements of this section were not intended to relate to those units which were initially rented to eligible tenants who subsequently became ineligible. This section refers to tenants ineligible for assistance only at their initial occupancy. Formerly eligible tenants who become ineligible for assistance payments but stay in a project will not count toward the 10 percent limitation on units rented to ineligible tenants. The administrative procedures to implement this section and the revised Section 8 Contract will reflect this policy.

13. *Advance Marketing Requirements.* With respect to marketing of Section 8

non-elderly family units (see § 883.702(a)(3)), the regulation is being revised to require the owner to undertake advance marketing activities in advance of marketing to other prospective tenants, in order to provide opportunities to non-elderly families who are *least likely to apply* as specified in the Affirmative Fair Housing Marketing Plan, and to non-elderly families *expected to reside* in the community by reason of current or planned employment. This corrects an unintended difference between Part 883 and the corresponding regulations for new construction and substantial rehabilitation, § 880.601(a)(3) and § 881.601(a)(3).

14. *Contracting for Services.* Numerous comments were received questioning the provision of § 883.702(c) that the owner may not contract with the Agency for marketing, management and maintenance services. Comments argued that Agencies must have the ability, as lenders, to manage a property in the event a management agent has been terminated and a suitable replacement is not immediately available. Agencies must also be able to uphold their program administration responsibilities under this Part. This section is being revised to allow an Agency to manage a property on a temporary, emergency basis. Nothing in this section precludes the Agency from taking over management and maintenance responsibilities pursuant to its regulatory agreement with the owner.

15. *Use of Project Funds.* Objections to this provision of § 883.702(e) concentrated on the term "interest bearing residual receipts account." The financing documents for many state agencies and the regulations for HUD insurance programs refer to clearly defined residual receipts accounts. In order not to conflict with these provisions and to avoid confusion, the regulation is being changed so it now refers to an unnamed "interest bearing account."

In addition and in response to several comments, it was determined that the account could be held by an Agency-approved depository, as opposed to a HUD-approved depository, since most other project related funds are now held by Agency-approved depositories.

Finally, many comments objected to the uncertainty of the requirement that withdrawals from this account must be "in accordance with HUD guidelines", since HUD has not yet adopted quidelines specifically for projects developed under Part 883. This phrase is being deleted. The forthcoming handbook will amplify and illustrate the "project purposes" for which withdrawals may be made with Agency approval.

16. *Contract Forms.* The forms of Annual Contributions Contract, Agreement to Enter Into Housing Assistance Payments Contract, and Housing Assistance Payments Contract are currently being revised. They will reflect the Part 883 interim regulations and this final rule. Pending issuance of the revised forms, Area and Regional Counsel have been instructed to insert an appropriate clause in the existing forms, to ensure that the rights and duties of the parties are consistent with the regulations in effect when the documents are signed.

Inapplicability of NEPA: HUD has made a Finding of Inapplicability regarding requirements under the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule is listed as item number H-68-78 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12221.

Accordingly, the following sections of Part 883 are amended and republished as a final rule as follows:

Subpart B—Allocation and Assignment of Contract Authority

1. In § 883.204, paragraph (d) is revised to read as follows:

§ 883.204 Set-asides.

* * * * *

(d) Agency Notification and Selection Requirements. Promptly after the Agency receives notification of its set-aside from HUD, the Agency must make a public announcement that it has been allocated a set-aside, specify the amount of the set-aside by housing and household type, indicate where and when applications to the Agency for fund commitments may be submitted by owners, and indicate that the Agency's selection procedure is available upon request. The Agency must have a written procedure for open and competitive owner selection. The Agency must certify that these requirements have been met.

Subpart C—Definitions, Project Eligibility and Requirements

2. Section 883.302 is revised by changing the definition of "Partially-Assisted Project" to read as follows:

§ 883.302 Definitions.

* * * * *

Partially-Assisted Project—A project for non-elderly families under this Part which includes more than 50 units, of which the number of assisted units does not exceed the greater of (a) 20 percent of the units in the project, rounded to the next highest whole number of units, or (b) the minimum percentage required by State law as a condition of HFA permanent financing, if the Assistant Secretary approves such minimum percentage for purposes of applicability of this definition.

* * * * *

3. In § 883.305, paragraph (c) is revised to read as follows:

§ 883.305 Limitation on contract rents, replacement costs and amenities.

* * * * *

(c) *Limitation of Replacement Costs.* (1) The HFA must certify to HUD that the estimated replacement costs for the dwelling units in any new construction or substantial rehabilitation proposal do not exceed the following limits which are applicable to the part of the project attributable to dwelling use: (i) The basic limits are: (A) $23,720 per dwelling unit without a bedroom; (B) $27,129 per dwelling unit with one bedroom; (C) $32,983 per dwelling unit with two bedrooms; (D) $42,217 per dwelling unit with three bedrooms; (E) $47,032 per dwelling unit with four or more bedrooms.

(ii) Where necessary to compensate for the higher costs incident to construction or rehabilitation of elevator type structures of sound construction and design, the HFA may certify that the replacement costs exceed the limits in paragraph (c)(1)(i) of this section but do not exceed: (A) $24,962 per dwelling unit without a bedroom; (B) $28,614 per dwelling unit with one bedroom; (C) $34,795 per dwelling unit with two bedrooms; (D) $45,011 per dwelling unit with three bedrooms; (E) $49,409 per dwelling unit with four or more bedrooms.

(iii) For any market area where the cost levels so require, the Assistant Secretary for Housing may increase, at the request of the field office, the dollar limits set forth in paragraphs (c)(1) (i) and (ii) by an amount not to exceed 75 percent.

(iv) If the Assistant Secretary finds that, because of high costs, it is not feasible to construct dwellings in Alaska, Guam, or Hawaii without the sacrifice of sound standards of construction, design, livability, and within the limits in paragraphs (c)(1) (i) and (ii), the principal amount of the replacement cost limits may be

increased by amounts as are necessary to compensate for additional costs but not to exceed the maximum, including high cost area increases under paragraph (c)(1)(iii), if any, otherwise applicable by more than 50 percent.

(2) Replacement cost of the project will consist of replacement costs attributable to dwelling use (which are subject to the limits in paragraph (c)(1) of this section) plus replacement costs not attributable to dwelling use. The HFA must certify that replacement costs not attributable to dwelling use are reasonable. Replacement costs not attributable to dwelling use may include the costs for some or all "functionally related and subordinate" facilities or areas, within the meaning of 26 CFR 1.103–8(b)(2). Except for the exemption contained in paragraph (c)(3) of this section, the limitations on replacement costs apply to all projects in their entirety regardless of whether or not 100 percent of the units are subsidized.

(3) Partially-assisted projects are exempt from the replacement cost limitations of this paragraph.

(4) Subsequent changes to the limitations on replacement costs under paragraphs (c)(1) (i) and (ii) of this section will be made by notice published in the Federal Register and will be available on request.

* * * * *

4. In § 883.307 paragraph (d) is revised to read as follows:

§ 883.307 Financing.

* * * * *

(d) Foreclosure and Other Transfers. In the event of assignment, sale, or other disposition of the project or the contracts agreed to by the HFA and approved by HUD (which approval shall not be unreasonably delayed or withheld), foreclosure, or assignment of the mortgage or deed in lieu of foreclosure,

(1) The Agreement, the Contract and the ACC will continue in effect, and

(2) Housing assistance payments will continue in accordance with the terms of the Contract,

unless approval to amend or terminate the Agreement, the Contract or the ACC has been obtained from the Assistant Secretary for Housing.

5. Section 883.311 is amended by adding a new paragraph lettered and numbered (b)(9) and revoking paragraph (c) as follows:

§ 883.311 Relocation and land acquisition requirements.

* * * * *

(b) * * *

(9) The maximum lump sum payment (permitted under paragraph (b)(8) of this section) which may be required to be paid to a tenant for whom replacement housing within the tenant's ability to pay cannot otherwise be identified, and for whom government assistance that would satisfy the owner's obligation cannot be secured, shall not exceed $4000.

(c) [Revoked]

Subpart D—Fast Track Procedures for New Construction and Substantial Rehabilitation Projects

6. Section 883.402 is revised to read:

§ 883.402 Obtaining proposals.

Agencies may establish their own procedures (by published invitation, negotiation, or otherwise, in accordance with applicable State and local laws) for obtaining and selecting a Proposal for submission to HUD pursuant to § 883.403. HFAs must have a written procedure for owner selection in accordance with § 883.204(d).

7. In § 883.408 paragraph (d) is revised to read as follows:

§ 883.408 Construction or rehabilitation period.

* * * * *

(d) *Increases in Contract Rents or Utility Allowances Before Contract Execution.* (1) Increases in Contract Rents or Utility Allowances after execution of the Agreement and prior to execution of the Contract are permitted in the following circumstance: (i) To correct substantial errors by HUD or the HFA in the original processing which would otherwise result in serious inequities;

(ii) To reflect substantial and necessary changes in the plans and specifications which have been approved by the HFA (no optional betterments may result in rent increases);

(iii) To reflect additional costs for interest, taxes, hazard insurance, mortgage insurance premiums, and commitment fees, due to construction delays excusable under the Agreement;

(iv) To reflect additional costs which result from requirements imposed by local or State governments, HUD, or other Federal agencies which are beyond the control of the owner, which have been approved by the HFA and which could not have been anticipated at the time the Agreement was executed; or

(v) To reflect increased costs which result from a change in contractors which is necessary because the original contractor became bankrupt, was terminated by the owner due to inadequate performance or abandoned the job.

(vi) To reflect additional costs incurred by the owner in providing the relocation assistance and payments required by § 883.311 (except for payments made to tenants permanently relocated under § 883.311(b)(8)(ii)), or as a result of altering construction work schedules in order to minimize displacement, or as a result of other activities which minimize displacement or related hardships.

(2) The HFA must certify that any increases granted are limited to the amount necessary to cover the specific cost increase associated with the applicable item cited in paragraph (d)(1) of this section and do not result in rents that exceed the limitations to which the HFA certified under § 883.305(b)(2) or the limitations in §§ 883.305(b)(1) and 883.305(c).

(3) Contract rents may also be increased under the provision of § 883.308(e), either prior to or after execution of the Contract.

8. In § 883.411 paragraphs (a)(1), (2) and (3) are deleted and replaced by a new paragraph (a) to read:

§ 883.411 Cost certification.

(a) As soon as possible after execution of the Contract, the HFA must certify to HUD that it has reviewed and approved the certified costs submitted by the owner. The HFA must submit to HUD with its certification a summary of the owner's cost certifications. The certifiable cost may include relocation costs incurred by the owner under § 883.311, except for payments to tenants permanently relocated under § 883.311(b)(8)(ii). The owner's cost certifications must be consistent with any HUD requirements and be supported by the unqualified opinion of an Independent Public Accountant. A cost certification submission is not required by HUD for projects with rents that are equal to or less than comparable rents, or except as required by § 883.305(b)(2), for partially-assisted projects or small projects. HFAs may impose their own cost certification requirements in addition to any required by HUD.

* * * * *

Subpart F—Housing Assistance Payments Contract

9. Section 883.603 is revised to read:

§ 883.603 Term of the contract.

(a) *New Construction.* The term of the Contract will be governed by the following provisions: (1) For assisted units in a project financed with the aid of a loan insured by the Federal government (including coinsurance

under section 244 of the National Housing Act) or a loan made, guaranteed or intended for purchase by the Federal government, the term is 20 years.

(2) For assisted units in a project owned by or financed by a loan or loan guarantee from a State or local agency, where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by the Assistant Secretary for Housing as one requiring special financial assistance, the Contract will be for an initial term of 20 years for any dwelling unit, with provision for renewal for additional terms of not more than 5 years each. The total term of initial and renewal terms will not exceed the lesser of (i) 40 years for any dwelling unit, or (ii) the term of the permanent financing.

(3) For assisted units in all other projects, the Contract will be for an initial term of 20 years for any dwelling unit, with provision for renewal for additional terms of not more than 5 years each. The total term of initial and renewal terms will not exceed the lesser of (i) 30 years for any dwelling unit, or (ii) the term of the permanent financing.

(b) *Substantial Rehabilitation.* The Contract will be for a term which is consistent with paragraph (b)(1) and with paragraph (b)(2), (3), or (4).

(1) The Contract term will cover the longest term, but not less than 20 years, of a single credit instrument covering: (i) The cost of rehabilitation or

(ii) The existing indebtedness, or

(iii) The cost of rehabilitation and the refinancing of the existing indebtedness, or

(iv) The cost of rehabilitation and the acquisition of the property; and

(2) For assisted units in a project financed with the aid of a loan (including Coinsurance under Section 244 of the National Housing Act), or a loan made, guaranteed or intended for purchase by the Federal government, the Contract term will not exceed 20 years for any dwelling unit; or

(3) For assisted units in a project owned or financed by a loan or loan guarantee from a State or local agency where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by the Assistant Secretary for Housing as one requiring special financial assistance, the Contract will be for an initial term of 20 years for any dwelling unit. There will be a provision for renewal for additional terms of not more than 5 years each. The total of initial and renewal terms will not exceed the lesser of: (i) 40 years for any dwelling unit, or

(ii) The term of the permanent financing; or

(4) For assisted units in projects financed other than as described in paragraphs (b) (2) or (3), the Contract will be for an initial term of 20 years for any dwelling unit. There will be a provision for renewal for additional terms of not more than 5 years each. The total of initial and renewal terms will not exceed the lesser of: (i) 30 years for any dwelling unit, or

(ii) The term of the permanent financing.

(c) *Staged Projects.* If a project is completed in stages, the term of the Contract must relate separately to the units in each stage unless the Agency and the owner agree that only the units in the first stage will be assisted for the maximum term of the Contract. The total Contract term, for the units in all stages, beginning with the effective date of the Contract for the first stage, may not exceed the overall maximum term allowable for any one unit under this section, plus two years.

* * * * *

Subpart G—Management of New Construction and Substantial Rehabilitation Projects

10. In § 883.702 paragraphs (a)(3), (c) and (e) are revised to read as follows:

§ 883.702 Responsibilities of owner.

(a) * * *

(3) With respect to non-elderly family units, the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to reside in the project: (i) to non-elderly families who are *least likely to apply* as determined in the Affirmative Fair Housing Marketing Plan, and

(ii) to non-elderly families *expected to reside* in the community by reason of current or planned employment.

* * * * *

(c) *Contracting for Services.* With approval of the Agency, the owner may contract with a private or public entity (but not with the Agency unless temporarily necessary for the Agency to protect its financial interest and to uphold its program responsibilities where no alternative management agent is immediately available) for performance of the services or duties required in paragraphs (a) and (b) of this section. However, such an arrangement does not relieve the owner of responsibility for these services and duties.

* * * * *

(e) *Use of Project Funds.* Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with § 883.703, or to provide distributions to the owner as provided in § 883.306. Any remaining project funds must be deposited with the Agency, other mortgagee or other Agency-approved depository in an interest-bearing account. Withdrawals from this account may be made only for project purposes and with the approval of the Agency. In the case of HUD-insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially-assisted projects under this Part which are subject to the applicable mortgage insurance provisions.

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

Issued at Washington, D.C., August 18, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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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	HHS/FDA		DOT/SLSDC	HHS/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

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Indian Affairs Bureau—

49224 7–23–80 / Referendum to permit Yurok voters to determine whether they wish to consider formal organization through creation of interim Yurok governing committee

Rules Going Into Effect Sunday, Augutst 24, 1980

CIVIL AERONAUTICS BOARD

42593 6–25–80 / Data to support fitness determinations requirements

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 August 14, 1980

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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(Revised as of April 1, 1980)

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_____	Title 26—Internal Revenue (Part 1, §§ 1.170–1.300)	6.50	_____
_____	Title 26—Internal Revenue (Parts 500 to 599)	6.50	_____
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[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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